

Status Report to the Court Number Nine

**For the Period
January 1, 2002 to March 31, 2002**



May 1, 2002

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I. INTRODUCTION

This 9th Report to the Court covers the period of time from January 1, 2002, through March 31, 2002. The goal of this report is to provide the Court with a thorough and accurate picture as to the status of trust reform and the ongoing business of trust operations. If the Court or plaintiffs desire additional information, or clarification is needed on any of the reported items, we will be pleased to respond to any request.

This is the second report using a new format, although different in style from the 8th Report. The 8th Report was a transition report that provided the Court with more information than previous reports, which had focused on the progress of implementing the projects under the High Level Implementation Plan (HLIP). This 9th Report likewise goes beyond the tasks of HLIP and gives the Court a much broader representation of what is happening in trust reform, progress made, obstacles encountered and operation of the day-to-day trust business.

This 9th Report differs from the format used in the 8th Report. This Report is divided into chapters which reflect the current management structure of trust operations. Several different officers are in charge of some of the trust functions under the overall direction of Deputy Secretary J. Steven Griles. Having all trust operations in a single organization following a strategic plan should improve the coordination and delivery of service.

This 9th Report also contains Observations by the Secretary. The Special Trustee for American Indians Thomas Slonaker offers observations on activities under his control and comments on various projects under the direction of Office of Indian Trust Transition (OITT), the Bureau of Indian Affairs and elsewhere in the Department.

The OITT is primarily responsible for assembling this report, and the Office of Special Trustee (OST), the Solicitor's Office, and Department of Justice have been represented at nearly all of the reviews held with various Department managers regarding their reports. Each manager has indicated his or her belief that their reports are a fair and accurate representation of their activity during the time covered by this report, and their supervisors have, likewise, supported the representations of their project managers.

Current accounting activities now include the status of both the Trust Fund Accounting System (TFAS) and OST Data Cleanup. It should also be noted that in the OITT section there is a report entitled "From HLIP to Business Model." This report is intended to provide a better understanding of how DOI is working toward a strategic plan, which will create a business model with standardized business processes to operate an ongoing trust business enterprise that is beneficiary focused.

Trust reform is no longer centered on isolated project management through HLIP; rather, it is focused on creating and implementing the trust business processes that will meet beneficiary needs. The trust reform model under HLIP placed projects in a linear vacuum without integration.

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Information in this Report reflects how a new trust business model will be created by standardizing and integrating core business processes that will fulfill fiduciary and legal requirements for trust management. The core business processes that have been currently identified include: Beneficiary Service Center; Probate; Title; Appraisal; Cadastral Survey; Surface Asset Management; Sub-surface Asset Management; and Accounting Management (IIM, Tribal, and Investments).

The focus on first developing fundamental trust business processes, and then developing system requirements and architecture for these business processes, will determine whether or not existing systems and technology can be used, integrated or changed. Once standard business processes and associated system requirements are identified, current systems will be evaluated through use of a gap analysis process which may identify pieces or parts of current systems that are applicable to the reengineered standard business processes. If any portion of current systems can be utilized, these will be considered part of a set of tools that will support the trust business model. Where current systems are not satisfactory, new systems will be implemented as part of the overall architecture plan to create a fully integrated trust systems model.

In order to proceed with implementation of new and revised business processes, it is necessary to move forward on the reorganization effort. Reorganization is discussed in the OITT section of the Report. Results of the Tribal Task Force consultation regarding the reorganization are expected to be available by the end of the third quarter, calendar, 2002, and continued progress will be reported in the next reporting period.

Once the strategic plan is in place, the business process study is complete, a revised roadmap for implementation is done, and an organization to house trust is agreed upon with a single executive sponsor, we should be able to accelerate the rate of progress toward a true trust operating business with improved focus on the interests of the beneficiaries.

II. SECRETARY GALE NORTON'S OBSERVATIONS

SECRETARY'S OBSERVATIONS

As previously described to this Court, I have asked the Deputy Secretary, J. Steven Griles, to be the day-to-day leader of our trust program and trust reform efforts. Together, the Deputy Secretary and I are committed to providing the clear vision and active leadership needed to address the difficult challenges we must face in reforming trust services provided to Indian beneficiaries.

Reorganization Efforts

Under the Deputy Secretary, we have sought to integrate the trust reform efforts of the Bureau of Indian Affairs (BIA), the Office of the Special Trustee (OST), the Office of Indian Trust Transition (OITT), the Office of Historic Trust Accounting (OHTA), and other offices within the Department of the Interior (DOI) under a single executive leader. Depending upon the outcome of our consultation efforts with Native American Tribes, the operational aspects of these organizational entities may be consolidated further, after which most of the fiduciary trust activities could be located within a composite entity under the control of another single executive sponsor, as recommended by Electronic Data Systems (EDS) and others.

As discussed in this Report, consultation efforts with Tribes resulted in the creation of a Tribal Task Force (Task Force). The Task Force has been meeting regularly with DOI leadership to discuss the reorganization plan, the EDS business process study and legislative initiatives of interest to the Tribes and DOI. The Court Monitor and several congressional staff members have also participated in the Task Force meetings. (Additional meetings have occurred or will soon occur during the second quarter of 2002.)

Shortly after I announced DOI's proposal to create a Bureau of Indian Trust Assets Management, it appeared that the negative reaction of Indian country might prevent any reorganization efforts from being successful. With the advice and assistance of the tribal leaders on the Task Force and the submission of about 28 alternative reorganization proposals, the outlook is now more positive. By working with the Task Force, DOI now has a better understanding of beneficiary concerns, as well as Indian country's practical and historical reaction to various proposals. In turn, we believe that the Task Force has provided tribal leaders with greater insight into the management challenges and the reform needs within DOI. For both DOI and the tribes, the Task Force provides a forum for crafting solutions that can be presented to the broader audience of Indian leaders, Congress, the Court and others.

The work of the Task Force is ongoing, and there is always the chance that the current positive trends may prove to be fleeting, but at this point I am encouraged. I look

forward to seeing the reform and reorganization proposals being analyzed by the Task Force.

Strategic Planning

Under the leadership of the Deputy Secretary, the senior management of BIA, OST, OITT, OHTA, and DOI are developing a new strategic plan to coincide with the business process study of EDS, the EDS Roadmap of January 24, 2002, and the reorganization effort. The strategic plan will contain the goals, objectives, tasks and performance standards needed to move DOI toward sustainable trust business operations. Implementation of several trust-related tasks is continuing while the broader strategic planning effort is underway.

The strategic plan will incorporate a beneficiary-focused approach. Orienting business processes to place emphasis on the trust beneficiaries will require additional training for existing employees and continued efforts to employ experienced, beneficiary-oriented workers. A beneficiary service center concept is being evaluated to include “call center” support where Native Americans, both individuals and Tribes, can receive important information about their asset holdings and account balances. In developing the strategic plan, and going forward, our actions are intended to reflect the vision and desires of the Indian community.

As part of the planning process, DOI contracted with EDS to undertake an additional study of the existing business processes used to perform trust functions. The EDS study, while time consuming, will help us avoid the kind of problems that arose when the TAAMS software was developed without fully understanding all of the different ways in which the trust business was being operated. The product of this study will assist us in re-engineering existing business processes so that they are conducive to good trust management and properly establish the requirements for new information technology systems.

Appropriations

The implementation of the FY 2002 budget and further work on the FY 2003 budget have occupied a substantial portion of management attention during this quarter. In the 8th Report to the Court, I stated, “I have also been working to increase budget resources for trust management and oversight, and I am highly confident that the President will, on February 4th, propose significant increase for improving trust management and oversight.” In fact, the FY 2003 President’s Budget, which was transmitted to Congress on February 4, 2002, did contain significant increases for trust management and oversight. Specifically, the budget request includes an increase of \$48.8 million for OST and a program increase of \$34.8 million for BIA trust-related activities.

The additional resources being proposed for the trust reform effort are significant when viewed in the context of the overall government and Interior budget. Domestic discretionary spending in the President’s budget has increased by 6.8 %, but most of this

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increase reflects defense and homeland security expenses. Overall, the Department of the Interior budget remained flat from the enacted FY 2002 budget to the proposed FY 2003 President's budget, despite the \$ 83.6 million increase in the trust reform area. OMB has issued preliminary guidance for FY 2004 that the Departmental overall budget request should be no more than 1% higher than proposed FY 2003 levels. Obviously, this budget environment demands that dollars must be wisely spent on trust reform priorities.

For the previous two years, the OST has had significant carry-overs in its budget which have permitted the Department to take the initiative on reform projects more rapidly than normal budget processes might otherwise allow. However, such carry-overs can be perceived as a non-routine budgeting process, so we expect some detailed inquiries to come from OMB and Congressional appropriations staffs.

The 2003 Budget proposal is currently under consideration by Congress. I have testified in support of the FY 2003 budget. My appearances on Capitol Hill included: the House Committee on Resources (February 6, 2002); the House Appropriations Subcommittee on Interior and Related Agencies (February 27, 2002); and the House Appropriations Subcommittee on Energy and Water Development (February 28, 2002).

In addition, the House Appropriations Subcommittee on the Department of the Interior and Related Agencies held an oversight hearing March 14, 2002, on trust reform, during which the Deputy Secretary, Special Trustee Thomas Slonaker, Assistant Secretary for Indian Affairs Neal McCaleb and Director of the Office of Indian Trust Transition Ross Swimmer, submitted testimony. The Deputy Secretary and Assistant Secretary for Policy, Management and Budget Lynn Scarlett testified before the Senate Energy and Natural Resources Committee on February 14, 2002. The Senate Indian Affairs Committee also received testimony from the Assistant Secretary for Indian Affairs, Special Trustee and Associate Deputy Secretary James Cason on February 26, 2002. In the coming quarter, DOI will continue to work on obtaining the appropriations necessary to conduct trust reform and operations.

Managerial Issues

I am aware that the performance of the Office of Special Trustee is being seriously questioned. Recently, the Special Master issued two reports while this 9th Report to the Court was being prepared. The Special Master strongly criticized the manner in which DOI and, in particular, OST, managed its trust training and records management responsibilities. The Special Master stated, in essence, that the OST was incapable of implementing a satisfactory records management program.

We take these reports very seriously and intend to take action to correct any deficiencies in the records management program. DOI will fully assess the issues raised by the Special Master and will work with him to address the concerns expressed in his reports. I have discussed these issues with the Special Trustee. The Special Trustee has prepared memoranda responding to the Special Master's reports, but has been unwilling to submit

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a declaration (presumably with the same or similar factual content), of the type permitted by the local rules of the Court.

I have asked the Deputy Secretary to review the performance of OST on these and other matters and to seek substantive ways of improving OST's contribution to the day-to-day efforts toward trust reform. During the next reporting period, we plan to clarify the roles, responsibilities and expectations associated with OST, for both oversight and operations, to ensure OST is working with the balance of the Department toward common goals and objectives.

In addition, we are addressing managerial weaknesses in other parts of the trust program. We are currently seeking to fill a variety of positions where incumbents would have trust management responsibilities. Both the Department and BIA have been seeking information systems managers and technology specialists. Several managerial positions replacing existing managers or filling new positions have been advertised during this reporting period. These include trust architecture, probate, and data analysis.

We are also utilizing the knowledge and skills of eight senior level DOI employees that have been identified to be business process sponsors (individuals who are tasked to become thoroughly familiar with specific business processes), and are expected to become managers within the future trust organization. We are also seeking the assistance of other trust professionals; for example, we have contacted the U.S. Department of Treasury and Wells Fargo to seek the assistance of other experienced executives. Evaluating and improving the trust managerial team will be a continuing objective for the foreseeable future.

Internet Access

The Court has received regular reports detailing the impacts of disconnecting DOI's computers from the Internet. I appreciate the fact that the Court and the Special Master have been willing to address health and safety needs on a priority basis. Although approximately 89% of the Department's systems are now functioning and have some access to the Internet, important systems in BIA, Office of the Secretary, Office of the Solicitor and OST still do not have Internet access or, in some cases, are not operating at all. We recognize that this continues to create hardships in Indian country, particularly with the processing of title information and doing trust reform related data-cleanup work. The Associate Deputy Secretary is working closely with the Special Master to ensure that the systems are ready to be connected and I am hopeful that we can meet all requirements very soon. The Associate Deputy Secretary is aware that this is a high priority in the Department and I have been impressed by his diligent efforts to do whatever is necessary to resolve any remaining problems.

Conclusion

As I mentioned earlier, the Deputy Secretary is leading our trust reform efforts and he will continue to do so until we have adequate systems and an organizational structure in place to manage our responsibilities on an ongoing basis.

If trust reform and reorganization are to succeed, it is imperative that DOI senior management officials approach these challenges as a team. I expect those with the decision-making authority and involvement in particular efforts to be publicly accountable for their program activities and decisions. The senior management team and I plan to encourage those who work diligently to move trust reform forward, while we take measures to address lack of performance as well.

My senior management team and I are fully committed to making trust reform work. There are substantial challenges that must be addressed. We continue to strive to overcome them.

III. SPECIAL TRUSTEE'S OBSERVATIONS

General Observations

Indian trust reform is now at a critical watershed in the Department of the Interior amid a consultation effort with a Tribal Task Force on the shape of the future trust organization. As I have discussed with the Secretary, there is an urgent need to strengthen trust reform by improved staffing and planning pending an organizational resolution.

Given that the trust operations support (e.g., trust accounting systems and related data projects) is a crucial part of the administration of the trust, work on trust systems must be carefully planned, staffed adequately, and pursued aggressively. It is important at this stage to jumpstart such projects by accelerating systems development for accounting and related elements such as probate. This requires more staff resources. The Special Trustee has moved to provide more staff for the benefit of the Deputy Special Trustee, Ms. Erwin, who is leading the reform effort on several key systems and data activities.

Ms. Erwin, in coordination with the Director of the Office of Indian Trust Transition, is overseeing the business process assignment given to EDS while undertaking a reorientation of several trust projects including probate, data cleanup, and trust systems, formerly referred to as "TAAMS". Some personnel changes have been made to improve the management of these key subprojects. Other projects that were included under the High Level Implementation Plan continue, but in various stages of intensity and progress, suffering in some cases from former stovepipe planning and from limited direction and vision.

Observations on Certain Projects or Trust Responsibilities

Report Format

Future quarterly reports to the Court in the Cobell case would be more valuable if information presented was linked to the stipulated and court-identified breaches of trust. For instance, some reference to accounting responsibilities listed in the 1994 Trust Reform Act (Title I) could be developed into a summary scorecard for the Court and other readers.

Appraisals

A Secretarial Order was signed on March 12, 2002, ordering the transfer of the Appraisal unit from the BIA to OST to improve efficiency and ensure the integrity of the appraisal program. Actual transfer of personnel and assets will take place once a transfer plan and the redirection of funds are approved. This transfer was originally agreed upon by the Assistant Secretary of Indian Affairs and the Special Trustee in the form of a directive on November 8, 2001. An examination of the appraisals program and the coordination of the business process are being undertaken with the help of the senior staff of the unit.

Historical Accounting

There is a need to outline clearly the actual account information that will be required to be presented to each tribal or individual account holder (including owners of closed accounts). Further clarity is needed on how the various investigative aspects of the historical accounting project (including the numerous consultants) will be integrated into a process to accomplish the accounting. The timeframe is rapidly approaching for delivery of the Historical Accounting final plan to Congress.

Land Consolidation

This is a vital project to stem the exponential growth of very small allotments and the related trust administration overhead. The land consolidation effort is receiving greater focus in the Department. A pilot program for land consolidation in the Great Lakes Region appears to provide a useful template to consider for the administration of such a program.

The Department has three issues to address here: (1) to have a single record system--presumably in conjunction with existing or planned accounting and title systems--to retain and protect the records pertaining to the acquisition process and to make them easily accessible; (2) to ensure sound cash management procedures; and (3) to determine a plan going forward--and the resource requirements--to cover as much as possible of all fractionated heirships across the reservations affected in the shortest timeframe.

Policies and Procedures

An essential ingredient of a trust organization is the promulgation of appropriate policies and procedures. Currently, the subproject does not enjoy the appropriate Department support, staffing and direction that it requires and is thereby rendered less effective. The Department must provide that support, supervision and direction now. A clearinghouse for trust-related policies and procedures throughout the Department should also be considered.

Interagency Procedures Handbook

Over the past two years, staff from the Bureau of Indian Affairs and the Office of the Special Trustee have compiled a draft procedure manual called the "handbook". The handbook will guide BIA and the Office of Trust Funds Management (OTFM) field personnel in preparing data and transactions to the trust funds accounting system at OTFM (the TFAS system). An issue regarding the treatment of so-called special deposit accounts remains the only unresolved issue, and OST and BIA must resolve it promptly so that training on the handbook and the implementation of these procedures can be achieved without further delay.

Training

An issue that has been raised here is whether or not general training on trust fundamentals should be combined with more focused efforts to teach certain job-specific skills to trust employees, including those associated with new systems or new procedures. Broader coordination for all training exercises than now exists may be desirable in order to provide efficiencies and share resources. A decision by the Department needs to be made in the near future.

TrustNet

The Department recently requested and received approval from the Congress to reprogram funds to begin implementation of TrustNet, a new secure information technology infrastructure for Indian trust data. This system and its secure environment is needed to ensure the integrity of Indian trust data and to assist Bureaus in getting all operations back on-line. It is important that the Department identify the office responsible for program management and oversight of this system.

Trust Records

Since the close of this reporting quarter, the Special Master has issued two reports on the activities of the Office of Trust Records. One of these regards records training, and the other regards a proposed physical consolidation of trust records at a Federal Records Center. While the Special Master provides many valid criticisms, many points need to be clarified for his use. The Special Trustee has requested an independent third party review of the trust records program to ascertain weaknesses and determine corrective actions.

IV. DEPARTMENT OF THE INTERIOR

A. INFORMATION TECHNOLOGY SECURITY

Summary Description:

The Bureau of Indian Affairs and, to a lesser extent, other agencies of the Department rely upon information technology (IT) systems to fulfill the trust duties to Native Americans pursuant to the American Indian Trust Fund Management Reform Act of 1994 (P.L. No. 103-412), along with other applicable statutes, regulations and Court orders. These IT systems store important information (e.g., land ownership records, interests in monetary accounts, lease payment information, records of cash disbursements, etc.) or provide various computing capabilities, including functions critical to the proper administration of the trust.

Recent reviews have documented extensive weaknesses in the security measures associated with the IT systems housing or providing access to individual Indian trust data. Extensive effort and a long-term commitment are required to achieve compliance with the security provisions of OMB Circular A-130, Appendix III.

As has already been reported to the Court, a large number of security weaknesses have been identified. On November 14, 2001, the Special Master detailed many of those weaknesses in his report entitled, **REPORT AND RECOMMENDATION OF THE SPECIAL MASTER REGARDING THE SECURITY OF TRUST DATA AT THE DEPARTMENT OF INTERIOR.** The Department has catalogued the findings and recommendations cited in the Special Master's report, along with those found in other, similar reports. To date, 1106 separate notations have been identified. Further work is being done to eliminate redundant observations made in separate reports, to separate items that are no longer relevant (e.g., systems changes, equipment replacements, process changes, etc.) and to note instances where findings or recommendations have been successfully completed. The Department plans to subdivide the residual list into thematic groups and then to prioritize the list of remaining issues so that the affected information technology management and staff can clearly focus on remediation.

The Department received a report from SRA International, Inc., entitled **DOI Initial Risk Assessment for Indian Trust Management (ITM) Systems, January 18, 2002.** This report provided a systems level review of the IT systems that support the Indian trust program. In addition, the Department has received the results of another evaluation on the status of IT security measures associated with Indian trust systems. The initial report, entitled **Indian Trust Management - CSEAT High Risk Program Review Draft Report, April 1, 2002,** provides another perspective regarding the significant management challenges in this program area. Both reports provide extensive commentary on the weaknesses to be found in the current IT environment involving Indian trust systems.

From the perspective of a cause/effect model, on December 5, 2001, the effect of these accumulated IT security weaknesses manifested themselves profoundly in the form of a

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Temporary Restraining Order (TRO) that required DOI to immediately disconnect from the Internet all IT systems that house or provide access to individual Indian trust data and to immediately disconnect from the Internet all computers within the custody and control of the Department of Interior, its employees and contractors that have access to individual Indian trust data.

Subsequently, on December 17, 2001, the Court entered a Consent Order Regarding Information Technology Security. The Consent Order provides the terms and conditions upon which the Department may seek the concurrence of the Special Master to restore connections to the Internet. A key component of the process involves providing documentation to the Special Master that identifies which IT systems house or provide access to individual Indian trust data.

For the purposes of this report and consistent with the definition included in the relevant Consent Order, the term information technology system refers to any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, including computers, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related sources.

For the purposes of this section of the report and consistent with the definition included in the relevant Consent Order, the term individual Indian trust data refers to all data stored in an IT system upon which the Government must rely to fulfill its trust duties to Native Americans pursuant to the Trust Fund Management Reform Act of 1994 (P.L. No. 103-412), other applicable statutes and orders of this Court reflecting, for example,

- \$ the existence of individual Indian trust assets (e.g., as derived from ownership data, trust patents, plot descriptions, surveys jacket files, statement of accounts).
- \$ the collection of income from individual Indian trust assets (e.g., as derived from deposit tickets, journal vouchers, schedule of collections).
- \$ use or management of individual Indian trust assets (e.g., as derived from leases, sales, rights-of-way, investment reports, production reports, sales contracts), or
- \$ the disbursement of individual Indian trust assets (e.g., as derived from transaction ledgers, check registers, transaction registers, or lists of canceled or undelivered checks).

During the reporting period, considerable efforts were made to identify the IT systems that housed or provided access to individual Indian trust data. The Department has found that individual Indian trust data reside on IT systems located within several Bureaus and Offices. These systems exist on a variety of communications networks and hardware and software platforms and are of varying states of functionality and repair.

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For some agencies or offices, little, if any, individual Indian trust data was identified during a broad systems certification process. In others, a few systems were identified and efforts were made to isolate or reconfigure those systems to ensure security considerations were addressed. Generally, in these instances, Internet reconnection proposals have been presented to and have received the concurrence (final or preliminary) of the Special Master.

The IT systems serving agencies or offices having the greatest concentration of individual Indian trust data are, in large part, not connected to the Internet. The majority of the systems supporting the Bureau of Indian Affairs and the Office of Special Trustee (which is operating within BIA's network) are not connected to the Internet. The Office of the Secretary, Office of Hearings and Appeals, and the Office of the Solicitor remain disconnected as well.

Project Manager's Observations:

During the reporting period (January 1, 2002 to March 31, 2002), the Department made significant progress in its efforts to identify the location of IT systems that house or provide access to individual Indian trust data. Following the TRO and Consent Order, the Department undertook a certification process to compile information regarding the IT systems housing individual Indian trust data, the associated application systems and data bases and the network configuration upon which these systems reside. Where relevant data was found, current systems security practices were evaluated and, on a case-by-case basis, steps were taken either to isolate and secure the data or to improve security practices to protect the data at the network, application or equipment level.

Of particular importance, the Department placed a high priority upon identifying systems needed to effect general assistance and leasing payments to individual Indians. The Department prepared proposals to operate the systems or reconnect them to the Internet. The proposals were forwarded to the Special Master from late December 2001, or throughout this reporting period. Following evaluation and modification of some of the proposals, the Special Master concurred (preliminary or final) with the Department's proposals to utilize these systems to make payments to individual Indians. At the end of the reporting period, the backlog of leasing funds distribution had been addressed with the exception of onshore mineral leasing revenue. With the Special Master's March 20, 2002, concurrence on the Department's proposal to use the royalty systems of the Minerals Management Service, the preponderance of those backlogged funds should be distributed during the second quarter, calendar 2002.

At the end of the reporting period, approximately 89% of the IT systems within the Department had been permitted to have Internet access. The 11% remainder involved the Bureau of Indian Affairs, Office of Special Trustee, Office of the Secretary (NBC-MIB), Office of Hearings & Appeals, Office of the Solicitor, and selected systems of the Bureau of Reclamation and Fish & Wildlife Service. Additional work will be done during the second quarter, calendar 2002, to ensure appropriate security practices are in place to protect individual Indian trust data located within these agencies.

The Special Master, through the Court's technical experts, International Business Machines (IBM) and USinternetworking (Usi), and with the support of the Department's technical expert, Science Applications and International Corporation (SAIC), have conducted independent validation and verification (IV & V) activities at specific DOI-related locations. The Special Master subsequently evaluates the results of the IV & V activities to determine if the Department has provided reasonable assurances that individual Indian trust data are secure. Upon this determination, the Special Master may concur with the Department's request to operate or reconnect those systems to the Internet.

The three main objectives for IV & V visits are:

- \$ verification of declared statements by bureaus and offices.
- \$ identifying any systems housing individual Indian trust data and verifying operational status or network connectivity status.
- \$ verification of disconnection of DOI assets from BIANET.

Achieving these objectives is accomplished through an on-site technical testing and interview process. The testing process involves using software tools to scan for vulnerabilities to information systems and perimeter network devices and probe for unwanted network connections. The interview process is designed to gather information regarding security processes or information not present in the proposals affecting the security of IT resources for that site.

A wide variety of IT systems, that house or may provide access to individual Indian trust data, have been independently tested by this team of experts to determine the relative effectiveness of associated IT security measures. The IBM and USi technical teams provide a written report of their findings and recommendations to the Special Master. If vulnerabilities are identified, the Department is given time to take corrective action. Additional IV & V work, at Departmental sites, is anticipated during the second quarter, calendar 2002.

Of particular note, the short-term efforts to improve the relative security of the IT systems of the Bureau of Indian Affairs continued. The Special Master concurred in the Department's proposal to permit BIA's contractor, Predictive Systems, to configure and test the firewalls and intrusion detection capabilities protecting the perimeter of BIA's communications network (BIANET). Although the testing program was successful, the Department will refrain from submitting a proposal to the Special Master to permit Internet connection to BIA until additional security improvements in the areas of internal networks, trust applications, personnel security, physical security, remote access for tribes, and security policies and procedures are more thoroughly addressed. The use of additional firewalls, routers, intrusion detection, password changes, etc. will be evaluated

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or implemented during the next two quarters of 2002, as the Department undertakes its assessment of BIA's ability to protect Indian trust data.

The relevant Consent Order includes a commitment to improve the security of IT systems housing or providing access to individual Indian trust systems as needed to achieve compliance with OMB Circular A-130, Appendix III. The Department is continuing its efforts to develop a long-range strategic plan to achieve A-130, Appendix III, compliance. As a result of the certification process, approximately 18 separate trust or IITD application systems (comprising about 80 affiliated modules) have been identified. The relative difficulties of achieving OMB Circular A-130, Appendix III, accreditation will vary significantly from system to system.

Multi-disciplinary teams, involving both Departmental and agency employees, along with technical contractors, have been evaluating the requirements of OMB Circular A-130, Appendix III, and the status of the Department's trust or IITD systems. The teams are developing a list of tasks that will require completion prior to system accreditation. The Department has been given the goal of achieving OMB Circular A-130, Appendix III, compliance for systems housing individual Indian trust data by December 31, 2005. That target date reflects various influences associated with the length of time anticipated clearly to delineate the organizational structure to be served, the time needed to receive the business process evaluation being conducted by Electronic Data Systems (EDS), the deliberations of the technical teams, the observations made by the National Institute of Standards and Technology (NIST) CSEAT report noted below, funding commitments and expectations and the short-term priority to improve the security of BIA's systems.

The Department's efforts to secure the communications networks used by Indian trust systems are ongoing. Discussions with MCI WorldCom (the Department's network provider) have been productive. It appears that the core of a dedicated network would be available for installation during FY 2002; however, given that the organizational structure is still pending further Tribal consultation, implementation may be delayed until the organizational structure is more clearly determined.

To enable meaningful work to continue, the Department sought and received approval by OMB and Congress to reprogram approximately \$12 million for the purposes of improving the security of IT systems associated with DOI's trust program. During the balance of FY 2002, the funding will permit the Department to invest in additional security measures, principally for BIA, to conduct ongoing IV& V work in cooperation with the Special Master and to continue efforts to plan for and take steps towards OMB Circular A-130 compliance.

Finally, during the reporting period, the Department was unsuccessful in its efforts to attract additional, senior-level management or technical talent to assist in the efforts to improve IT security. The Department's two key positions, an IT Specialist to act as an IT Security Chief, and an IT Specialist to provide Indian Trust Management IT Security assistance, remain open. Similar positions in BIA, Chief Information Officer and Director, Office of Information Resources Management, remain open as well. Continued

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efforts to fill these key positions will be made during second quarter, calendar 2002, as obtaining additional technical leadership is greatly needed.

The SRA International, Inc. Report (January 18, 2002):

This risk assessment addressed Indian Trust Management (ITM) at a systems level, assessing it against the mandated federal standards applicable through Executive Order, enacted legislation, and established directives and guidance. The report provides senior management with the requisite data to determine the current overall IT security posture across the ITM program and may facilitate well-informed risk-based decisions.

The risk assessment reflects the application of a standardized methodology for the determination of threats, risk factors, vulnerability exposures and potential losses. The risk assessment approach is an attempt to satisfy the needs of an organization to protect the assets in which it has made an investment. The risk assessment also serves to identify the particular problems an organization could expect to encounter in the performance of its mission, and the adverse effects these problems might present to the organization's ability to meet its obligations. Finally, the risk assessment is a mechanism by which management can address these problems according to their relative importance based on financial analysis, and to develop safeguards, which are both reasonable and cost-effective.

The risk assessment focused on seven principal elements: Security Program Plans; System Security Plans; Authorization to Process or Interim Authorization to Operate; Risk Assessments; Disaster Recovery Plans; Computer Security Awareness Training; and, Computer Security Incident Response Capabilities. Additionally, the risk assessment reviewed the System Development Life Cycle as it relates to information security with a focus on the requisite budgetary support to accomplish the goals of the effort.

The risk assessment identified specific vulnerabilities which represent a significant level of non-compliance with mandated federal legislative and regulatory documentation requirements. The term, vulnerability, represents a condition or weakness in (or absence of) security procedures, technical controls, physical controls, or other controls that could be exploited by a threat. Vulnerabilities contribute to risk because they could potentially be exploited by a threat to harm a system. An exploit may consist of a script or set of scripts that include executable or malicious code derivatives that have been specifically assembled to take advantage of a particular vulnerability in order to compromise a system.

In total, the report identified 567 total vulnerabilities. These vulnerabilities were subdivided into 11 broad groups (SRA Report 6-16 to 6-36):

- \$ The Indian Trust Management program does not have a Security Program Plan.

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- \$ There is no ITM Program Manager identified who has explicit responsibility for ensuring that adequate IT security is implemented for the ITM program.
- \$ The ITM program does not have a Program IT Security Manager.
- \$ The ITM program does not have a Designated Approving Authority that formally accredits ITM systems.
- \$ The ITM program does not appear to operate under program-wide IT security policies.
- \$ There does not appear to be certified System Security Plans for all of the General Support Systems and Major Applications that support the ITM program.
- \$ Not all systems that support the ITM program are adequately accredited and approved to operate by a Designated Accrediting Authority.
- \$ Not all ITM systems appear to be supported by contingency planning that is well-documented, coordinated, and tested.
- \$ The ITM program does not have a program-wide Computer Security Awareness Training program.
- \$ The ITM program is not supported by a program-wide Computer Security Incident Handling Capability.
- \$ It cannot be demonstrated that the costs for security are planned for across the life cycle of all ITM systems.

SRA categorized 96% of the identified risks as **Ahigh**. A **Ahigh** risk rating indicates that SRA recommends that requisite attention be given to implementing safeguards, without delay, to mitigate the overall risk. The high risk rating also indicates that there is low or no level of compliance overall with the criteria established in the risk assessment. However, SRA suggests that **A**by implementing the[ir] recommended mitigation strategies consistently over a period of time ITM will achieve compliance with OMB A-130 appendix III and the remaining federal IT security standards as previously defined. (SRA Report @ ES-6).

The NIST CSEAT Report (April 1, 2002):

Earlier in the reporting period, the Department received an oral briefing by the NIST CSEAT team of the preliminary results of another evaluation of the status of IT security measures associated with Indian trust systems. Subsequently, the Department received the initial written report entitled **A**Indian Trust Management - CSEAT High Risk Program

Review Draft Report, April 1, 2002," which documented the NIST CSEAT perspective regarding the significant challenges in this program area.

The Department of the Interior (DOI) and the Office of Management and Budget (OMB) requested that the National Institute of Standards and Technology's (NIST) Computer Security Expert Assist Team (CSEAT) conduct an independent high-risk program review of the effectiveness of IT security associated with DOI's Indian Trust Management (ITM) program. NIST's CSEAT provides expert assistance to Federal agencies to review agency computer security maturity level and identify prioritized corrective actions to achieve a higher level of computer security maturity.

The 294-page report provides many observations, findings and recommendations for consideration. The draft document is currently being reviewed within the Department; DOI plans to provide comments to NIST in early May 2002. Some of the more noteworthy observations include:

Define Indian trust data

\$ A This review, DOI and contractor reports, and interviews with personnel supporting the ITM Program clearly indicate that there is no formal definition of what constitutes ITM information. As a result, personnel do not know whether or not they process Indian trust information. Consequently, the data cannot be protected at a level commensurate with the information's sensitivity and fiduciary value. The level of protection required for Indian trust information is unknown. (CSEAT Draft Report @ ii).

\$ A There is no accepted definition of Indian trust information. Individuals disagree over whether or not a particular piece of information is Indian trust information. As a result, personnel do not know whether or not they process Indian trust information. Each piece of Indian trust information and the associated context of that information must be clearly and authoritatively defined. Trust information cannot be adequately protected unless everyone understands that the information is Indian trust information. The definition must become the authoritative reference for Indian trust information and must define specifically each piece of information as an entity. The definition must also include the point at which the information is considered Indian trust data and the specific flow of the information through each ITM program system and each organization. (CSEAT Draft Report @ 88)

Employee Fear

\$ A Personnel from different bureaus performing different functions, from executives through end users, had a universal message. They want to do the right thing, they want to serve the Native American community and

the country, they want to get Aback@to their jobs and they want to work securely. There is a level of fear and anxiety relating to the ownership of ITM information stemming from the Cobell class action litigation that permeates even to the lowest level of the organization. This creates an unproductive atmosphere where personnel fulfill their prescribed mission, but are reticent to take innovative measures or personnel initiative that could improve their situation.@ (CSEAT Draft Report @ ii).

- \$ AThe current litigation against the ITM program is having a negative impact on employee performance. The employees who were interviewed by CSEAT appear to be trying to do the best job they can, but many stated that they are afraid to do anything for fear of being named in the lawsuit. A lack of action appears to go unnoticed, whereas well intentioned actions appear to be penalized. This has resulted in behaviors that are unproductive and sometimes counter productive.@ (CSEAT Draft Report @ 31).

IT Security Management

- \$ AThe CSEAT findings demonstrate that DOI has focused on actively implementing information security measures to protect the ITM Program security infrastructure. The implementation of these measures without a systematic approach does not provide the desired results. Adequate IT security cannot be accomplished without DOI and OST leadership taking a more active role in the IT security of the ITM Program. In order to facilitate improvement, OST must establish clear lines of leadership and a cohesive management structure for the ITM program.@ (CSEAT Draft Report @ iii)
- \$ AEven with the establishment of OST, the bureaus and states implementing the ITM program still act independently. They manage their operations and control their day-to-day activities independently, do not plan in concert with the Secretarys office, and do not follow DOI direction. This leads to the development of different approaches to the same issue.@ (CSEAT Draft Report @ ii).

Other Identified Issues

- \$ Indian Trust information is not safeguarded due to inconsistent and ineffective leadership.
- \$ Trust information cannot be appropriately protected since there is no common understanding of exactly what constitutes trust information.
- \$ Trust information cannot be appropriately protected since the level of protection required has not been identified.

- \$ Trust data processing is inconsistent across locations and bureaus.
- \$ Security policies and procedures are inadequately documented and could place the ITM program's mission at risk.
- \$ ITM program critical system security is insufficient to properly protect Indian trust information.
- \$ Identified ITM system vulnerabilities may be uncorrected since no formal tracking system is in use.
- \$ ITM system security is weakened by not communicating standard ITM program rules of behavior for system users.
- \$ ITM information and systems are endangered by failure to do background investigations on new sensitive positions.
- \$ ITM information and systems are endangered due to a failure to manage access rights and accounts for ITM program employees.
- \$ ITM critical systems may be at risk due to inadequate system controls.
- \$ Unidentified risks may jeopardize the performance of the ITM program's mission.
- \$ Operational ITM systems may fail due to insufficient security controls.
- \$ ITM systems face the potential for unrecoverable catastrophic failure due to unavailable security documentation.
- \$ ITM program data and systems may be vulnerable to damage due to inadequate awareness of security requirements by system users.
- \$ IT threats may disrupt ITM program systems, since some systems are not updated or maintained consistently.
- \$ The ITM program's mission may be in jeopardy because management places a low priority on computer security.
- \$ The ITM program's budget request does not adequately communicate their pressing security needs to Congress.
- \$ ITM program systems' security may be degraded due to an inadequate number of computer security personnel.

- \$ Critical systems may lack sufficient protection due to inadequate resource distribution.
- \$ Implemented IT security solutions may not be cost effective.
- \$ ITM's computer security expenditures may be misdirected due to A faulty@ integration of computer security into the life cycle management process.
- \$ Adequate contingency and emergency planning cannot be accomplished due to incomplete identification of critical and sensitive assets comprising the ITM program.
- \$ The ITM program risks loss of data and operations due to lack of continuity of operations and contingency planning.
- \$ The Indian trust assets are at risk of attack with potential for disclosure of information, denial of service, and/or modification of data.
- \$ Failure to test upgraded configurations and maintenance of formal configuration control may lead to failures during system enhancement.
- \$ ITM data integrity is questionable due to a lack of explicitly defined security controls and a consistent implementation of data integrity controls across the ITM program.
- \$ Sensitive information can be inadvertently released due to the lack of production input/output controls and data confidentiality controls.
- \$ Native Americans may not receive their payments due to unavailability of an ITM system.
- \$ The ITM program is vulnerable to a malicious visitor entering ITM facilities.
- \$ ITM systems and personnel are exposed to harm from lack of control of restricted items being brought to ITM facilities.
- \$ Unauthorized access to ITM sensitive areas can result in a loss of information confidentiality, integrity and availability.
- \$ Unauthorized individuals may have access to ITM information, thus the information may be disclosed or altered.
- \$ Malicious use of ITM's systems and applications may be ongoing, with risk of damage or disclosure of sensitive information.

- \$ ITM systems and applications are at risk because technical control areas listed in security plans and application system assessment reports are not implemented and/or documented.

Remediation/Improvement Costs

- \$ AThe NIST CSEAT has identified two options for recommended plans of action that can significantly improve the maturity, consistency, and institutionalization of DOI's security program across the entire enterprise. These options will establish an effective IT security baseline for the ITM program. The first option costs approximately \$10 million and provides significant improvement towards strengthening the management and organization of the ITM program security, identification of ITM program data, and implementation of the capital planning process. The second option, costs approximately \$20 million and provides significant improvement towards full documentation of detailed security procedures across the ITM program.@ (CSEAT Draft Report @ iv). Subsequently, the CSEAT estimated that approximately \$40 million would be required to fully implement all of the recommendations contained within the report. It should be noted that these costs relate to the recommendations contained within the NIST CSEAT report; it is currently unclear the extent to which the NIST recommendations coincide with other findings and recommendations delineated in the Special Master's and other similar reports.

Comments On The SRA International & NIST CSEAT Reports:

The final SRA report and the draft CSEAT report provide a broad overview of the IT systems associated with managing the Department's Indian trust responsibilities. The SRA report is focused principally upon a systems perspective, while the NIST CSEAT report is oriented towards IT management systems. Both provide valuable perspectives and illustrate the magnitude of the challenges facing the Department to achieve A-130 compliance for IT systems housing or providing access to individual Indian trust data.

The CSEAT report is still undergoing review within the Department, hence some of the material noted above may be changed when the final document is published by NIST. Notwithstanding the potential for changes, the items excerpted illustrate the types of security challenges that need to be addressed by the Department.

The observations and findings provided by the SRA report and the NIST's CSEAT report are generally consistent with those found in the Special Masters November 15, 2001, report. However, both the SRA report and NIST CSEAT report go a step further in that they provide detailed recommendations to address the identified issues. As a number of the recommendations are phrased in relatively general ways, additional clarification and reconciliation will be needed.

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When the final NIST CSEAT report is made available, the Department will evaluate their observations, findings and recommendations against those included in the SRA report and the items remaining after the analysis of those contained in the Special Masters report (described earlier). Afterwards, the Department plans to prepare a consolidated list of open security issues that would be used to facilitate the planning of various, prioritized mitigation efforts.

Assurance Statement:

The information provided in this section of the 9th Report to the Court is accurate to the best of my knowledge and belief.

Date: April 20, 2002

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

B. COMPUTER AND BUSINESS SYSTEMS ARCHITECTURE

Summary Description:

The objective is to provide the blueprint for defining and mapping business processes within the trust management activity from existing procedures and systems to the new operating environment. The blueprint, which this project produced on August 14, 2001, is the foundation for continuing work on the computer and business architecture. The EDS business process study began the detail work recommended in the blueprint. The architecture efforts will be ongoing as a part of the Department of the Interior's responsibility to meet the *OMB Circular A-130* and *Clinger-Cohen Act of 1996*. This first task (to create a blueprint) sets the context for the ongoing architecture work.

Project Manager's Observations:

The first phase of the Computer and Business Systems Architecture project was to build a framework plan, using Enterprise Architecture Planning (EAP) as the methodology to build that plan or blueprint. EAP has been defined in previous reports. The EAP phase completed the building of that framework plan and submitted a comprehensive report on August 14, 2001. That report covered the project's activities and products over the previous 18 months and included a set of recommended actions. No actions have been taken during this reporting period because of the problems associated with the computer disconnect and diverting resources to the TrustNet activity.

The publication of the EAP report coincided with the initiation by the Office of Special Trustee (OST) of an Electronic Data Systems Corporation (EDS) study for a number of trust-related projects. The Trust Architecture Technical Oversight Committee requested through OST that EDS also review the trust architecture plan as a means of getting a third-party opinion of the completed project deliverables. Action on the project recommendations was delayed pending publication of the EDS report, which was published on January 24, 2002.

The December 5, 2001, shutdown of Internet services within the Department of the Interior heightened the essential relationship between security and architecture. For that reason, architecture work this quarter has been focused on two specific activities: 1) supporting the new TrustNet initiative to build a secure network on which trust computer systems can operate by reviewing designs and advising planners; and 2) initiated new personnel actions to hire one security and two architecture specialists to support the continuing trust improvement efforts within the department. Both these activities were performed within the context of the Computer and Business Systems Architecture project.

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Recruitment actions were originally initiated in October 2001 to hire two senior architecture staff to act on recommendations proposed in the August 2001 report. Applicants were interviewed in February, but lacked the depth of experience to lead this technically and organizationally complex project. New personnel announcements were initiated to include a broader pool of applicants. The announcements for one security position and the two trust architect positions will be posted during April and May of 2002. These new architecture hires will also support the TrustNet project as it relates to data architecture, technical infrastructure, application integration, and interfaces.

The required activities of this project are related to and included within the EDS business process evaluation as described in the "HLIP to Business Model" section of the report and the TrustNet project, as described in the IT Security section of the report.

Comments on EDS Roadmap

The EDS Roadmap of January 24, 2001 reported that the Enterprise Architecture Planning effort was an important first step towards the Enterprise Architecture for trust management. However, the EDS Roadmap also suggested that the EAP planning effort did not contain substantial detail and that substantial follow-on work is necessary.

The subproject manager agrees with EDS findings that considerable work remains to be done in the area of trust architecture. Current efforts by EDS to develop detailed business models are the logical next step to building the foundation for improvements to existing computer and business systems.

EDS has received from the project manager the EAP database as an initial framework and has requested additional support in its use of that database.

Assurance Statement

I concur with the content of the information contained in the 9th Report to the Court. The information in this section, the Computer and Business Systems Architecture Framework Plan, is accurate to the best of my knowledge.

Date: May 1, 2002

Name: *Signature on File*

Julia M. Laws

C. CADASTRAL SURVEY

1. Project Summary

Cadastral survey is a common term within the land surveying community but is not widely recognized outside of the surveying and taxation professions. Cadastral is derived from the Greek *katastikhon*, a list or register, from *kata stikhon*, “line by line”. Cadastral surveys are most commonly used as a basis for taxation. A cadastral survey is a land survey of sufficient scale to show the extent and measurement of property boundaries. A cadastral survey as performed by the Bureau of Land Management (BLM) is used to accurately identify land boundaries and to maintain the related survey records for all public and tribal lands. These surveys require detailed investigations of the history of land use and occupancy, legal document research and correlating on-the-ground, physical surveys with legal documents. A cadastral map or plat shows and records property boundaries, subdivisional lines, buildings and related details.

2. Project Manager’s Observations

Update on Issues: Report to the Court Number Eight, January 16, 2002

“The Bureau of Land Management (BLM) has developed a training course for BLM realty specialists, cadastral surveyors, BLM appraisers and other BLM land tenure specialists to help in broadening the cross cutting issues facing these specialists. The BLM is improving its efficiencies in addressing survey and realty actions because of this course. This course is currently being redesigned for Indian issues and will be called Foundations of Land Tenure in Indian Country.@ The first offering of the course is planned for the third quarter of 2002 and should then be available for national deployment.” Status Report to the Court Number Eight, pg. 66, January 16, 2002.

STATUS: Contacts have been made with Tribal realty specialists, BIA realty specialists, the DOI Solicitor, BLM realty specialists and cadastral surveyors, to form the Foundations course design committee. The first meeting of the design committee is scheduled for the week of May 13, 2002, in Portland, Oregon. The committee will set out the design parameters and determine course objectives. The instructors will be identified at the design meeting. An instructor’s meeting will take place thereafter. The instructors will then be given their assignments to include providing lesson plans, lesson objectives, and training materials. The instructor’s material will be reviewed by the BLM National Training Center (NTC). New instructors will be asked to attend The Instructor Seminar course offered by BLM’s NTC. The pilot presentation of this new course is planned for September 2002 in Portland, Oregon. The BLM’s NTC Cadastral Survey Training Coordinator is coordinating the design, instructors and the pilot course.

“The BLM and BIA have conducted general inventories of survey needs on Indian reservations. These inventories are based on existing requests for surveys, BIA/BLM knowledge of lands involved, and a projection of future needs. Both agencies identified the need for a more comprehensive inventory, and funding has been requested to accomplish this task. The BIA and BLM identified a \$62 million backlog of immediate cadastral survey [sic] needs and \$51 million in projected needs. This inventory of backlog needs is for all of Indian country and does not distinguish between IIM allotments and Tribal lands. However, the demand for cadastral surveys is not static and the Indian land base is expanding from land claims and acquisitions that will require additional surveys. Urban growth on Tribal lands and the increased demands upon Tribal resources will result in more survey needs.” Status Report to the Court Number Eight, pg. 67, January 16, 2002.

STATUS: The FY 2003 President’s budget contains a new level of funding for the BIA Program Sub-element Cadastral Surveys, from \$6.5M to \$8.0M. It is anticipated that a portion of the increased funds will be utilized to gather this inventory data. In addition, this important data gathering has been started using existing FY 2002 funds. Use of existing funds will result in a deferral of a portion of the unmet survey needs.

“The Special Trustee for American Indians is aware of this backlog of survey needs for Indian trust lands. Specific parcel information is required before the full extent of the unmet needs can be quantified, and a detailed plan can be completed. BLM is in discussions with BIA and OST on how to develop a detailed accounting of a cadastral services backlog.” Status Report to the Court Number Eight, pg. 67, January 16, 2002.

STATUS: Mr. Ross Swimmer, the Director, Office of Indian Trust Transition has convened a Joint BIA/BLM National Working Group for Cadastral Survey Issues. Per the EDS Trust Reform Final Report and Roadmap (01/24/02), this group will: prioritize the current cadastral survey work; determine and confirm the inventory of current survey needs; develop a recommended yearly schedule of survey work; review and provide recommendations on the level of funding and staffing required to support a multi-year effort to complete current survey needs; and develop prioritization criteria for current survey needs that reflect critical priorities. An Automated Cadastral Survey Request and Database is under development and should be completed by the next quarterly report. This database will standardize survey requests, enhance the collection of key information needed to determine the extent of critical needs, provide one centralized location that can be easily accessed by authorized officials, and enhance the planning prioritization and scheduling process for current survey needs.

“The BLM provides the surveys for the transfer of public lands to the State of Alaska, allotments for native Alaskans and tracts for the twelve Alaska native corporations. The planning system for this survey of competing Alaskan groups is complex. The BLM is working with the BIA to implement a similar model in a BIA regional office by the third quarter of 2002. This action is in concert with the observations by the Special Trustee.” Status Report to the Court Number Eight, pg. 67, January 16, 2002.

STATUS: A BLM Information Bulletin from the Assistant Director, Carson W. Culp, to the State Directors has been drafted requesting their cooperation in the collection of cadastral survey request information. This will be sent during the next reporting period. A similar BIA Memorandum from the Deputy Commissioner to the Regional Directors has been drafted. This will be sent during the next reporting period. The Rocky Mountain Region has committed to begin data collection and to complete the initial inventory by October 2002. It is anticipated that this nationwide inventory of needs and a plan for future accomplishments will be completed by July 2003. This data collection effort will provide BLM and BIA with the necessary information to plan, budget and prioritize survey needs of Indian Tribes and individual beneficiaries.

“To achieve a credible trust management system, legally defensible cadastral (land) surveys are necessary to locate and mark the corners and lines of the Trust boundaries. The success of a trust management system does not end with surveys. The land tenure data must be integrated under the direct supervision of experienced survey and title professionals, and formatted to a standardized database operating within a functional land information system. The BLM and BIA are in the process of setting priorities for survey needs and will incorporate standardized cadastral data that have a review of a multi-disciplinary team.” Status Report to the Court Number Eight, pg. 69, January 16, 2002.

STATUS: The accurate location of Indian trust lands is important for asset management. To enhance and expedite survey processes, BLM's Cadastral Survey Program and the Yakama Tribe are in a partnership called the Cadastral Geographic Information System (GIS) Model In Indian Country, referred to as the Yakama Model in the EDS Trust Reform Final Report and Roadmap, January 24, 2002. This model utilizes a GIS to interrelate different local and regional trust land-use functional requirements in a single system, which can be integrated with trust-wide or other DOI agency systems. The project combines the cadastral (land) information from the state, county, BIA and Tribe into a parcel (allotment) level database. This is not a stand-alone system. It is able to interface with other GIS databases for information exchange. A cadastral surveyor can review and validate many survey and land records by using GIS and by using global positioning system (GPS) technology, and by using a BLM developed survey computational software. Parcel (allotments and

rights-of-ways) information can be validated by having a cadastral surveyor review the legal land descriptions. The GIS technology then links the title and accounting information to the land information. Use of this GIS system for trust asset management across the regions covered by the Trust could provide a common mechanism for consistent land information under trust, while providing the ability to support unique information needs and processes required by each geographic area. Three additional Tribes, the Ute Mountain Ute, Umatilla, and Coeur d'Alene, have been contacted and are exploring implementing the Cadastral GIS Model in Indian Country in this fiscal year.

3. Current Activities

The majority of Indian surveys were performed with accuracy and serve the needs of Tribes and IIM account holders. However, many of these surveys are old and the original markers or monuments have deteriorated from the activities of mankind and the ravages of time. Because of a higher priority, most of the lands associated with high valued resources have up-to-date surveys. Additional survey requests for the support of business transactions and land transfers are needed on a continual basis. An accurate and visible survey is a valued asset that protects high valued resources, such as timber, oil, gas, coal, and assures defensible locations of assets in urbanized areas.

The BLM's State Office Cadastral Chiefs and Washington Office staff met with the BIA Office of Indian Trust Responsibilities on March 5, 2002. This one-day meeting addressed issues related to program planning and budgeting issues. The agreed to goals were to provide high priority surveys to each BIA Region and to increase productivity yearly by maintaining the stability of BLM State Office programs. The distribution of available funds will be focused upon high priority BIA Regional needs.

The Office of Historical Trust Accounting is working with the BLM on a pilot project to study acreage error, legal description error, and location error on selected Indian allotments. The pilot uses survey documents and reliability diagrams to identify areas of location uncertainty. The field survey is complete on one project and is pending an office review.

During this reporting period, an outline to reduce the cadastral survey backlog in Indian country was prepared for DOI, BLM and Indian trust leadership. This outline summarizes the work to be completed in five years on tribal trust, individual trust and reservation boundaries (excluding Alaska) and to stay current with new survey requests. Survey needs are submitted by BIA Regional and Agency offices to the BLM. BLM makes the final determination for the kind of survey needed. The age of existing surveys and the examination of patents and other available land records affect the need for a cadastral survey. At the current funding level, \$6.5 million per year, the BLM would take approximately ten years

to complete the current estimate of \$60 million of current survey needs. It is estimated an additional \$2 million of new survey needs will be required in Indian country per year. Thus the ten years of addressing the immediate survey needs would result in a new \$20 million backlog. IIM account holders are minimally impacted by this. The backlog is primarily related to Tribal surveys. To shorten this time frame to five years the following solution was proposed:

Develop and Implement the Comprehensive Plan: BLM, BIA and Tribes will develop a plan to address survey needs. Prioritization with BIA Regional Offices and BLM State Offices has started with a pilot project in the Rocky Mountain Region. This prioritization and inventory should be complete by October 2002 and used for planning a budget and execution of the surveys. The other regions will develop similar plans by July of 2003. (See Update on Issues IV above.) This would allow the BLM to assign surveyors to the highest priority areas and to cluster senior land surveyors with multiple survey crews to increase efficiencies in workforce and expertise. Each BLM State Office would receive funding for developing and implementing the plans.

Replace Depleted Workforce: The BLM will implement workforce hiring and retention options because by 2008 approximately 50 percent of BLM land surveyors are eligible for retirement. These options will maintain a core competency level of surveyors needed for the following competitive source option.

Implement Competitive Source Option: The BLM will use competitive sourcing of commercial activities to increase its workforce capabilities. A BLM Cadastral Competitive Source Director is proposed to lead this effort who would direct the contracting efforts, promote the BLM cadastral survey training for private surveyors to ensure the competency and quality, and to maintain a cadre of commercial surveyors for Indian surveys.

Implement DOI Indian Trust Land Survey Policy 2002: To increase efficiencies, a land survey policy should be established that outlines the requirements and steps for consulting with cadastral survey experts. A draft policy was prepared by the BLM and distributed during this reporting period to be reviewed by BLM, BIA and the Department. This policy will provide guidelines for consultation on land description and boundary issues to assure concise, accurate descriptions and defensible boundaries in a timely manner and at a reasonable cost. If adopted, it is anticipated that problems will be identified before transactions are finalized and resolution becomes much more difficult and costly. This standard would result in a high degree of consulting, coordination and cooperation between BIA and BLM and minimize unneeded surveys. This standard would complement the existing rules and regulations for survey of any Indian or other reservations or any lands in conformity with public lands. The internal review is scheduled to be completed by September 2002 and a public comment period should be complete by September 2003.

EDS Report:

The steps to address Indian surveys are progressing with positive actions as outlined in the EDS Trust Reform Final Report and Roadmap (01/24/02). The joint BIA/BLM National Working Group for Cadastral Survey Issues was formed and is providing oversight. The Automated Cadastral Survey Request and Database will improve the management of priorities, needs and resources for the execution of immediate survey needs. The issues associated with probate and cadastral surveys may be minimal, according to some BIA Regional Directors, but will be investigated and studied. The Cadastral GIS Model In Indian Country is being expanded to other Tribes. The implementation of the EDS report and other actions will improve the service to Indian country.

Assurance Statement

The information provided in this section of the 9th Report to the Court is accurate to the best of my knowledge.

Date: April 30, 2002

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

D. MINERALS MANAGEMENT SERVICE

Summary Description

The Minerals Management Service (MMS), Minerals Revenue Management (MRM) 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. (Note: MRM conducts its business processes, maintains reported information and distributes revenues at the lease level. Bureau of Indian Affairs (BIA) uses the ownership records it maintains to allocate the revenues to the individual Indian level. MMS does not maintain information at the individual Indian mineral beneficiary level.)

Faced with changing energy markets, new legislative mandates and aging computer systems, MRM made the decision in April 1997 to reengineer its core business processes and support systems and to reorganize around those streamlined business processes. This initiative was necessary in order for MRM to remain cost-effective and responsive to customer needs and to fulfill its trust responsibility to American Indians by continuing to improve its business effectiveness.

MMS Systems Reengineering is aimed at overall improvement of MMS's financial and compliance capabilities rather than any specific Department of the Interior (DOI) trust weaknesses. The project involved the development and installation of a new commercial off-the-shelf (COTS) financial system, compliance system and data warehouse providing enhanced accessibility to revenue and production information and analytical tools.

The project consisted of a comprehensive analysis of business processes including benchmarking, process mapping and input from customers and constituents. The preliminary design for the new processes was completed in March 1998, followed by prototyping, pilot testing and development of a capital investment plan in September 1998. MRM's implementation plan, *The Roadmap to the 21st Century*, was completed in November 1998. The new MRM Financial System, Data Warehouse and Compliance System were designed and implemented under contract with Accenture. The major aspects of the systems were implemented in November 2001.

MRM's lead contractor, Accenture, is responsible for the post-implementation operations and support of the new systems. Accenture subcontracts with USInternetworking (USi)—an applications systems provider—to host the new MRM applications at USi's Annapolis, MD data center.

Project Manager's Observations

By November 1, 2001, MRM had completed most of the remaining tasks for the MMS Reengineering Subproject. These tasks included the core financial system, the relational database management system and the data warehouse system. MRM has implemented

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the key elements of the financial system that are necessary for timely and accurate collection and disbursement of trust revenues.

All of these systems were shut down in response to the December 5, 2001, temporary restraining order under the Cobell litigation. At the time of the shutdown, some work still remained in order to test and implement two additional modules of the financial system and two modules of the compliance system. MRM received approval on March 20, 2002, to restart MMS systems and is currently working on completing the final phases of this project.

MMS is currently conducting acceptance testing for the two financial components—the mineral production reporting module and the exception processing module—and expects to have them completed during the next reporting period. Implementation of the Compliance System is scheduled for completion on April 1, 2002, as two key trust-related components are moved into production. Major Portion and Dual Accounting are analytical tools that help ensure compliance with regulations and lease terms.

Following is a recap of the steps remaining in this project, plus the EDS recommended actions:

Step	Date Completed or Planned for Completion
Implement Major Portion and Dual Accounting Modules	04/01/02
Implement Production and Exception Processing Modules	06/30/02
EDS recommendation G.2.1 - Establish Ongoing Application Change Control Procedures	03/31/03
EDS recommendation G.2.2 - Resolve Information Exchange Issues between MRS and all Systems	TBD
EDS Recommendation G.2.3 – Establish Procedures Regarding Royalties Disbursement	TBD

Operational Impacts of Temporary Restraining Order

During the system shutdown, MMS was unable to process mineral revenue reports related to Indian or Federal leases. Companies are nevertheless required to make payments for any mineral revenues they owe, even in a case such as this in which MMS was unable to process reports. Those Tribes who receive mineral revenues via Tribal lockboxes had access to their proceeds immediately. In all other cases, MMS deposited Indian funds to Treasury accounts managed by Office of Trust Funds Management (OTFM).

After the systems were reactivated, MMS placed its priority on processing individual Indian mineral revenue reports so that it could produce distribution files to BIA. DOI and MMS management made this task a high priority so that mineral revenue payments

could be made to Indian beneficiaries as soon as possible. On March 25, 2002, MMS provided BIA a distribution file totaling \$251,964.85 for Tribal leases and \$408,522.63 for allotted leases.

Distribution files provide lease level details that are necessary in order to match against the payments already received. In generating these distribution files, MMS matches the payments to the appropriate leases.

Because the electronic connectivity to BIA has not yet been reestablished, MMS physically delivers the files on disk to the DOI National Business Center in Denver. MMS is continuing to produce weekly distribution files to BIA to accommodate their accelerated distribution recovery schedule.

Comments Regarding EDS Trust Reform Final Report and Roadmap

The EDS Final Report and Roadmap was complimentary of the process, content, and results of the MMS Systems Reengineering Project. Following are MMS responses to the EDS overall recommendations:

G.2.1 – Establish MRS Application Change Control – EDS recommended MMS establish a formal and documented process for identifying and requesting changes to the MRS application, interfaces or information as a result of business transformation. The change control process must address requests that come from both internal (MMS) and external (e.g., BIA) organizations.

MMS Response – MMS concurs with the recommendation. New procedures have been drafted by the contractor and will be reviewed and implemented in the coming twelve months. MMS will ensure that provisions are made for addressing requests that come from external organizations.

**G.2.2 – Resolve Information Exchange Issues between MRS and all Systems; and
G.2.3 – Establish Procedures Regarding Royalties Disbursement**

MMS Response – MMS concurs with the recommendations and has worked closely with BIA and OTFM to resolve information exchange issues during the implementation of MMS's new system as well as during and following the system shutdown. MMS believes the documentation and formalization of the inter-bureau procedures would most appropriately be a product of the upcoming EDS-supported trust business process study and/or the DOI efforts sponsored by the Associate Deputy Secretary of the Interior.

G.2.4 – Provide Customer Information as Appropriate

MMS Response – MMS has made its trust data available to the appropriate recipients through its data warehouse. EDS is recommending that other bureaus make their data available similarly, either through integration with the MMS data warehouse or expansion. MMS is open to either approach but is not in a position to respond to this

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recommendation on behalf of the other bureaus. However, based on MMS experience in planning and implementing our data warehouse, EDS's three-month implementation estimate is not feasible. We suggest that EDS may wish to evaluate these requirements during its upcoming business process study and propose a schedule to DOI.

Assurance Statement

I concur with the content of the information contained in this project manager report, set forth above. The information in those sections is accurate to the best of my knowledge.

Date: April 30, 2002

Name: *Signature on File*
Phil Sykora
Manager, Information Technology Center
Minerals Management Service,
Minerals Revenue Management

E. WORKFORCE PLANNING

Summary

In *Cobell v. Norton*, the court declared that the Trust Fund Management Reform Act requires the Department of the Interior to establish a written plan for the staffing of Individual Indian Money (IIM) trust management positions. Because the Department of the Interior (DOI) currently had no staffing plan as required, the Court declared that DOI was in breach of this trust duty owed to plaintiffs.

Workforce planning is a systematic process that provides managers with a framework for making personnel decisions based on an organization's mission, strategic plan, budgetary resources, and the associated skills needed to accomplish mission tasks now and in the future. It allows managers to anticipate change rather than being surprised by events, as well as providing strategic methods for addressing present and anticipated workforce issues including skills gaps and attrition. The workforce planning process must be linked to program, budget and strategic planning to be effective. Human resources are expensive. The Office of Management and Budget is emphasizing the link between dollars and personnel and asking agencies to accompany workforce requests with documentation tying the requests to overall staffing goals. Agencies are being asked to combine budget, program performance, and workforce priorities into a cohesive strategy that is presented in budget justifications.

Project Manager's Observations

A major step was accomplished by the issuance of the Departmental policy governing the content and timeframe for the development and submission of staffing and workforce plans. Personnel Bulletin No. 02-3, Workforce, Staffing, and Individual Development Planning for Trust Activities, was issued on October 31, 2001. It requires the development of staffing plans to address current vacancies and to project vacancies for FY 2003 and beyond. It also requires the submission of workforce plans that will address future workforce issues including management initiatives in outsourcing, delayering and EGov. Workforce plans will be developed by September 30, 2003, for FY 2004-2008 and updated annually thereafter. In addition, every employee with trust process responsibility must have an individual development plan by the end of the first quarter, FY 2003. Since there was some indication that not all appropriate management officials received a copy of this policy, a second distribution was made and all appropriate management officials were sent a copy by March 29, 2002.

As a transition instrument, Offices and Bureaus with trust responsibilities were requested to submit staffing plans for FY 2002. Plans were completed and forwarded to the Office of Personnel Policy by all organizations with the exception of the Office of the Special Trustee (OST). The submissions were status reports listing current staff and vacancies although some included narratives that discussed related staffing problems such as turnover and lack of qualified applicants. The new Departmental policy requires future staffing plans to contain the following information: percentage of time spent on trust

management work; known or projected attrition (including retirements, resignations, transfers, etc.); detailed information on any intended use of retention incentives; if encumbered, the name of the incumbent; if vacant, the date the position became vacant; and a detailed plan for filling all vacant or projected vacant positions.

In order to gain information about employees engaged in trust activities, the Department's National Business Center, which operates the Federal Personnel and Payroll System (FPPS), has made modifications to the FPPS to enable Bureau trust managers to identify trust positions. Bureaus can now enter data to identify positions having trust responsibilities. This data entry task has been completed in two Bureaus and two Offices (Minerals Management Service, Bureau of Land Management, Office of Hearings and Appeals and OST) and is underway in Bureau of Indian Affairs (BIA) and the Solicitor's Office. Data being entered includes: retirement eligibility dates, position sensitivity levels, supervisory status, work schedule (full time, part time, or intermittent), position type (permanent or temporary), series, grade, salary, full performance level for the position, retirement plan, and the percentage of time spent on trust process responsibilities.

The next critical steps are to:

- Continue obtaining more accurate information on existing trust management workload. Until a satisfactory workforce-planning tool can be identified and obtained, we will continue collecting this information using task analysis with a standard template administered and reviewed by individual supervisors. The template asks employees to track how much time they spend on trust processes and related support functions such as customer service. This undertaking also assists Interior in assigning levels of security since employees with trust responsibilities must have higher levels of security. Ideally, Interior would staff this assignment with qualified management analysts who could review and update workload and workforce data on a regular basis.
- Continue establishing a business model and business processes. Workforce plans will be developed in coordination with business models. Setting a strategic direction (using the Office of Personnel Management's Federal Workforce Planning Model as a guide) by conducting business process reengineering and reviewing organizational structure is the first step in workforce planning.
- Develop workforce planning training for supervisors and practitioners. The Department of the Interior University is working with a contractor to develop two training sessions on workforce planning: a one-day course for supervisors and managers and an intensive course for workforce planning practitioners which will provide them with the tools to assist managers in conducting workforce planning.
- Complete the steps necessary to comply with PB 02-3 requirements.

Once the organization has been established and the business processes identified, work can begin on analyzing the workforce to identify competencies needed, skill gaps, and performance measures. This information will provide the basis for an action plan: What human resources do I have? What human resources do I need to have in order to meet the performance objectives of the organization? Once I have employees on board, how do I develop them? What strategies should we use to retain them?

Finally, we can begin to implement the action plan – targeted recruiting, and conducting organizational assessments annually for competitive sourcing and delayering.

During the second quarter of FY 2002, we moved forward with workforce planning in all trust management organizations. OST and BIA will commence workforce planning as part of the reorganization that is anticipated to begin in late 2002. Trust processes have been identified, and work will begin on developing competencies and associated gap analyses for mission critical jobs. Although Interior policy does not require submission of a formal workforce plan until FY 2003, starting with a smaller group of positions will enable us to develop and pilot processes and systems that we can then apply to the larger workforce.

While attempting to implement workforce planning in Interior as a whole and for trust processes specifically, the following issues will have to be addressed or overcome:

- Interior has no workforce planning software, including basic position management software or tools to track employee development. Even successful modification of the program developed by Booz-Allen and Hamilton, Inc., to assist in workforce planning would not provide a complete suite of tools with which to interface staffing, classification, training, and employee skills and competencies. In the second quarter of FY 2002, we began reviewing existing software and identifying tools that will help bridge the current gap.
- Given the remote locations and the lack of appropriate labor pools, the high vacancy rates in BIA and OST may not be sufficiently reduced by better staffing and workforce plans or the application of financial incentives such as retention allowances. All alternatives should receive serious consideration including outsourcing, but an increased emphasis on recruitment using a variety of tools including professional search services should be pursued. The Electronic Data Systems (EDS) Report recommended a recruiting process redesign effort and the establishment of a central recruiting resource. Recruitment is currently performed by human resource specialists with other responsibilities and no specialized skills in the type of outreach functions necessary in this situation.
- Although a Trust Management Workforce Planning Program Manager has been selected and is dedicated to workforce planning, similarly dedicated and trained resources are needed in appropriate trust management organization offices to plan, develop, implement and administer workforce plans.

- Supervisors and managers should receive basic training in workforce planning as part of their required training. If workforce planning is to become a true managerial tool, it must be a supervisory/managerial responsibility associated with budget and organizational reviews.

The full extent of the problems associated with high vacancy rates, inadequate staff, inadequate training and poor or nonexistent business process analysis are probably not known, and it is likely to be quite difficult to solve all of these issues satisfactorily even with greater resources devoted to planning, recruiting, and training. Once trust activities are clearly defined and positions identified, it should be possible to accurately describe the problem areas, which is the first step in workforce planning. As part of this process, the Secretary has initiated an integrated effort to reorganize and consolidate Indian trust asset management functions into a separate organizational unit and to identify the business processes that will move the Department forward in the management of Indian trust reform.

EDS Observations

Current State

Workforce planning is new to DOI. Currently there is not a consistent workforce planning process followed throughout the Department. Regional Directors and Superintendents in BIA have traditionally left staffing and workforce planning activities to Personnel Directors as they have not seen it as part of their responsibilities. As there was no identified workforce planning policy to follow, or anyone requiring a regular workforce planning process be followed, very little in this area had been accomplished by either Regional or Personnel Directors prior to October 2001.

Because of the Court's requirement to develop a Trust Management staffing plan and recent DOI executive direction (Deputy Commissioner of Indian Affairs), the project's focus is on staffing plans and filling vacancies rather than overall workforce planning – workforce planning is currently a lower-level priority to filling the vacancies. This executive focus has trickled down to the regions and agencies, making Trust Management staffing a number one priority.

The focus on staffing appears to be well overdue. BIA has the highest vacancy rates for Trust Management positions, currently calculated at approximately 11.1% (per the Director, Office of Human Resources Policy, Office of the Assistant Secretary – Indian Affairs). However, these numbers have to be substantiated by the exercise currently underway to identify encumbered and vacant Trust positions. The objective is to reduce the vacancy rates to less than five percent.

This project has developed a Workforce Planning Guide and process, but as stated above, filling the vacancies has superseded implementing the process. It is not a question of

whether or not the project work has been completed; it is a question of implementing the work throughout Trust Management organizations.

Recommendation Summary

The EDS team recommends that DOI develop organizational work plans focused on workforce planning, staffing, recruiting, and retirement forecasting. To accomplish this:

- DOI should establish a single organization to develop, coordinate, and lead Trust Management workforce planning and training efforts. Putting both disciplines under one leader will allow coordination and integration between the two projects. Workforce Planning should not be considered a project but a permanent entity. Staff making up the Workforce Planning team should not have other job responsibilities.
- The workforce planning methodology that has been developed and documented by the project needs to be institutionalized throughout the Indian Trust organization – managers and supervisors need to be educated/trained and then held accountable to these standards. This will result in better forecasting of resource needs, better planning for filling those needs, and ultimately lower vacancy rates.
- Once the positions needed are identified, a new approach to filling vacancies should be developed including options such as outsourcing and seasonal employment, as well as a stronger emphasis on local recruiting.
- To strengthen recruiting efforts, a recruiting process redesign effort should be undertaken and a central recruiting resource needs to be put in place. Without redesigning the processes to address some of the issues associated with recruiting qualified applicants, the expected retirement bubble will make the staffing situation worse.
- The laws on Indian preference, specifically those involving merit promotions, should be examined. The DOI should investigate ways to offer career path opportunities for both Indian and non-Indian employees.

Project Manager's Comments

EDS's comments appear to be accurate, although the Department has issued detailed workforce planning in the interim. Interior, like most other Federal agencies, has not undertaken workforce or staffing planning in the past and has few trained resources to devote to the effort. Most managers are also apprehensive about the process.

The organizational changes EDS recommends would function well if the trust process were realigned into one entity. However, if the processes remain in separate Bureaus, resources should be established within the Bureaus to address recruiting, training, and workforce planning since these areas require great familiarity with the specific

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environment and cannot be done well operationally from a centralized office. Departmental level recruiting, training, or workforce planning staff would provide more useful assistance as an overall resource.

To address the problems with shortages of applicants and high vacancy rates, Interior has begun focusing increased resources (staff and money) on recruitment efforts. The Department of the Interior is also continuing to review options for analyzing workload and has been in contact with other Federal agencies that have undertaken this kind of strategic analysis.

Assurance Statement

I concur with the content of the information contained in this project manager report, set for above. The information in this section is accurate to the best of my knowledge.

Date: April 17, 2002

Name: *Signature on File*
Elizabeth Orman Shuff

V. OFFICE OF INDIAN TRUST TRANSITION

Reorganization

In November 2001, the Secretary announced her desire to create a new organization to manage all trust systems, operations and programs within the Department of the Interior (DOI). The decision was based on several factors, including the recommendations made by an internal DOI working group, the Electronic Data Systems (EDS) reports, and the recognized need to consolidate the trust activities of DOI within a single organization.

To support this effort, the Office of Indian Trust Transition (OITT) was formed to plan and implement “the transition of the Department’s Indian trust functions, currently located in various units of the Department...to a new entity within the Department.” Secretarial Order No. 3235, November 20, 2001. In addition, part of the role of OITT was to facilitate the Secretary’s desire to consult with Tribes in coordination with the Bureau of Indian Affairs (BIA) and other Departmental officials. The Secretary also directed that Congress, Interior personnel and labor unions be included in the consultation process. During this reporting period, Departmental officials testified before committees of Congress regarding Trust Reform and reorganization, and several Tribal consultation hearings were held in addition to those on December 13, 2001, in Albuquerque and on December 20, 2001, in Minneapolis:

January 3, 2002	Oklahoma City, OK
January 10, 2002	Rapid City, IN
January 17, 2002	San Diego, CA
January 23, 2002	Anchorage, AK
February 1, 2002	Arlington, VA
February 14, 2002	Portland, OR

Based on Tribal concerns expressed at the consultation meetings, the Secretary accepted the recommendation of Tribal leaders to form a Tribal Task Force and is providing financial resources to fund the effort. The Tribal Task Force consists of two Tribal representatives and an alternate from each of the 12 BIA regions. Nine individuals from DOI also participate on the Tribal Task Force. The DOI participants are the Deputy Secretary, Associate Deputy Secretary, Assistant Secretary-Indian Affairs, the Special Trustee, Director of the Office of Indian Trust Transition, Deputy Assistant Secretary-Indian Affairs, Director of the Office of Congressional and Legislative Affairs, Director of Public Relations, and Counselor to Assistant Secretary-Indian Affairs.

The initial meeting of the Tribal Task Force was February 1-4, 2002, in Shepherdstown, West Virginia, at the National Conservation Training Center. The Secretary, other DOI officials, Tribal Task Force members, and tribal members attended the meeting. From that meeting three subcommittees were formed. One was to address the reorganization proposals. The second was to work with the EDS contract on the mapping of existing business processes. The third was protocols.

A second meeting of the Tribal Task Force was held on March 8 and 9, 2002, in Phoenix. This meeting also proved successful as the Tribes agreed to go forward and continue discussing solutions with DOI. The meeting was observed by a number of interested individuals, including the Court Monitor, a Congressional member and other Congressional staff.

As a result of the consultation process and the formation of the Tribal Task Force, the Secretary's original proposal to create a Bureau of Indian Trust Asset Management (BITAM) is now one of approximately 28 different organizational proposals being reviewed. The Tribal Task Force continues its review of various alternative proposals for trust reorganization and received presentations from sponsors of the proposals. A schedule for meetings during the next two calendar quarters for assessing the organizational proposals was agreed to. Those dates and places are: April 25-26 in San Diego, CA; May 20-21 in Minneapolis, MN; and June 14-15 in Bismarck, ND.

Analysis of the various organizational proposals by the DOI and the Tribal Task Force should be complete by 3rd quarter of 2002. Following the analysis, the Secretary will review the various options and plans to seek further consultation on selected options.

Functions of the Office of Indian Trust Transition and Contracts

The functional Trust Reform areas under the control of OITT at this time are Probate, Trust Systems (formerly TAAMS), and BIA Trust Data Quality Analysis (formerly BIA Data Cleanup), as well as the Office of Historical Trust Accounting (OHTA). OITT has been successful in obtaining staff on detail from various offices, including Office of Special Trustee (OST), BIA, and OHA, to support the work in these areas. As reported in the 8th Report, Ms. Donna Erwin from the OST is providing overall direction on the Probate, Trust Systems and BIA Trust Data Quality Analysis, and the trust business process contract with Electronic Data Systems. Mr. Bert Edwards is the manager for the OHTA work. These functions are reported on by Ms. Erwin and Mr. Edwards.

The EDS contract has been modified to include a business process study from which we expect to gather enough information to "reengineer" the existing business processes to be consistent across all regions and meet the requirements of a trust organization. In some instances, there will be differences due to varying treaties, laws or court decisions that affect actions on one reservation differently than other reservations. Allowances will be made for those differences in the reengineering of the business processes.

The EDS contract to document business processes is providing OITT with information on some business processes that can be improved quickly. The first improvement project is probate, for which existing business process documentation is nearly complete. In order to encourage quality data from tribes, the Tribal Task Force has been asked to provide members to serve on the EDS contract steering committee. This has been approved and there are several Tribal leaders on the committee. This process is more fully described in the following document entitled "From HLIP to Business Model."

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The first area for EDS to document business processes is the probate division. Substantial progress was made during this quarter in documenting the probate business processes and this phase should be completed during the next quarter. When reviewing probate we plan to document all business processes from “death to distribution.” As reported previously, it is not sufficient simply to complete a probate. Until the distribution is made of the assets, the estate cannot be closed. Also during this reporting period, a position advertisement was announced for a GS-15 level person to manage the probate function. This will be one of several supervisors and trust operations’ positions that need to be advertised to ensure that business processes, performance standards and trust operations can become fully functional in the new trust organization.

Strategic Plan

The Department is in the process of creating a strategic plan that will incorporate the recommendations in the EDS Roadmap, new business processes and the new organizational structure. The plan is being developed as a cooperative effort of OST, OITT, Office of the Secretary and the BIA. Consultation on the strategic plan is also planned to begin with the Tribal Task Force in April 2002. As noted elsewhere in this Report, the Strategic Plan will replace the High Level Implementation Plan (HLIP), which was part of the earlier strategic plan of the first Special Trustee for American Indians. The intent is to have a living document that supports a trust organization business operations model, based on fiduciary principles required of a trustee, including goals, objectives, tasks, subtasks, a workforce plan, a training plan, performance standards and beneficiary services and which is focused on results. Progress has been made to develop the framework of the plan during this quarter, but will be more fully developed in consultation with all affected parties. There is an important balance to be reached between the need to make immediate trust improvements and the need to strategically plan for success with the Indian community.

Of necessity, the plan cannot be finalized and completed until the business process study is complete and the organizational structure is determined. Likewise, the EDS Roadmap, which was delivered on January 24, 2002, cannot be fully implemented until the business process study is complete, at which time some of the tasks listed in the Roadmap may change. The Roadmap was a study based largely on the way business is done now rather than how the business of trust should be done. Once the business process study is complete and the processes reengineered, the Roadmap will be reviewed and implemented where appropriate.

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Each of the managers of the various trust functions was interviewed regarding his or her section of the Report. They were asked to give a brief review of their functional area as was done in the 8th Report and to comment on progress made, obstacles encountered and plans for the future. Most were also asked to comment on the EDS Roadmap of January 24, 2002, with regard to whether items in the Roadmap were no longer applicable, had

already been accomplished or needed to wait until the business process study was complete.

During the interview process, there were several areas that required special attention. These are discussed below and include: Training, Risk Management, Policies and Procedures, computer shutdown, applying the Special Master's concerns to areas other than the subject of his specific report, and friction between BIA and OST.

First, it is apparent that training is going to be a critical function if we are to achieve our goal of proper trust operations. Training should be available across the board and specific to a particular application. Although OST has a training manager, it appears the primary goal of this function currently is to provide a high-level team building/trust awareness program to those employees who are engaged in any aspect of trust operations. However, when other managers were asked about training for specific applications - whether it be appraisal, probate, finance, records management or software applications - their response was that they generally arranged for training independently and that there was no overall plan in place for all the training that is needed. Obviously, until the business process study is done and new business processes are in place, not every manager can know all of the training needs which will be required. It is clear, however, that training is sufficiently important that someone should be ultimately responsible for coordinating, monitoring, evaluating, and testing to insure that training needs receive attention and that the training developed is appropriate and effective.

Coordination of training is also critical because of the time and expense of sending large numbers of people to training. A consideration might be to combine training with workforce planning so that as plans are made to hire people for trust positions a training schedule can follow. In any event, training needs more coordination with workforce planning and personnel as we move into the new trust environment. OITT will examine opportunities for broad based, comprehensive trust training during the next reporting period so that we are prepared for the transition to the new trust organization.

Risk management is another area that is developing but needs to have a more comprehensive focus. There are major projects being implemented such as the Indian Land Consolidation Act, the transfer of the appraisal program from BIA to OST, cash management plans, land management plans, records management plans, computer systems and many other projects or changes that need to be reviewed by risk management. Again, the OST risk management appears to have a narrow application and some of the managers are performing risk assessments separately from the risk management division. There have been funding constraints, which are now being addressed, and a suggestion is to have the division of risk management become more comprehensive in its approach to trust operations and be a clearinghouse for risk assessment activities for all trust areas. OITT will work with OST beginning in the next reporting period to support the continued development of a comprehensive risk management plan.

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Related to risk management and the overall trust reform effort is the need to track, address and resolve the weaknesses and deficiencies identified by outside, independent parties. For example an Independent Auditors' Report was issued during this reporting period on the U.S. Department of the Interior Fiscal Year 2001 Annual Departmental Report on Accountability (No. 2002-1-0018). The DOI FY 2001 Audit primarily concerns appropriated funds, but it also discusses areas concerning Indian Trust Fund Management in accordance with federal accounting standards. The DOI Audit reports that Indian Trust Fund Management continued to be a material internal control weakness for DOI. These weaknesses relate to matters covered in this 9th Report as they involve cash and trust balance issues with the U.S. Treasury Department (Accounting Discrepancies), special deposit accounts, security and controls over trust fund information systems, failure to segregate duties, inadequate controls over the processing of related party transactions, a backlog in processing probate orders, compacts for appraisal services, and the untimely deposit of trust funds.

The Division of Policies and Procedures in the BIA is critical to locating and cross checking regulations, policies and procedures governing all trust programs. The OST has withheld supplemental funding for expanded operations until 2003 while awaiting the results of the business process study and determination of the organizational structure. While the work of the existing staff has been valuable, they are staffed with temporary management and employees who are eligible for retirement or moving back to their former position. The responsibility for policy, procedures, regulations, legal reviews, handbook control and bureau manual guidance should reside in a fully functional Policy and Procedures Office. The transition from multiple entities managing Indian trust programs to one entity will require an intensive policy, procedure and regulatory effort. A proposal was circulated that would provide for a fully functional policy and procedures office. Funding for such an office is included in the 2003 budget request of DOI.

Some progress has been made both in OST and BIA toward trust reform and trust improvement, however, significant amounts of time were lost when computer systems were disconnected from the Internet to safeguard against unauthorized access. Although it would have been impossible to gauge the impact at the time the Order was entered, we nonetheless have to deal with the consequences. Some managers report that the basic work of entering information into the various trust related systems such as Land Title Records, will take from six months to a year to catch up. Probates, land transfers, leasing renewals, and many other financial transactions have been delayed or canceled, potentially to the detriment of trust beneficiaries. Although approximately 89% of DOI is back on line the BIA and OST remain unconnected. Once the systems are brought back on line, which is expected to be completed before the third quarter of this calendar year, all employees will be working to input data from the past rather than for current business.

Several project managers are performing tasks specifically related to comments of concern by the Special Master. Although the Special Master may identify a weakness at one location, it is quite possible that there are other areas or locations with similar weaknesses. Some findings may lead to a further need to evaluate systems or concerns

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more broadly. This matter will be referred to OST and a recommendation made to review all matters related to concerns of the Special Master.

Finally, it was noted during the interviews with the project managers, there was an increased level of friction between the BIA and OST organizations. At the interviews, it became apparent that this problem is increasing and must be addressed sooner rather than later. An example is the moving of the appraisal function from the BIA to OST. Several appraisers noted that they had virtually been “evicted” from their BIA offices since they no longer reported to the BIA. Other instances include situations where OST attempts to implement a policy or procedure, do training or other work at BIA regional or agency offices without engaging the managers at those locations about the need for their cooperation.

Some ways to mitigate this problem will be more and better communication between BIA and OST and more personal contact between the respective managers. A few OST Senior Managers have a good understanding of general trust operations but lack knowledge of Indian reservation culture and customs. BIA has a good understanding of the latter but not the former. Part of the transition effort will be to get these organizations on the same page with regard to trust activities so that whatever transition takes place to a new organization, it will be as efficient and effective as possible.

In preparing this 9th Report to the Court, project managers were asked to estimate time frames whenever possible for commencement or completion of activities. Some progress in this regard was made and continued progress in the effort is expected in the next report. As the strategic plan is completed, it will contain the tasks necessary to perform the trust obligations of the DOI and will have performance standards included as part of the plan.

Included immediately after this section of the 9th Report to the Court is a report on “From HLIP to Business Model” prepared by Donna Erwin, Deputy Special Trustee. This report informs the Court about the means by which we are moving from the HLIP approach to trust reform to a beneficiary centered business model, which will not only focus on backlog work as in the HLIP, but will also set in motion a continuous process of a trust operating business.

After the trust operations reorganization is completed, future reporting will be through a single unified organization. The format of the reports to the Court will likely be reports on the entire business and trust operations as a fully functional, unified activity within DOI, rather than divided among various DOI offices.

The trust operating organization should be fully formed and implementation begun by the end of this calendar year. Implementation will be a multi-year endeavor as indicated in the attached Trust Reform report. A more detailed time line will be developed for implementation as part of the Strategic Plan.

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Assurance Statement

I concur with the content of the information in the 9th Report to the Court. The information provided in this section is accurate to the best of my knowledge.

Date: April 30, 2002

Name: *Signature on File*
Ross O. Swimmer
Director, Office of Indian Trust Transition

A. FROM HLIP TO BUSINESS MODEL

A three-stage approach is being developed to standardized trust business processes. This planning framework will: (i) identify existing business processes; (ii) determine which of those processes should remain or be reengineered; and (iii) integrate the chosen model processes with universal support and operational functions crosscutting those core processes. The Department of the Interior (DOI) expects that this framework, in conjunction with reorganization and the strategic plan, will achieve meaningful trust reform and better meet the real needs of the trust beneficiaries.

The following report discusses the three phases, the tasks that will support this framework, the parties involved in the effort, and the progress being made on the first phase. Estimated time lines are provided for each of the phases to provide the beneficiaries with an idea of when they can expect a new, operational trust management system.

Phase I – Business Process Documentation (AS-IS)

The first step in developing standard trust business processes will be to identify and document existing, As-Is business processes, and how users, beneficiaries, and systems interact with existing processes.

The core trust “As-Is” processes are:

- Beneficiary Service Center
- Probate
- Title (other than Probate)
- Appraisal
- Cadastral Survey
- Surface Asset Management
- Sub-surface Asset Management
- Accounting Management (IIM, Tribal and Investments)

Phase II – Reengineering the Processes (TO-BE)

The second set of tasks is expected to deliver reengineering recommendations for better and more efficient standard trust processes. After comparing the existing processes to standard industry practices, some of the As-Is processes may remain intact, as a standard business process, while others may have to be reengineered and then established as a standard business process.

Phase III – Universal Support Functions

Integrating - Prior to any trust business process being established as the operational standard, the process will be tracked through a battery of crosscutting universal functions that prepare the process for implementation. The following universal functions will ensure that all trust business processes are operationally integrated: 1) Risk Assessment; 2) Automated System Requirements; 3) Records; 4) Internal Controls/Fiduciary Security; 5) Policies and Procedures; 6) Workforce Planning; 7) Training; and 8) Define Future System User Technical Assistance Center.

During this reporting period, a project plan was developed using Microsoft Project planning software and tasks in the plan were commenced. Even though each of the core trust processes supports specific trust responsibilities, the project plan that is being followed requires each process to be subjected to the same pre-reengineering review through post-reengineering implementation. Utilizing Microsoft Project, each of the core trust business processes are identified: Process End Date, Task Name, Task Duration, Percent Completed, Completion Criteria, Total Risk, etc.

At present, the tasks in the project plan are:

Pre-Reengineering (Phase I) February 2002 – January 2003

- ? **Business Process Fact Finding**
- ? **Business Process Documentation “As-Is”**
 - Award contract modification
 - Conduct contractually required planning sessions with senior management
 - Identify and contact Subject Matter Experts (SME) (Government and Beneficiaries)
 - Conduct planning session with SME to identify critical factors and processes
 - Understand and distribute the plan outline
 - Map out the anticipated deliverables and progress metrics
 - Determine preliminary target date for completion

Reengineering (Phase II) June 2002 – June 2003

- ? Evaluate recommendations received from contractor and Accept/Reject/Modify
- ? Determine if function is inherently Federal
- ? Examine Applicable Laws, Regulations and Policies for adequacy and necessary changes
- ? Independent Validation of the To-Be Process

Universal Support Functions to Implement the To-Be Process (Phase III) June 2002 – June 2004

- ? **Risk Assessment on Reengineered Process**
 - Define Risks
 - Determine automated system functions and additional processes required to mitigate risk

- ? **Automated System Requirements**
 - Determine automated system requirements
 - Inventory current automated system capabilities
 - Conduct and document Gap Analysis (existing v. requirements)
 - Survey COTS systems in preparation of the selection process
 - Finalize and document system requirements and forward to Trust Management Systems Group
- ? **Records**
 - Determine adequate and proper documentation
 - Complete records retention schedule
 - Determine records storage requirements
 - Implement records retention schedule
- ? **Internal Controls/Fiduciary Security**
 - Determine proper Internal Controls
 - Develop Risk Management and Monitoring Plan
 - Implement the Risk Management and Monitoring Plan
- ? **Policies and Procedures**
 - Determine, develop and document Policies and Procedures
 - Implement Policies and Procedures
- ? **Workforce Planning**
 - Determine ongoing workload
 - Determine performance measures
 - Determine staff requirements
 - Develop workforce budget
 - Develop monitoring tools
 - Implement Workforce Planning
- ? **Training**
 - Determine and develop training programs
 - Implement training plans
- ? **Define Future System User Technical Assistant Center Requirements**
 - Determine current state of metrics and resources
 - Identify support needed
 - Develop center requirements and implement

Addressing Workload

The tasks identified above will be the common framework for standardizing trust business processes. However, additional tasks have been identified to help determine how to better manage the workload associated with the core trust business processes. The tasks are:

- Evaluate cause of backlog and previous effort to reduce
- Quantify and categorize entire workload
- Coordinate with beneficiaries on processing priorities

- Reorder workload priorities
- Determine ongoing workload vs. aged workload
- Redirect contractors to concentrate on established data issues
- Develop nationwide plan that includes:
 - Adequate balance between government and contract personnel
 - Interdependencies with other projects, e.g., records management and historical accounting

Trust Data Quality Assurance

Assurance that the data contained in existing and/or new systems are accurate and complete involves the following:

- Safeguarding data to mitigate risk of corruption
- Segregate data conversion issues from data verification issues
- Determine the universe of data in need of verification
- Based on fiduciary responsibilities, prioritize the validation and correction of data
- Modify and redirect contract to incorporate national plan, changed priorities and performance metrics
- Implement the plan

As implementation of the project plan progresses additional and more detailed tasks will be identified that are unique to a particular trust business process.

Trust Business Process Modeling (As-Is Phase I)

The As-Is Trust Business Model Project was started on February 11, 2002, and is expected to take approximately twelve months to complete. For the purposes of this project, Indian Trust is defined as land, natural resources, money or other assets held by the Federal government in trust, or that are restricted against alienation for Indian tribes and individual Indians.

Project Scope

The project scope includes a series of tasks that will provide support for pursuit of the recommendations identified in the prior Electronic Data Systems (EDS) reports on Trust Asset and Accounting Management Systems and Bureau of Indian Affairs (BIA) Data Cleanup, and on the Trust Reform Roadmap. Specifically, the scope of this project includes:

- The Department's legal and fiduciary obligations, business areas, (including planning, title, realty, accounting, asset management, revenues and disbursements), and policies and procedures involving Indian trust
- Trust accounts that collect monies (including principal and interest) from third parties until the monies are properly distributed to beneficiaries

- Current practices for managing, preserving, and proper utilization of assets
- Factually documenting the existing As-Is Model and variations through information gathering interviews with DOI organizational entities which conduct Trust functions (including BIA, Office of Special Trustee, Minerals Management Service, Bureau of Land Management and Office of Hearings and Appeals) as well as with others such as Tribal offices, Department of the Treasury, and Bankers Trust
- Identify variances and inconsistencies among regions and organizational entities in the conduct of trust processes
- Compare As-Is Model processes and variations with guiding trust legal principles
- Compare As-Is Model processes and variations with appropriate industry standards or practices, considering court decisions and law requirements as they apply to Indian Trust
- Recommend functions that could potentially be provided by contractors
- Recommend process improvements
- Recommend plan(s) to move forward

Trust Process Sponsors/Trust Experts (Regional, Tribal, and Departmental)

A critical factor in standardizing trust business processes will be eight individuals who are committed to identifying and implementing the corrective measures required to standardize the core trust business processes. These individuals will lead and champion the tasks required to standardize trust business processes that are identified in the project plan. The individuals who will be the Trust Process Sponsors must possess a commitment to achieve a goal and motivate other participants toward achieving the goal. The Trust Process Sponsors must be experienced in the discharge of the Secretary's trust responsibility and have an overwhelming desire to make a change in how trust services are provided to Indian beneficiaries. The most important quality of these individuals will be their desire to achieve a change in trust reform and commit to that responsibility.

At the present time, the DOI Office of Indian Trust Transition is selecting individuals who are committed to helping Indian beneficiaries by becoming Trust Process Sponsors. As Trust Process Sponsors, these participants will take on the commitment and responsibility for a specific trust business process. The Trust Process Sponsor will initiate and complete the tasks in the project plan by working cooperatively with DOI technical experts, the Bureau of Indian Affairs, Regional Process experts, Tribal Task Force experts, Indian beneficiaries, and contractor staff throughout the identification, reengineering, establishment, and implementation of the trust business process. After implementation, these Trust Process Sponsors will continue to own the process and adjust and refine it as necessary.

Beneficiary Involvement

A major critical success factor for this project is the active involvement of Indian tribes and individual Indians. To this end, the project objectives and approach were discussed

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with the Tribal Task Force at its meeting, which was held on March 8-9, 2002, in Phoenix. As a result of the discussions, the Tribal Task Force assigned members to work on the project's management committees. In addition, other members will be assigned to work day-to-day as members of the As-Is Trust Business Model project team. Indian Tribal leaders and individual Indians, as well as DOI personnel, will be interviewed during the information-gathering phase to document the As-Is (current) Trust Business Model. The Indian beneficiary's input and experience will also be used as the As-Is Model is analyzed and recommendations are made for Indian Trust process improvement.

Future discussions with the Tribal Task Force members are scheduled for May and June 2002. The intent is to have Indian representatives from the As-Is Trust Business Model project make presentations and hold discussion forums. EDS and DOI personnel will provide support to the discussions as appropriate.

Training Workshop

A training workshop will be held on April 16-19, 2002, in Albuquerque for the trust process experts, sponsors, and tribal delegates who are participating as members of the As-Is Trust Business Process team. In addition to learning the information gathering methodology and tools, the participants will begin documenting the high level business processes for the draft As-Is Trust Business Model.

As-Is Trust Business Model

As the draft trust business model becomes refined, it becomes the baseline model used for interviewing regional, tribal, and organizational entities as well as individual Indians to document and explain trust business process variances and their respective reasons. An information-gathering template, as well as the model-documenting tool, has been selected for building the As-Is Trust Business Model.

Trust Probate Process

Current documentation, and the expertise of DOI personnel and EDS have been used to build the draft As-Is Business Model for the trust probate process. The experience gained from this exercise was used in further refining the information gathering template and interview procedures. Documenting the draft probate model has identified some potential recommendations for improvements to the probate process. Intermediate recommendations for the probate process are scheduled for mid-May.

B. PROBATE

On November 21, 2001, Donna Erwin, Deputy Special Trustee for American Indians, Trust Systems and Projects, was directed to assist the Office of Indian Trust Transition (OITT) to oversee three projects and associated project management personnel. The three projects are Probate, Bureau of Indian Affairs (BIA) Trust Data Quality Analysis (previously BIA Data Cleanup) and Trust Systems (previously TAAMS). The Deputy Special Trustee and OITT continue to reassess, revise, and reprioritize project objectives.

The Department of the Interior (DOI) has begun comparing the data in the Probate Tracking System (PTS) against Individual Indian Money (IIM) account information in the Trust Funds Accounting System (TFAS). This comparison is being made of data contained in PTS systems prior to the December 5, 2001 Court Order. Updates to the data are not available until BIA can reconnect to the operational systems. Key identifiers from each database were used to make a comparison that results in a starting point to enable documentation of the universe of existing probate cases. The number of estates reflected in TFAS was significantly greater than the number of cases reflected in PTS, whereas, logically, the PTS should contain a greater number of probate cases than TFAS due to the requirement to probate non-income producing properties. One source of the anomaly is that probate data had not been fully captured in PTS before the system was disconnected.

A controlled database has been created, and DOI plans to hire a contractor to populate the database with complete probate information including death to distribution status. This information will enable DOI to monitor probate-related workflow. An additional benefit of capturing complete probate status data is the ability to respond to queries from beneficiaries.

DOI plans to modify the draft probate handbook to include chapters detailing the requirements for post-decision processing. When completed, the handbook outlines the responsibilities of each probate process functional area to include documentation requirements from death to distribution. The enhanced draft probate handbook is expected to be completed by December 2002.

In accordance with the Trust business processes being documented, Electronic Data Systems (EDS) has created an initial model documenting the high-level probate business process from death through distribution. To date, the model has been validated by a BIA probate specialist and an attorney-advisor from the Office of Hearings and Appeals (OHA). Further validation will be performed by BIA Land Title Records Office (LTRO) and Office of Trust Funds Management (OTFM) personnel.

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One of the hindrances to timely probate processing is the time required to obtain from individual states vital record documents required to prepare a probate case. Contact was made with the Colorado Office of Vital Records to ascertain the feasibility of obtaining direct access to its document database. The inquiry with the State of Colorado resulted in the discovery that the Social Security Administration is piloting a similar effort with the States of Colorado and seven other States with the intention of rolling the program out across all 50 States. DOI has been invited to join in the pilot and will attend a meeting of the pilot participants in Anchorage in May 2002.

Obstacles

Timely processing of Probate actions and title recordation has been slowed by the unavailability of both the Land Records Information System (LRIS) and the current title module of the Trust Asset and Accounting Management System (TAAMS). For example, the Rocky Mountain Region LTRO reported that there were no probate cases pending recording as of December 1, 2001. By March 31, 2002, over 200 probate cases were awaiting recordation. DOI will seek the concurrence of the Special Master to operate this system during the next quarter.

Number of Cases Processed and Decided – January through March 2002

As of December 31, 2001, there was an approximate case workload of 2,439 pending decisions. During this reporting period, BIA and OHA deciding officials received 756 cases and 823 cases were decided. This would be expected to leave 2,372 pending decisions; however, a more accurate estimate of the workload remaining is unknown until the reconciliation addressed above is completed. Additionally, the OTFM distributed and closed 900 estate accounts representing 890 probate orders. TFAS, as of the end of March 2002, contains 24,749 open estate accounts. Of these, 18,318 are classified as official deaths. These numbers are subject to verification as discussed above.

Contractor Efforts – January through March 2002

Case Preparation – Land & Summary

DataCom staff conducted extensive research to prepare family histories and determine probable heirs – visits to family homes, community centers, libraries, Offices of Vital Statistics, Tribal Enrollment agencies, attendance at community meetings to convey information concerning probate efforts and request family/community participation. During this period, 23 land interest cases and 87 summary distribution cases were completed. Historical data on the amount of time required to prepare a case is being developed by DataCom.

Posting & Recording

Because of the unavailability of TAAMS and Land Records Information System (LRIS), no posting and recording tasks were accomplished; instead, the work effort has been centered on non-Internet dependent tasks:

So. Plains/Anadarko, OK (972 cases) – ID Verification Activities (file examination to validate IDs, preparing faxes to tribal enrollment entities); developing comprehensive SOP's, recounting and validating inventory and scope of work, developing work and training plans.

Great Plains/Aberdeen, SD (1940 cases) – All LRIS encoding was completed prior to the computer shutdown; post-shutdown effort centered on residual tasks (review, photocopying and completion of Probate case files returned from BIA review), assisting LTRO with document inventory, making modification corrections per BIA review and posting modification tracts to land indexes, reorganizing enrollment books for ID verification purposes, updating Standard Operating Procedures (SOP's), and participating in ongoing training as offered by the BIA. Initiated site assessments for agency level posting and recording in March 2002. Eighty one cases were approved by the BIA.

Northwest/Portland, OR (262 cases) – Continued, to the greatest extent possible, the with creation of partitions and modification drafting, editing SOP's, inventorying workload, validating statistics. Reduced staffing to .5 FTE in March (redeployed 1 FTE to Pacific Region). Four cases were approved by the BIA.

Pacific/Sacramento – (294 cases) – began ID verification activities in March 2002.

Youpee

Great Plains – completed physical count of Rosebud **Youpee** Probates (826 cases) and completed ID verification of same. Created tracking database. Balance of **Youpee** cases at Great Plains is 5,839.

Southwest (332 cases) – DataCom continued with First Review and Drafting of Modifications, Recordation and ID verification activities. Inventories were taken and administrative procedures refined and updated. All possible tasks were concluded on available cases and work suspended at the site as of February 28, 2002, until LRIS access is restored. Two cases were redistributed during this period.

EDS Roadmap

A review of the Probate Roadmap contained in the EDS January 24, 2002 report reveals that these recommendations need to be addressed, and may require modification, based on the outcome of the Trust Reform actions previously discussed. Basically, the project manager is in agreement with the recommendations set forth in the EDS report.

C.2.1 Recommendation: Promptly Eliminate Probate Backlogs. **Response:** As mentioned above, efforts are underway to define the probate workload universe. Figures reported in the past only considered probate cases through the decision process. This effort is designed to definitively define the workload, its status, and where it is within the probate process. The business process focus outlined above will assist in meeting this recommendation.

C.2.2 Recommendation: Reorder Backlog Resolution Priorities. **Response:** Absence of the Land Record Information System and the Indian Trust System title modules has adversely affected the workload and the addressing of a firm fixed date for backlog elimination. As mentioned above, efforts are underway to define the probate workload universe. This effort is designed to definitively define the workload, its status, and where it is within the probate process to allow the focused deployment of contractor assets.

C.2.3 Recommendation: Resolve all *Youpee* Interests. **Response:** The *Youpee* interests are scheduled to be addressed in the project plan after the general probate problem has been addressed.

C.2.4 Recommendation: Achieve Proper Probate Case Processing Staffing Levels. **Response:** Workforce planning efforts are an integral part of the business process modeling indicated in the trust reform narrative.

C.2.5 Recommendation: Accurately Assess and Define LTRO Staffing Needs. **Response:** Workforce planning efforts are an integral part of the business process modeling indicated in the trust reform narrative.

C.2.6 Recommendation: Outsource Legal and Financial Service Offerings. **Response:** This recommendation is under review for implementation.

C.2.7 Recommendation: Expand Delivery of Responsive Customer Service Outreach Vehicles. **Response:** Individual Indian Money allottee associations have been identified and will be included in the business process modeling to allow for their input on probate processing priorities.

C.2.8 Recommendation: Eliminate Redundant Computer Tracking Systems. **Response:** The business process modeling will result in the development of a standard probate process and the development of one standard system.

C.2.9 Recommendation: Establish Joint Record Keeping Programs. **Response:** The business process modeling incorporates records management into the probate process.

C.2.10 Recommendation: Establish Continuous Process Improvement Liaisons. **Response:** The inclusion into the Social Security Administration's E-Vitals pilot program is a start in developing appropriate liaisons.

C.2.11 Recommendation: Enhance Tribal Relationships and Communications. **Response:** The Tribal Task Force is actively participating in the trust reform business process modeling initiative.

C.2.12 Recommendation: Reduce the Time Required for Probate Case Processing. **Response:** The E-Vitals pilot program promises to reduce the time required to attain legal documents and reduce the burden on the decedents families.

C.2.13 Recommendation: Build on Successful Programs. **Response:** The trust reform business modeling process will assist in eliminating redundant practices and define all of the participants roles in the probate process.

C. TRUST SYSTEMS (Previously TAAMS)

System design is no longer centered on one all-encompassing asset management system. Reform is focused on defining trust business processes to meet beneficiary needs and fiduciary requirements. The new focus on first developing fundamental trust business processes and then developing system requirements and architecture for these business processes will determine whether or not existing systems and technology should be used, integrated, or replaced.

Once standard business processes and associated system requirements are identified, existing Applied Terravision Systems (ATS) modules will be evaluated through a gap analysis process that may identify components of existing ATS software that are applicable to the reengineered standard business processes. On March 14, 2002, ATS was amalgamated with COGNICASE Inc., a Canadian corporation. As a result, ATS is now a wholly owned subsidiary of COGNICASE. COGNICASE's latest financial statement has been obtained and is under review for financial sufficiency.

Modules from ATS that can be used to support the reengineered trust business processes will not be referred to as "TAAMS modules." Instead, they will be considered part of an integrated suite of systems supporting trust business processes.

As reported in previous reports to the Court, the ATS title module for current title is in limited use at four land title and records offices. A new release of the current title module will not be put into production until Department of the Interior (DOI) completes current business process documentation and reengineering. This includes the gap analysis process that will evaluate whether or not the existing software meets the new automated system requirements.

One exception to any ongoing development is the matter of minor deficiencies in the Current Title module identified in the initial user test, functionality tests and gap analysis. A team of Bureau of Indian Affairs title subject matter experts (SME) will meet with ATS to ensure that specifications for the fixes to the Current Title system are accurately defined and understood by the contractor.

DOI intends to provide query access to those Land Title Records Offices (LTRO) currently without access to the title module. Access to the module will enable LTRO personnel to search for title or land holding information in the four regions that are using the module. This access will expedite the preparation of probates, as well as other related trust functions.

The Office of the Special Trustee for American Indians advertised Government-wide for an Information Technology Specialist GS-2210-15. There were 29 applicants qualified for the position in which five finalists were selected by a panel consisting of the Acting Chief Information Officer-OST, the Trust Operations Officer and a Trust Reform Officer. The Deputy Special Trustee Trust Systems and Projects made the final selection from the five finalists. The selected individual has 15 years experience and his last position was Chief Information Officer for the Air Force Operational Test and Evaluation Center.

EDS Roadmap

A review of the Trust Asset and Accounting Management System (TAAMS) and Data Cleanup roadmap contained in the November 2001 report prepared by EDS reveals that the Trust Reform Process previously discussed will address the TAAMS related recommendations:

- II. Adopt an overall computer and business system architecture.
- IV. Develop an overarching Trust Operations Business Model.
- V. Adopt a consistent information systems acquisition strategy.
- VII. Accelerate TAAMS Title and Defer Realty and Accounting Functionality.
- VIII. Implement consistent technology frameworks, methods and tools.
- IX. Establish required computing and communications capabilities.
- XI. Establish a Trust Program Management Center.
- XII. Execute a comprehensive staffing plan for all participating organizations.

An exception is recommendation VII to accelerate and deploy TAAMS Title nation-wide in an operational mode. As of this writing, current title module, as it is currently configured, will not be deployed. The current title application will be made available on a query basis only to the LTRO's that have not converted to TAAMS title.

D. TRUST DATA QUALITY ANALYSIS (Previously BIA Data Cleanup)

Previously, the data cleanup effort was part of a systems approach to trust reform that was directed toward developing and converting to the Trust Asset and Accounting Management System (TAAMS). Data cleanup focused on technology and system logic and did not take a business approach that could have included standardizing databases or addressing fiduciary responsibilities and beneficiary priorities. As reported in Report to the Court Number Eight, the data cleanup issue has now become part of the new trust reform business approach in which all trust business processes will be reengineered to assure beneficiary centered service through standard trust business processes.

Until the core trust business processes are reengineered, data cleanup requirements will be driven by fiduciary responsibilities and priorities. Hence, reprioritizing data cleanup will begin by correcting all trust data used to manage producing assets for beneficiaries. Developing corrected, operational databases will require identifying data items that are critical to producing an accurate record of beneficiaries' assets or ensuring correct distributions of trust income.

To define critical data items, a meeting was convened in February 2002 for the purpose of identifying existing data errors and variations in the recording, management and storage of trust information which could be used to reassess, revise and re-prioritize data cleanup tasks. The meeting was attended by approximately sixty Regional Data Administrators and Land Title and Record Office (LTRO) managers and staff and began with Electronic Data Systems (EDS) presenting a summary of its findings and recommendations as published in the *Interim Report and Roadmap for TAAMS and BIA Data Cleanup* and the *Trust Reform, Final Report and Roadmap*. On the second day of the meeting, the Regional Data LTRO managers made presentations identifying existing data, either in systems or spreadsheets, which could be responsible for incorrect distributions of trust income. The nearly twenty presentations took the entire day and provided sufficient information for the EDS statisticians to begin summarizing existing data errors and to identify preliminary data cleanup priorities. On the final day of the meeting, EDS facilitated a critical factors workshop, which explained how the preliminary data cleanup priorities would be expanded during a more rigorous sampling effort, across all the Regions, in which the results will be weighted and given priority scores. It is expected that the priority scores will be used to establish data cleanup objectives in terms of beneficiary interests and to determine which critical data items are technically feasible to correct. This task is expected to be completed in approximately six months.

In addition to setting data cleanup priorities, future goals include validating and correcting trust data items and then safeguarding the databases from corruption. Once these steps are taken the Department will have a continually operational database that can be used throughout the business process reengineering effort and beyond.

DOI contracted with EDS to perform a Data Quality Analysis in support of the Department's Data Cleanup efforts. The purpose of this project is to perform an in-depth evaluation of the nature and magnitude of the Trust Data Cleanup issues, and to provide a recommended approach to the priorities and processes to be used for future cleanup activities. This analysis will focus on the critical data elements and associated processes that enable the DOI to obtain complete and accurate Title, Realty, and Accounting information. It is expected to have this work completed by the end of calendar 2002.

The scope of the Data Quality Analysis Project will include a review and consideration of the following:

- Clarification and communication of the DOI Data Cleanup responsibilities and objectives from beneficiary, business development and systems perspectives;
- Execution of a statistically valid assessment of Title, Realty and Accounting data to estimate accurately the magnitude of data cleanup issues;
- Adoption of a balanced strategy for prioritizing data cleanup and conversion efforts;
- Definition of required changes to the current Data Cleanup process;
- Definition of required changes to the DOI Trust data integrity management processes;
- Estimation of the resources required for DOI to obtain complete and accurate Title, Realty, and Accounting information.

In response to the contract modification, EDS assembled a planning team to prepare a detailed project plan and schedule. That plan and schedule are currently being finalized. As a final step in this planning phase, EDS will present the approach, plan, and schedule to DOI leadership for approval. This should be done during the next reporting period.

The approach to the Data Quality Analysis project includes four (4) distinct phases, spanning approximately nine (9) months in total. Each phase provides a set of work products to be used as inputs in the succeeding phase(s) or to be provided as client deliverables. The phases, including the planning phase previously discussed, are as follows:

- *Planning* – the creation of a client endorsed project plan to guide efforts throughout the project's duration.
- *Preliminary Analysis* – the clarification of DOI data cleanup objectives and validation of the approach.
- *Analysis* – data gathering for the final report of the analysis results on the origin and frequency of data integrity problems in the Trust.
- *Final Report and Recommendation* – the development of the final report containing recommendations for improving the DOI efforts to obtain complete and accurate Title, Realty and Accounting information, as well as estimated resources for conducting the data quality process improvements.

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The Data Quality Analysis will culminate in a final report detailing findings and recommended actions. Throughout the project, “quick hit” recommendations will be communicated with the DOI so that action can be taken immediately rather than waiting until the project end.

Contractor Efforts – January through March 2002

(Please Note - The following data cleanup activity statements utilize the term “cases.” In all instances, “cases” refer to transaction records.)

Alaska Region

DataCom personnel normally follow four main steps in order to research fully and encode fully tracts into TAAMS: 1) Title Examination (Chain Sheet Preparation), 2) Chain Sheet Review, 3) TAAMS Encode, and 4) TAAMS Encode Review. Due to lack of proper security as directed by the Court on December 5, 2001 the final two steps have been delayed due to the fact that TAAMS is unavailable because computer access is not available. Data cleanup personnel focused on the first two steps during this reporting period to prepare tracts so they may be encoded once system access is restored.

- Data cleanup personnel completed title examination for 577 tracts and Chain Sheet Review for 517 tracts during the quarter. Progress for these two phases is expected to continue throughout the period of system unavailability.
- There are approximately 17,784 tracts that need to be encoded into TAAMS. 1,011 tracts have been completed (accepted by Bureau of Indian Affairs (BIA)) since the inception of the task order, June 2000 – March 24, 2002.

Eastern Region

DataCom personnel in the Eastern Region (Cherokee Agency) worked on reviewing and acquiring legal land documents for future recordation purposes. The acquired documents are shipped to the Southern Plains Regional Office where they will be recorded.

- Four boxes containing a total of 842 documents were shipped to the Southern Plains Regional Office for recordation during the quarter.
- The size of the task is 90,000 cases. 6,808 cases were completed during the quarter. 56,390 cases have been completed since the inception of the task order, April 2000 – March 24, 2002.

Great Plains Region

DataCom personnel continued to work on eliminating multiple owner identification numbers and preparing documents for encoding into land Records Information System (LRIS) to eliminate existing backlog.

- The Document Processing Task totals 12,605 cases. 1,463 cases were initiated and prepared for encoding into LRIS and 102 cases were completed during the quarter. 10,626 cases have been completed since the inception of the task order, March 2000 – March 24, 2002.

Midwest Region

DataCom personnel continued to work on preparing documents for encoding into LRIS to eliminate existing backlog.

- The Document Processing Task totals 6,526 cases. 2,673 cases were initiated and prepared for encoding into LRIS and 238 cases were completed during the quarter. 3,760 cases have been completed since the inception of the task order, March 2000 – March 24, 2002.

Pacific Region

DataCom personnel continued to work on eliminating multiple owner identification numbers and determining whether previously non-enrolled individuals have enrolled since the issuance of the ID number containing the “N” class code.

- The Multiple Owner Identification Task totals 732 cases. 5 cases were researched and 5 cases were completed during the quarter. 610 cases have been completed to date. 32 cases are pending BIA Regional approval and 37 are pending BIA Agency action.
- The Non-Enrolled Identification Number Task totals 2,972. 69 cases were researched and 36 cases were completed during the quarter. 1,668 cases have been completed to date. 329 cases are pending BIA Regional approval and 432 are pending BIA Agency action.
- The Document Processing Task totals 93 cases. No cases were completed during the quarter. No cases have been completed to date. 22 cases are pending BIA Regional approval and 5 are pending BIA Agency action.

Northwest Region

DataCom personnel continued to work on eliminating multiple owner identification numbers, determining whether previously non-enrolled individuals have enrolled since the issuance of the ID number containing the “N” class code, and correcting incorrect document modifier codes in LRIS.

- The Multiple Owner Identification Task (Northwest) totals 4,068. 370 cases were researched and 29 cases were completed during the quarter. 2,552 cases have been completed to date. 129 cases are pending BIA Agency action.
- The Multiple Owner Identification Task (Colville) totals 599. Data cleanup personnel initiated research for 269 cases during the quarter, but did not complete any cases. 2 cases have been completed to date. 154 cases are pending BIA Regional approval.
- Data cleanup personnel transported 154 Multiple Owner ID cases to the Colville Agency for BIA review and retrieved 259 copies of documents to assist with remaining research at the Northwest Regional Office during the quarter.
- The 100N Number Task (Flathead) totals 302. Data cleanup personnel initiated research for 30 cases during the quarter, but did not complete any cases. 204 cases have been completed to date. 71 cases are pending BIA Regional approval.
- Current Document Type Modifier Task (Northwest) totals 201. Data cleanup personnel initiated research for 68 and completed 8 cases during the quarter. 36 cases have been completed to date.

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- Current Document Type and Modifier Task (Flathead) totals 13. No cases were completed during the quarter. 12 cases have been completed to date. 1 case is pending BIA Agency action.

Rocky Mountain Region

DataCom personnel continued to work on eliminating multiple owner identification numbers, verifying ownership information between all legacy systems and ensuring that legal descriptions for individual tracts are concurrent between systems.

- The Multiple Owner Identification Task (IRMS) totals 4,530 cases. 440 cases were researched and 139 cases were completed during the quarter. 2,861 cases have been completed to date. 70 cases are pending BIA Regional approval.
- The IIM ID Match Task totals 789 cases. 13 cases were completed during the quarter. 759 cases have been completed to date. 27 cases are pending BIA Regional approval.
- The Title/Realty Tract Match task totals 2,675. 33 cases were completed during the quarter. 2,467 cases have been completed to date. 208 cases are pending BIA Regional approval.

Southern Plains Region

DataCom personnel continued to ensure that tract numbers and ownership information is concurrent between systems.

- The systems ID Match Task (Pawnee) totals 1,112. 90 were completed during the quarter. 366 cases have been completed to date. 197 cases are pending BIA Regional approval and 77 are pending BIA Agency action.
- 455 Title Status Reports were compared to ensure that the same information was reflected in both LRIS and TAAMS during the quarter as part of the ID Match Task.
- Data cleanup personnel notated changes made on 613 Title Status Reports prior to filing them in the 188 files during the quarter as part of the ID Match Task.
- Data cleanup personnel cross checked 1,380 documents against inventory shipping forms to ensure accuracy of the content of boxes that were shipped from the Cherokee Agency for recordation and microfilming.
- The Eastern Document Recording and Microfilm Task was approved on March 15, 2002, and is expected to start in the next quarter.

Southwest Region

During this period of system unavailability, the priority of data cleanup activity at the Southwest Regional Office has shifted to focus on drafting Administrative Probate Modifications as part of the BIA Assigned Administrative Modification Task and preparing extract sheets for the Encoding Encumbrances Task during the quarter. Cases for other tasks were completed as they were returned from the BIA with approval during the quarter as well.

- The Multiple Owner ID Task (Southwest) totals 940. 19 cases were completed during the quarter. 835 cases have been completed to date. 18 cases are pending BIA Regional approval and 34 are pending BIA Agency action.

- The Multiple Owner ID Task (Navajo/Western) totals 3,093. 231 cases were completed during the quarter. 2,830 cases have been completed to date. 38 cases are pending BIA Regional approval and 63 are pending BIA Agency action.
- The BIA Assigned Administrative Probate Modifications Task totals 1,734. Data cleanup personnel drafted 463 modifications during the quarter, but did not complete any cases. 75 cases have been completed to date. 818 cases are pending BIA Regional approval and 20 are pending BIA Agency action.
- The Administrative Modification Encoding Task totals 114. 54 cases were completed during the quarter. 68 cases have been completed to date.
- The Encoding Supplemental Patents Task totals 804. 17 cases were completed during the quarter. 803 cases have been completed to date.
- The Encoding Encumbrances Task totals 8,000. Data cleanup initiated research on 884 cases and completed 1 case during the quarter. 526 cases have been completed to date. 46 cases are pending BIA Regional approval.
- The Drafting and Encoding Administrative Modifications Task totals 220. Data cleanup personnel initiated research on 36 cases but did not complete any during the quarter. No cases have been completed to date. 20 cases are pending BIA Regional approval.

Western Region

DataCom personnel continued to determine whether previously non-enrolled individuals have enrolled since the issuance of the ID number containing the “N” class code.

- The Non-Enrolled Identification Number Task (Western) totals 1,825. Research was initiated on 211 cases and 7 cases were completed during the quarter. 108 cases have been completed to date. 645 cases are pending BIA Regional approval and 511 are pending BIA Agency action.

Navajo Region

DataCom personnel continued to determine whether previously non-enrolled individuals have enrolled since the issuance of the ID number containing the “N” class code.

- The Non-Enrolled Identification Number Task (Eastern Navajo) totals 937. Research was initiated on 6 cases and 9 cases were completed during the quarter. 740 cases have been completed to date. 173 cases are pending BIA Agency action.

Production Limitations

- Systems or network downtime
- Availability of BIA personnel to approve DataCom researched and encoded cases and agency personnel to perform ID verification
- Navajo Enrollment Office access limited to one day per week – affects Southwest Office only
- Software assistance is needed by ATS to make corrections to data input into TAAMS (102 tracts/cases affected in the Alaska Region)

EDS Roadmap

The EDS Roadmap for BIA Data Cleanup dated November 12, 2001, and how the tasks are being addressed.

- Immediately appoint one individual accountable for TAAMS and Data Cleanup.
- Integrate the TAAMS and BIA Data Cleanup Sub-Projects.
- Immediately assess the nature and magnitude of the BIA Data Cleanup Issues.
- Improve stakeholder involvement in TAAMS and BIA Data Cleanup.

Donna Erwin, Deputy Special trustee for American Indians for Trust Systems and Projects, currently oversees both the TAAMS and BIA Data Cleanup projects. DOI contracted with EDS to perform an assessment of the nature and quality of the data and DOI expects to report the progress on this task in the next reporting quarter.

DOI is working with the Tribal Task Force on new organizational proposals and improved business processes. The results will identify system requirements and methods for preserving quality assurance of data.

Assurance Statement

I concur with the content of the information contained in the 9th Report to the Court in reference to HLIP to Business Model, Probate, Trust Systems, and Trust Data Quality Analysis. The information provided in these sections is accurate to the best of my knowledge.

Date: April 30, 2002

Name: *Signature on File*

Donna Erwin

Deputy Special Trustee for American Indians

E. OFFICE OF HISTORICAL TRUST ACCOUNTING

Introduction

The Office of Historical Trust Accounting (OHTA) was established by Secretarial Order No. 3231 on July 10, 2001. The purpose of OHTA is to plan, organize, direct, and execute the historical accounting of Individual Indian Money (IIM) accounts. This *Ninth Report to the Court* covers the period January 1 through March 31, 2002.

Executive Director's Observations

The Comprehensive Plan

Congress specifically directed the Department to include the following elements in its Comprehensive Plan for a historical accounting.

A...the managers direct the Department to develop a detailed plan for the [accounting] methodology it adopts, its costs and benefits, and the degree of confidence that can be placed on the likely results.@

H.R. Conf. Report 106-914 at 150 (2000). Therefore, the Comprehensive Plan will conform to this Congressional directive and focus on the accounting methodology, its costs and benefits, and the degree of confidence in the results. As explained in the *Blueprint for Developing the Comprehensive Plan for Individual Indian Money Accounts (Blueprint)*, OHTA expects that the Comprehensive Plan will explain other aspects of its plan as well.¹ *Blueprint* at 5. Several issues, however, have been determined.

(1) *The Historical Accounting*: OHTA expects that the historical accounting of the IIM accounts will consider the following:

- Transactions in an IIM account from the opening balance to closure of the account, or through December 31, 2000, for active accounts (assuming that the scope is unaffected by limiting factors such as statutes of limitation, etc.)
- Revenue posted to an IIM account
- Interest credited to and disbursements from an IIM account

¹ The *Blueprint* was filed with the Court on September 12, 2001, under a Notice of Filing. To the extent some issues discussed in the *Blueprint* are not yet determined at the time the Comprehensive Plan is published, OHTA will address such issues as the accounting project continues.

- Supporting documentation including references to ownership interest in allotment(s) that generate revenue, interest, and disbursement transactions in an IIM account

(2) *Temporal Scope of the Historical Accounting* (see *Blueprint* at 15-16):

Without regard to when deposited, as stated by the Court of Appeals, the Department has a duty to account for “all funds held in trust by the United States for the benefit of . . . an individual Indian which are deposited or invested pursuant to the Act of June 24, 1938.” Cobell v. Norton, 240 F.3d 1081, 1102 (D.C. Cir. 2001).

Lands were initially allotted pursuant to the *General Allotment Act of 1887* and generally continued through the *Indian Reorganization Act of 1934*. Because lands were allotted at different times, the starting date for each accounting varies from account to account.

Each historical accounting may reflect account activity during the Nineteenth and Twentieth Centuries (i.e., through December 31, 2000). By December 31, 2000, all regions had been converted to the Trust Funds Accounting System (TFAS). Balances determined by the historical accounting will be compared to balances in the TFAS system to determine what discrepancies, if any, exist. The Comprehensive Plan will discuss the Department’s approach towards account activity during the Twenty-first Century (i.e., the period from January 1, 2001, to the present).

Given the breadth of the accounting project, OHTA anticipates that the Comprehensive Plan will generally describe in what order the accountings will occur and the methodology that will be applied. OHTA continues to expect completion of the Comprehensive Plan by June 30, 2002.

Consultants

OHTA added several additional consultants to advise on the historical accounting project. Hughes & Bentzen PLLC, a Washington, D.C., law firm, contracted to advise OHTA on common law trust matters. Upper Mohawk, Inc., an Indian-owned consulting firm, contracted to assist OHTA with estimating the cost of implementing the Comprehensive Plan. Finally, OHTA has advertised for and selected a trust operations consultant, Bank of America, a national bank with major trust operations, which was the only respondent to OHTA’s advertisement. If other offices within the Department would benefit from consulting with staff from such a private trust operation, OHTA intends to make Bank of America available.

In order to ensure that OHTA develops a Comprehensive Plan for the historical accounting to Indian beneficiaries that is consistent, accurate, and complete, OHTA sponsored two conferences to discuss issues relevant to the historical accounting. Representatives of OHTA, its contractors, and other U.S. Government agencies attended these two conferences.

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The first conference, held February 4-6, 2002, in Denver, CO, focused on records collection, management, and policies and procedures. Other aspects of this conference included introducing contract representatives to each other and their ongoing work projects, discussing communication and coordination, and defining tasks for records management that will be needed to support the historical accounting. Based on the discussions from the conference, OHTA intends to implement the following policies.

(1) Searching and Storing Records: All records deemed necessary for the historical accounting should be imaged and indexed to minimize the impact on the original document. This is also consistent with OHTA's intention that it not possess original records, but only copies. The collection process will begin when a quality control/security plan can be implemented. OHTA intends to submit its plan to the Office of the Special Trustee's Office of Trust Risk Management for its review. The ability of imaging the records is being considered; however, the complexities noted by the OTR are a concern and may require consideration of other alternatives for document examination.

(2) Scanning and Indexing: Scanning and indexing specifications will need to be as flexible as possible to allow for the scanning and indexing at multiple sites and with different levels of detail, but organized to facilitate records use in the accounting.

(3) Quality and Security: A comprehensive quality and security plan will be needed that relies on prevention of problems and errors. This plan should address concerns of all field searches, imaging, and digitizing of documents.

(4) Standardizing Using Lessons Learned: As the accounting project progresses, OHTA must determine which financial and realty documents will be used to support each revenue transaction.

The second conference, held March 18-20, 2002, in Kansas City, MO, focused on accounting issues. Attendees first visited the National Archives and Records Administration's Federal Records Center (FRC) at Lee's Summit, MO, to help familiarize OHTA staff and its contractors with the management of Indian records held in this FRC. The Lee's Summit FRC staff conducted a tour of this facility to familiarize OHTA with records handling operations at this facility, and presented information on how the facility will assist OHTA with retrieval of records.

After the tour, contractors gave oral presentations and were asked to provide recommendations on the operational aspects of the accounting methods to help facilitate the first series of accounting projects and subsequent historical accounting projects.

OHTA Projects

As reported in the *Eighth Report to the Court*, OHTA is conducting various projects to assist it in completing accounting work, as well as gathering information which may be useful in developing the Comprehensive Plan. Work conducted during this quarter on these projects is discussed below.

Palm Springs Bureau of Indian Affairs (BIA) Field Office

The BIA Palm Springs, CA, Field Office was chosen for a historical accounting of IIM accounts held by the Agua Caliente Indians served by this Office. Through this project, OHTA will continue with its mission to provide a historical accounting, while at the same time learning how to meet challenges related to accounting for land-based IIM accounts. In Palm Springs, the historical accounting can begin with a small number of holdings of a relatively homogeneous ownership group, with a relatively short history of meaningful trust income, and, in recent years, large dollar flows. The historical accounting will encompass records concerning trust land ownership, trust income from leases and other sources, and the IIM accounts themselves.

Arthur Andersen LLP (Andersen) has been engaged to perform this work assisted by The National Organization for Research at the University of Chicago (NORC), a nonprofit research affiliate of the University of Chicago under contract to OHTA, and by Historical Research Associates, Inc. (HRA), a historical research consultant for the Department of Justice. Several preliminary analyses have begun for the Palm Springs BIA Field Office that span a review of the history of the Agua Caliente Reservation to gather currently available electronic data.

(1) *HRA* has prepared a comprehensive history of the allotment and real estate activities through time on the Agua Caliente Reservation. This information will play a key role in ensuring that the final historical accounting is complete and reflects all revenues received by Individual Indian Money (IIM) account holders.

(2) *NORC* has conducted a review of records available in the BIA Field Offices, Land Title Records Offices (LTROs), Office of the Special Trustee records facilities in Albuquerque, Federal Records Centers and National Archives and Records Administration (NARA) locations. This process has included informal interviews with office personnel, a search of the OST inventory databases, a review of available SF-135 Forms (document transfer forms held by the FRCs) and a review of document finding aids for applicable NARA facilities.

(3) *Andersen* is analyzing currently available electronic data for the Agua Caliente and other accounts managed by the Palm Springs Field Office. There are several accounts managed by the Palm Springs Field Office for members of other Tribes and a few accounts for Agua Caliente tribal members that are managed outside of the Palm Springs Field Office. From this population, Andersen selected 25 accounts to compose a pilot review from which historical accounting procedures

can be developed. These accounts were chosen to ensure that a variety of different types of accounts were reviewed. To date, Andersen has electronically traced Integrated Records Management Systems (IRMS) IIM funds from the Special Deposit accounts that transfer monies to the pilot accounts. Trust Fund Accounting System (TFAS) transactions will also be traced once this information is provided by the Office of the Special Trustee's Office of Trust Funds Management (OTFM).

As a result of the research conducted by NORC and Andersen, OHTA has learned that accounts in the BIA Sacramento Region (except the Northern California Agency) were managed on a Bank of America system from about 1974 to 1986. OHTA and its contractors are in the process of locating the original contracts with Bank of America and any associated records to verify these transfers and determine which services the Bank provided.

Large Dollar Transactions

Previously, under a then-existing contract with the Department of Justice, Andersen reviewed non-interest collections in excess of \$1 million and traced these transactions into IIM accounts. The transactions comprised a total of more than \$1.5 billion during period 1985-1999, affected more than 2,200 accounts, and resulted in 320,000 subsequent transactions in the IRMS, the legacy trust fund account system.

Funds from these transactions were distributed in three categories in the IRMS: (1) undisbursed balances left in a Special Deposit account, (2) funds transferred to an IIM account, and (3) funds disbursed/transferred out of the IRMS from a Special Deposit account. Overall, more than 98% of funds in the transactions reviewed were either transferred to IIM accounts or disbursed/transferred out of IRMS.

Andersen has determined the number and type (e.g., judgment, land sale, per capita) of individual Indian accounts affected by the High Dollar Transactions review. Andersen has further divided these accounts into several groups based on the type of revenue and the number of additional transactions to be reviewed.

Judgment and Per Capita Accounts

By October 31, 2001, the initial steps of a pilot project were completed by Chavarria, Dunne & Lamey LLC (CD&L), a CPA firm contracted initially by the Office of the Special Trustee's Office of Trust Risk Management. The testing of ten groups of Judgment accounts illustrated significant efficiencies in reconciling these accounts compared to other account types, which could have multiple sources of revenue through surface or subsurface leases. Since the activity in Judgment accounts generally is limited to judgment distributions and interest paid until disbursement is made to the IIM account holder, relatively few transactions had to be analyzed in the reconciliation and, as a result, a historical accounting for the related accounts can be accomplished.

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Grant Thornton LLP has completed a quality review of CD&L's work on this Judgment accounts pilot project. The results of the Grant Thornton quality review found that transactions posted for 8,006 IIM Judgment accounts totaling \$22.7 million in balances as of September 30, 2000, were fully reconciled.

After its review of CD&L's work, Grant Thornton provided several recommendations for OHTA's consideration. These include reporting to the IIM account holders the fully reconciled and verified 8,006 accounts, continuing the accounting work to fully reconcile all remaining Judgment and Per Capita accounts, reconciling accounts with potential interest discrepancies, and consider reviewing interest percentages to ensure these rates are accurate.

OHTA has tasked CD&L to complete work to reconcile a number of remaining IIM accounts from this pilot project of ten groups of Judgments accounts.

BIA Eastern Region

A historical accounting is planned in this project for active IIM accounts in the BIA's Eastern Region in Nashville, TN. The Eastern Region has approximately 2,700 IIM accounts of various types, an ideal size to learn about the difficulties that will be encountered when accounting for larger numbers of accounts. OHTA, working with NORC, initiated a preliminary examination of the types of IIM accounts in the Eastern Region. Many Eastern Region IIM accounts do not have trust real property revenues since there have never been allotted lands in the Region. However, some IIM account holders in the Eastern Region may have inherited interests in allotted lands. Once this effort is completed, it will substantially complete the accounting for one of the 12 BIA Regions. Deloitte & Touche LLP, a public accounting firm hired by OHTA, and the Indian Trust Accounting Division (ITAD) of the General Services Administration have agreed to assist OHTA in conducting an accounting for beneficiaries in the Eastern Region.

Deloitte & Touche received files from the IRMS and TFAS containing transaction records from December 1985 to December 2001. These files were obtained after Deloitte & Touche provided OHTA with a non disclosure and confidentiality agreement. Deloitte & Touche and ITAD performed preliminary data quality tests and reported to OHTA that it was unable to complete this work because it required more accounting information from OTFM. Deloitte & Touche also assisted in the identification of four potential judgment awards by analyzing the transaction history of records that had similar amounts in approximately 2,100 of the accounts.

Utilizing procedures established by CD&L in previous judgment award work, Deloitte & Touche and ITAD are identifying potential accounting issues and developing an implementation plan to perform the historical accounting on the Eastern Region IIM accounts. In addition, the Office of the Special Trustee for American Indians is searching for supporting documentation for four initial transactions identified as potential judgment

awards. This will include identification and location of documents. This work will commence early in the next quarter.

New Accounts in Trust Fund Accounting System (TFAS)

Since 1999, when the TFAS was installed, new accounts have been established in TFAS. These new accounts have been opened as a result of probate inheritance, entering into a new lease of allotted lands, Judgment or Per Capita distributions, or for other reasons. The limited history associated with these new accounts affords a cost-effective means for OHTA to test and learn how to use the electronic IIM account information in TFAS in relation to supporting paper records and documents in performing an accounting.

Further, OHTA's examination of these selected IIM accounts will serve as a test to identify and resolve procedural and policy questions related to reconciling the automated and manual IIM records. OHTA selected the public accounting firm of Ernst & Young LLP to begin accounting work for this project. Ernst & Young has been provided part of the TFAS data needed to begin this project, but has not yet been provided transactional data to complete the project. Once this information is obtained from OTFM, work will commence in the next quarter.

General Services Administration, Indian Trust Accounting Division (ITAD) Records Inventory

Many containers of Indian trust documents stored at widely separated locations around the country hold both tribal and individual Indian records. To conduct the historical accounting, these records must be separated and indexed. A project will be conducted by the ITAD at its facilities in Lanham, MD, for records in its custody. A plan for the inventory assessment was finished in December 2001, and thereafter a wall-to-wall inventory was completed of ITAD's voluminous Lanham facility holdings, and is being recorded in an electronic format. NORC is now reviewing this inventory and ITAD expects to complete a report regarding this effort in the near future.

OHTA has asked NORC to analyze and test the inventories in the other records facilities, notably at the FRC and NARA sites around the country. A plan for this work is now being finalized by NORC and work is expected to commence in April 2002. The particular focus of this work is estimating the overall volume of records that are ledgers and statements since these are all to be reprocessed for the historical accounting and a cost estimate for that effort is needed.

Land Title Pilot Project

The goal of the Land Title Pilot Project is to evaluate the completeness of BIA's land title records system underlying the IIM accounts. There are two facets to this issue: (1) completeness of physical land records (i.e., are all tracts/allotments in the land records system), and (2) completeness of ownership records (i.e., are all undivided tract/allotment

owners in the land records system). Once OHTA is able to assess the completeness of these records, OHTA may use them as an input to assess the IIM accounts themselves.

For this Land Title Pilot Project, NORC is selecting random samples, typically 24 individual Indian-owned tracts from each of the LTROs or at Land Title Service Centers. Samples have now been selected in Albuquerque, Aberdeen, Anadarko, Anchorage, Billings, Portland and Sacramento. Only Muskogee remains, and this last site will be sampled in May 2002.

After selecting the sample tracts, NORC was originally expecting to obtain a standard set of reports for those tracts, in order to locate documents pertaining to the tracts and to understand the type of leasing and other income generating activity and ownership changes that have occurred historically. This has not been possible because of the Department-wide shutdown of distributive processing systems involving Indian trust data. NORC was able to employ this approach for only the Albuquerque LTRO. For the other locations sampled, local managers were resourceful enough to help NORC accomplish portions of its original goals despite the shutdown.

Reconciling Beneficiary Names

Andersen has continued to refine its review of the accounts in IRMS to determine the number of individual account holders. Currently, Andersen is reviewing associated accounts that were opened and closed on the same or following day to determine if a balance transfer occurred. This information will prove important in trying to present a complete history of account activity to individual Indian beneficiaries. To date, Andersen's review has not been extended to accounts in the TFAS.

Outreach

OHTA representatives held outreach meetings with BIA office personnel at each of the seven BIA LTROs visited for the Land Title Records Project. The purpose of these meetings is to introduce OHTA representatives and contract staff who will be working in the LTRO, explain the historical accounting project, and seek employees' comments and input on local land and records management at the LTRO. Such meetings were held in Aberdeen, SD, Albuquerque, NM, Anadarko, OK, Anchorage, AK, Billings, MT, Portland, OR, and Sacramento, CA.

Collection of Missing Information from Outside Sources

OHTA has continued its efforts to contact third parties as a possible source for collecting missing IIM information.

(1) Notification to Third Parties: On February 6, 2002, the Department published a request that parties who have or had business on Indian allotted lands to notify the Department, and to preserve and maintain such records indefinitely until further notice. 67 Fed. Reg. 5607 (2002). OHTA also provided that any such

records custodians could forward any records to OHTA for safekeeping. In addition to notification in the *Federal Register*, individual notices were sent to approximately 4,200 oil and gas companies in March 2002. To date, OHTA has received relatively few responses.

(2) *Field Search Project*: OHTA's contractor, Gustavson Associates, continued to conduct a pilot study for the location of oil and gas records in the custody of third parties. Although Gustavson has not finished its study, it has identified several private sources of potentially relevant documents which could be used in the historical accounting, including county courthouses, State oil and gas commissions, etc. Gustavson's Final Report is expected in May 2002.

(3) *Industry Best Practices*: OHTA received a copy of model record-keeping guidelines from the American Corporate Counsel Association. OHTA intends to use this information to assist in estimating what records may likely be available from outside sources.

Court Monitor

The Court Monitor did not meet with OHTA staff during this reporting period. On February 1, 2002, the Court Monitor issued the *Fifth Report of the Court Monitor*. The Department filed its *Response to the Fifth Report to the Court Monitor* on March 1, 2002. As discussed in the Response, it is clear that the historical accounting project will require labor-intensive records searches that will occur over a long period of time.

Comments on the EDS Final Report and Roadmap

While OHTA agrees that the collection of missing information necessary for an accounting should be OHTA's responsibility, it does not concur that it should be merged with the BIA or OST data cleanup projects because the types of documents each office is seeking are different. For example, OHTA would be interested in finding timber leases from the 1920s, whereas other offices do not require such documents.

Also, OHTA notes that the EDS Roadmap incorrectly states that this project is designed to describe the nature and extent of IIM Trust accounts since the passage of the American Indian Trust Fund Management Reform Act of 1994. EDS *Final Report and Roadmap* at 143. As stated in the *Eighth Report to the Court*, OHTA's plan does not have such a time limitation.

Problems and Concerns

OHTA has identified the following problems and concerns.

(1) *Computer Shutdown* In the description of the Land Title Pilot Project above, OHTA indicates that the computer shutdown has delayed by two months completion of this Project according to our contractor, NORC.

(2) *Arthur Andersen LLP Indictment* **B** As described above, Arthur Andersen LLP has been engaged by OHTA. OHTA's pilot projects contracted to Andersen include (1) the BIA Palm Springs Field Office - Agua Caliente project, (2) the Large Dollar Transactions project, and (3) the Reconciling Beneficiary Names project. On March 14, 2002, Andersen was indicted for acts relating to Andersen's work for Enron. On March 15, 2002, GSA suspended Andersen from conducting new business with the Federal Government for the duration of the indictment. This matter raises concern that Andersen's ability to continue its OHTA projects **B** commenced prior to the GSA suspension **B** may be impaired by possible transfers of business units to other parties or even cessation of Andersen operations. Thus, the completion of the Andersen projects may also be impaired if transferred businesses have conflicts in the Cobell v. Norton litigation or Andersen ceases business.

(3) *OHTA Has Little Authority to Obtain Relevant Documents in Custody of Third Parties* **B** As discussed in the *Eighth Report to the Court*, OHTA may be unable to obtain access to IIM records held by third parties. In the *Fourth Report to the Court*, OST stated that, other than the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, it did not find any other laws or policies which required parties outside of the Department to retain trust-related records. The Department's Office of the Solicitor has been directed to prepare a memorandum which addresses what authority FOGRMA may provide as it relates to the collection of missing information from outside sources for the historical accounting project.

Assurance Statement

I concur with the content of the above information on OHTA's activities contained in the 9th Report to the Court. The Information provided in this section is accurate to the best of my knowledge.

Date: April 30, 2002

Name: *Signature on File*
Bert Edwards, Executive Director

VI. OFFICE OF THE SPECIAL TRUSTEE

A. CURRENT ACCOUNTING ACTIVITIES (Previously TFAS & OST DATA CLEANUP)

Introduction

This project and its procedure development and implementation are essential steps to providing accurate and reliable account information in a timely manner to trust beneficiaries. Use of accurate system data provides the opportunity to fulfill the requirements of the American Indian Trust Fund Management Reform Act of 1994 enabling this project to comply with the Department of the Interior's (DOI) trust obligations.

Administrative data and supporting documentation in the Individual Indian Monies (IIM) module of the Bureau of Indian Affairs' (BIA) Integrated Records Management System (IRMS) and the IIM file jacket folders were not maintained consistently throughout BIA and Office of Trust Funds Management (OTFM) field offices. Numerous deficiencies existed in the data because of inconsistent application of any "standard" method of data input, account/data review, or standardized use of system codes.

The Office of the Special Trustee (OST) is tasked with standardizing and verifying data for trust administrative records with the objective of establishing a standard set of codes to open and close accounts, maintain accounts to reflect the most complete and accurate information possible for each account holder and to ensure the information is reflected properly in the Trust Funds Accounting System (TFAS). These tasks often involve the BIA in policy decisions, implementation and monitoring.

The Current Accounting Activities project includes the following: Locate Required Documents; Whereabouts Unknown Accounts; Special Deposit Accounts; Small Balance/Inactive Accounts; and Accounting Discrepancies.

Project Managers Observation

Locate Required Documents

OTFM policy POL98-003– (Mandatory Documentation Requirements for IIM Account Jacket Folders) states that mandatory documentation for individual, unsupervised, flow-through accounts includes disbursement authorizations and W-9 form copies or copies of Social Security Cards. There are two types of individual unrestricted accounts: voluntary hold and flow-through. The Locate Required Documents project addresses the unrestricted, flow-through accounts only. The reason voluntary hold accounts are not included in this project is because the account holders request their money at their discretion and complete the required forms at the time of the request. The unrestricted, flow-through accounts are defined as accounts where trust monies are collected and

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disbursed automatically once the account balance reaches the minimum threshold, currently \$15.00 (\$5.00 for oil and gas).

Phase 1 of obtaining the required documents task included “unrestricted – flow-through” account holders having cumulative disbursements exceeding \$5,000 over a 12-month period. 472 accounts were identified and letters and forms were sent to the account holders asking them to complete and return the forms. A total of 459 accounts (97% of the 472 accounts identified) have been updated as of March 31, 2002.

This Phase 1 cleanup activity will be complete when the remaining thirteen accounts are updated with the mandatory documentation. Pursuant to 25 CFR 115.101, which authorizes the Superintendent to sign the permanent or disbursement authorization on behalf of the account holder, OTFM requested that BIA obtain Superintendent signatures. The Deputy Commissioner responded to the request for signatures on March 1, 2002. OTFM will be contacting the BIA and the Office of the Solicitor to determine the appropriate method for securing the disbursement authorizations during the next reporting period.

Phase 2 began in August 2001 and consists of a regional mass mailing to the remaining “unrestricted flow-through” account holders, regardless of their disbursement totals, excluding account holders that have already submitted mandatory documents. During this reporting period, 14,039 letters were sent to account holders requesting mandatory documents, for a total of 27,927 letters mailed since August 2001. Additional letters will be sent as part of the on-going business to collect these mandatory documents. 2,248 responses have been received as of March 31, 2002.

Three known roadblocks to obtaining required documents are notarization/witnessing of source documents, lack of documents imaging and lack of response from account holders. In order to protect the account holders from unauthorized access or changes to account information, OST policy states that when an account holder wishes to change an address or request a disbursement from their account, a notarization or DOI witnessed signature is required on the form(s). An impediment to this policy is the cost of notary services (for example, account holders have informed OTFM that the cost is as high as \$10 - \$20 per notarization), and/or the unavailability of access to DOI employees in remote areas for witnessing documents. A Document Imaging contract was and is envisioned to provide a database of inventoried documentation, which would allow OTFM to access certain documents.

It is envisioned that the Locate Required Documents process will be moved to on-going data maintenance upon the development, implementation and monitoring of procedures.

Whereabouts Unknown

As of March 31, 2002, there are 62,689 Whereabouts Unknown account holders. During this reporting period: 4,639 account holders were located, and 5,179 account holders became Whereabouts Unknown.

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Whereabouts Unknown accounts are categorized four ways: (1) 45,517 accounts are coded Correspondence/Check Returned, which means OTFM either does not have addresses for the account holders or mail was returned and did not have a forwarding address; (2) 8,101 accounts are coded Account Setup W/No Address which means they were established for an individual without any address information at the time of set up (e.g. probate order); (3) 9,059 are coded Awaiting Address Confirmation which means that OTFM received a forwarding address, either from the account holder, the post office, or a label on a returned piece of mail, and has sent a letter to the account holder asking for a Change of Address Form; and (4) 12 accounts are coded Refused/Unclaimed Mail which means mail has been refused by the account holder or was sent to a post office box, or general delivery, but was never claimed by the account holder.

As reported in the Eighth Report, on November 15, 2001, OTFM implemented a new, proactive approach to minimize the occurrence of new Whereabouts Unknown accounts by placing all accounts with a valid Social Security Number and/or current or previous valid address on Trans Union Credit Reporting Bureau's WATCH product. WATCH notifies OTFM when an account holder changes his or her address within three years of being placed on WATCH. As of March 31, 2002, WATCH has notified OTFM of 2,835 possible address changes. This reporting period, OTFM removed closed accounts from the WATCH database. OTFM also contracted with Trans Union's Canadian Bureau to add Canadian addresses to WATCH; these addresses were added the week of March 25, 2002.

Lists of Whereabouts Unknown were sent to Tribal officials asking for their assistance in locating their tribal members. Favorable responses include: address updates from numerous Tribes; letters from account holders stating they had seen their name on a posting in their local Tribal office; telephone calls and walk-ins to field office locations. As reported in the 8th Report, this mailing will be done on a semi-annual basis. Another mass mailing was initiated the week of March 18, 2002.

Letters were sent in January 2002 to Internal Revenue Service (IRS), BIA Payroll, Social Security Administration (SSA), Veterans Administration and Indian Health Services (IHS) requesting assistance and/or the sharing of information of these Whereabouts Unknown account holders.

IHS responded favorably with details on how to initiate the process by using the Computer Matching and Privacy Protection Act of 1988. This may provide the methodology to share and compare data through the use of an inter-agency matching agreement. This has been forwarded to the Solicitor for review and guidance on how to proceed.

SSA also responded to OTFM's letter, but said SSA could not comply with the request. OTFM proposed the same inter-agency matching agreement mentioned above and SSA agreed it would check into that option. In the meantime SSA offered to perform a small test to see if SSA could find current addresses in their database. OTFM sent SSA a test

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file containing ten names and Social Security Numbers. OTFM expects to have results of this test during the next reporting period.

Follow-up phone calls have been made to IRS, BIA Personnel, and Veterans Administration. OTFM will continue to communicate with these organizations.

OTFM has been tracking the Top 100 highest dollar balance Whereabouts Unknown accounts since May 2001. This list is a rolling list of the Top 100 accounts. OTFM has located 67 account holders from the rolling list.

Roadblocks include lack of document imaging (which would enable OTFM to electronically review up-to-date jacket folder contents); notarization of source documents (due to the insignificant (in some cases) account balance in relation to the cost of notary services, account holders have informed us that the cost is as high as \$10 - \$20 per notarization); the unavailability of access to DOI employees in remote areas for witnessing documents; document retrieval from many locations; lack of response from account holders; and the mobility of the Indian population. Due to the temporary restraining order, OTFM is unable to connect to the Internet. As a result, OTFM cannot access the OST Whereabouts Unknown website for account holder responses/updates. The inability to inquire into Trans Union's system for address information on returned mail is similarly affected with approximately 4,100 items on hold.

Whereabouts Unknown will never be totally resolved. It is unrealistic to assume that, at any given time, there would be zero account holders who are whereabouts unknown given the volume of accounts under management. It should also be noted that private sector operations (i.e., insurance companies and banks) have the problem of not having current addresses for all of their account holders. Therefore, it is essential that the whereabouts unknown process be moved to on-going data maintenance upon the development, implementation and monitoring of procedures. Draft procedures are awaiting final management approval. These draft procedures will be reviewed by OST for implementation.

Special Deposit Accounts

Numerous findings have cited the significant misuse of special deposit accounts for purposes other than those established in 25 CFR Part 115 as temporary "suspense" accounts. Over the years, the number of special deposit accounts that have been opened and remained inactive has proliferated.

A pilot project to address residual balances in certain special deposit accounts was completed January 31, 2002. The primary objective of the pilot project was to test and refine the procedures/approach for cleanup to include distribution of monies to proper entities and to develop the recommended scope of activities, estimated costs and timelines for the performance of a similar effort for all special deposit accounts. Currently, the contractor is finalizing the work plan procedures for the national roll out of the cleanup project based on pilot results. A preliminary work plan was distributed to the

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Office of Trust Risk Management (OTRM) and BIA for feedback in consideration of the final work plan. Both have provided their comments to OTFM. OTFM recognizes the issues raised by the BIA Trust Management Improvement Project (TMIP) and has scheduled a meeting with TMIP officials in May 2002 to resolve the differences. This project is a joint effort of the BIA and OST/OTFM offices. The BIA Liaison Officer serves as the primary point of contact for OTFM in interfacing with BIA Regional/Agency/Field offices and other Central BIA offices for policy decisions.

In an effort to accomplish the pilot objectives, four pilot sites (Navajo Region, Wind River Agency, Standing Rock Agency and Fort Peck Agency) were selected for the performance of special deposit account cleanup procedures. The focus of the work was on the accounts with balances greater than \$10,000 as of September 30, 2000, for these sites, which represented 158 accounts and approximately \$13,500,000. During field visits, an additional 265 accounts, with account balances less than \$10,000, were selected as part of the pilot project bringing the total to 423 special deposit accounts that were subjected to analysis and cleanup procedures.

Of the 423 accounts, we received recommended action forms for 247 special deposit accounts amounting to approximately \$6.1 million. Additionally, certain procedures were applied to another 176 accounts representing approximately \$7.6 million for which we did not receive recommendations due to pilot time constraints.

There continue to be roadblocks or impediments that include:

- Problems with document retrieval from many locations and lack of document imaging, which would enable us to electronically review up-to-date information. The document imaging should help reduce the time spent on research for cleanup going forward.
- Lack of automated mechanisms to retrieve historical land, title, and ownership records, which continue to pose problems for research.
- The length of time necessary to receive responses from the BIA on the recommended action forms, and not getting the signed authorization documents to distribute the residual special deposit account balances. Part of the issue is due to daily operational activities and work on other trust reform initiatives within the BIA. A revision to the procedures for referring and responding to recommended actions may resolve the impediment. We are exploring other alternatives to expedite the process.
- There are special deposit accounts that for a number of reasons such as defunct companies or missing documentation will be referred to the Office of the Solicitor for an opinion. Some special deposit accounts are part of litigation or adjudication that must be resolved before distribution can happen.

The Great Plains Region continues to use the Management, Accounting & Distribution System (MADS), which is a unique work around for income distribution. MADS, as currently deployed, does not calculate interest on principal dollars. If not corrected, this will continue to create undistributed interest balances in the special deposit accounts that

will still require clean up. During this reporting period, BIA, in conjunction with OTFM, piloted a modification to the MADS program at the Rosebud Agency in the Great Plains Region that distributed the interest calculated by IRMS. Initial results indicate that the program is operating correctly and BIA is developing plans for wider implementation. However, the modifications will not assist in calculating any interest for deposits that were made prior to June 1, 1989, because a methodology other than current average daily balance computation was in use. These deposits continue to require manual calculation.

Small Balance/Inactive Accounts

For the Small Balance/Inactive Accounts, as of March 31, 2002, there are 18,551 accounts that have a \$.01 - \$1.00 balance with no activity for the previous 18 months. The total included in those accounts is \$5,494.34.

OTFM is working with the Office of the Solicitor to reconcile the statutory obligation to earn interest with the technical inability at present to allocate interest earnings of less than \$0.01 to the respective accounts. No change has occurred during this reporting period.

Accounting Discrepancies

Accounting Discrepancies relate to an unreconciled difference between the total cash balances reflected by the OTFM for Tribal, Other Trust Funds and Individual Indian Monies Trust Funds and the balances reported by Treasury. OTFM fund balances exceed Treasury balances by approximately \$33 million. This difference does not impact the earning power of the fund since OTFM holds investment assets equal to the cash balance shown on its financial statements. Treasury maintains that these differences are previous reporting errors. The problem with reconciling the difference is the absence of detailed records at both Treasury and Interior.

In addition, the aggregate of all positive fund balances from the IIM detailed subsidiary accounts exceeded the assets by approximately \$6.7 million. As a result, the amount of interest earned, and distributed to the individual beneficiaries, is less than it would be, based on the positive balances in the subsidiary accounts. A \$6.7 million estimate is included in FY2003 President's Budget to increase the IIM investment pool to the aggregate total of the positive balances in the underlying IIM accounts.

Another component of the Accounting Discrepancies project is the resolution of the known accounting discrepancies compiled in April 1999. Those discrepancies included the two variances indicated above as well as the reconciliation of clearing accounts and suspense accounts, failed institution interest, over/under amortization, and automated daily reconciliation. The OST will work with the Office of Historical Trust Accounting on the various accounting discrepancies during the remainder of the calendar year.

EDS Roadmap

During this reporting period, the OTFM has continued communication with various BIA offices to share information on data clean up efforts, policy and procedures issues, and other daily operational activities. For example, the Whereabouts Unknown project shares with BIA Realty information received from the Social Security Administration on deceased account holders. Officials of the special deposit account cleanup pilot project held monthly status meetings with BIA and OTRM on pilot progress, issues, and the preliminary work plan procedures.

We recognize there may be overlap in the various data cleanup projects and discussed some of the issues with BIA, OTRM, OHTA and Trust Systems and Projects. We anticipate continued discussions and meetings to resolve some of these issues.

Assurance Statement

I believe that the information provided by me in the Current Accounting Activities Section, except for the “Accounting Discrepancies” task which will be surnamed by Michael Fansler, is an objective and informative analysis of that project as of March 31, 2002. My belief is based on my knowledge and review of credible evidence.

Date: April 30, 2002

Name: *Signature on File*
Helen Riggs, Project Manager

Date: April 19, 2002

Name: *Signature on File*
Dianne M. Moran, Trust Operations Officer

I believe that the information provided by me in the Accounting Discrepancies section of the Current Accounting Activities Report is an objective and informative analysis of that project as of March 31, 2002. My belief is based on my knowledge and review of credible evidence.

Date: April 30, 2002

Name: *Signature on File*
Michael M. Fansler

TFAS

The conversion of the Individual Indian Monies accounts to the Trust Funds Accounting System (TFAS) was completed in April 2000. TFAS is a generic term for the SEI Investments, Inc. off-the shelf standard trust accounting system. TFAS provides the basic receipt, accounting, investment, disbursing and reporting functions common to commercial trust funds management operations. The system is commercially operated and maintained by SEI Investments, Inc.

There are no remaining uncompleted steps pertaining to the conversion.

Training

There was no TFAS related training this reporting period. A TFAS Refresher class, which will include sections of the Desk Operating Procedures (DOP) Manual has been scheduled between April and July 2002.

Additional TFAS Overview classes for BIA, OHA and OHTA personnel will begin in April 2002.

EDS Roadmap / Recommendations

A draft change control procedure to request modifications to TFAS or the interface programs when required to support a business change is awaiting approval and will be completed in the next calendar quarter.

The section of the DOP Manual that pertains to TFAS related processes has been completed and training is scheduled to begin in April 2002.

Assurance Statement

I concur with the content of the information contained in the 9th Report to the Court. The information provided in this section is accurate to the best of my knowledge.

Date: April 19, 2002

Name: *Signature on File*

Dianne M. Moran, Trust Operations Officer

B. RECORDS MANAGEMENT

Summary Description

The Office of Trust Records (OTR) was established in 1999 to develop and implement an active, continuing program for the economical and efficient management of trust records, consistent with the American Indian Trust Fund Management Reform Act of 1994, the Federal Records Act, other statutes, and their implementing regulations.

The key objectives of this project are to:

- Resolve the breach of trust associated with IIM-related documents (extant trust records necessary to do an accurate accounting are identified, safeguarded, and under intellectual [inventory] control)
- Clean up records (inactive records — those not needed for current business — are stored in appropriate facilities)
- Establish a viable and continuing BIA and OST records management program (standardized record keeping requirements and practices are established; schedules are developed; and training and guidance is provided)

Project manager's observations

Breach of Trust – Retention of IIM-Related Document Activities. The proper retention of Federal records, including IIM-related documents, has three elements: record keeping requirements; records retention schedules; and safeguarding. While BIA and OST could merely develop and implement new or better records retention schedules that would provide for the maintenance of trust program related records, this action alone is not the solution. The essentials of records creation and retention must also be addressed starting with what should be retained as records and then properly safeguarding them. An active, continuing records management program must be implemented to see that necessary records are created and maintained, that records retention needs are met through authorized schedules and that the records are safeguarded throughout their life-cycle. Accordingly, OTR is continuing to take the steps necessary to implement a viable program. As the records management related activities associated with records schedules, manuals, and instructions are completed and implemented, the insufficiencies of the existing written policies and procedures will be resolved.

Records Cleanup Activities. OTR is undertaking the following activities to ensure that those records not needed for current business—inactive records—are stored in appropriate facilities; and to identify locations requiring appropriate filing equipment or systems to store active records.

- **Analyze Storage Requirements.** A records assessment is a review of the volume, physical condition, and location of all records at a particular office or location. This information is essential to understanding what needs to be done to correct

storage conditions, the number of records in need of appropriate disposition and the numbers and types of filing equipment or systems needed to better protect active records.

Records assessments at 95 BIA regional and agency locations have been completed. OTR staff started conducting records assessments at BIA Central Offices (East and West) in January. In April, OTR will send summary reports to BIA Regional Directors and Agency Superintendents identifying estimated volumes of active and inactive records being maintained locally. OTR will also provide a worksheet that BIA can use to identify the numbers and types of new filing equipment or systems needed at the location to store active trust program related records. All assessments of regional, agency, or field locations where records are housed by BIA will be completed by the end of the next reporting period.

During this reporting period, preliminary discussions were also held with OTFM managers to determine how and when records assessments at the 65+ OTFM field locations should be conducted. OTR expects to start conducting the assessments in late April or early May.

In addition, OTR plans to submit options to Department of the Interior (DOI) senior level management for consideration on whether records assessments should be conducted at other Departmental bureaus or offices that maintain IIM-related records. OTR will discuss these options in the next report.

? Records Disposition. An effective records disposition program provides for the proper maintenance of permanent records and the efficient, prompt, and orderly reduction in the overall quantity of records maintained by an organization at any given time. Records disposition is an on-going activity that must be performed routinely.

During this reporting period, OTR's contractor moved approximately 1,000 cubic feet of inactive records from office space or inappropriate off-site storage to its facilities for cleanup and organizing, bringing the cumulative total to over 33,000 boxes of records being moved. Also during this reporting period, 2,500 boxes of records were submitted for retirement to the Federal Records Center (FRC) bringing the cumulative total, since April 2000, to over 12,500 boxes retired to the FRC. Unfortunately, OTR continues to be stymied in its attempts to remove trust program related records from inadequate off-site storage facilities at a number of BIA locations. Some of these locations are the very same sites identified in the Special Master's November 12, 1999, report as having documents "in serious jeopardy." OTR has visited these locations on a number of occasions to assist with the cleanup and transfer of the records. OTR has found in some instances that not only are the records still being stored in the same inappropriate facilities, trust program related records are now also being stored in other facilities that are

not conducive to records preservation. These conditions have been reported to the management officials responsible for ensuring the safety of the records.

Inasmuch as Federal agencies are required by regulation to move any records stored in facilities that do not meet Federal requirements to proper facilities within 18 months of the time it became known that the facility was inappropriate, OTR will continue to work with these BIA locations, through written communications, to move the records to more appropriate facilities.

OTR would also like to note that while it can be reported that 33,000 boxes of documents have been moved to contractor facilities for cleanup prior to retirement to the FRC there is not, and never will be, a one-to-one box correlation—one box in and one box out (to the FRC). The reason being that some of the documents that have been brought in for cleanup are 1) non record materials, 2) being returned to the owning agency, or 3) temporary, non IIM-related documents, administrative records (such as time and attendance files, employee travel files, suspense files, etc.) that appropriately can be destroyed. For example, of the approximately 15,000 boxes (cubic feet) of materials from one BIA region, 826 boxes of records will be returned to the respective agencies after they have been environmentally cleaned up; non record materials such as bones and soil samples will be returned to the regional office; and, boxes full of metal non record materials will be destroyed.

During the course of the cleanup process, OTR is also finding that many of the boxes contain such things as rocks, old training materials, stacks of unused forms, etc.—definitely non record material that can be destroyed. Hundreds of boxes also contain administrative temporary records that have met their disposition dates and are eligible for destruction. In these situations, OTR has developed an “Intent to Destroy” form that will be signed by both the owning agency and OTR before any of the records or other non record materials are destroyed.

? Replace Historical Records with Working Copies. One-of-a-kind historical documents are being used by BIA in the course of everyday work. OTR has been experiencing a number of obstacles in its attempts to proceed. Although OTR has selected four BIA sites to use as pilots for replacing original documents with working copies, actual copying has yet to take place. A major component of replacing the original documents is the time-consuming task of preparing the records for copying. Because neither BIA nor OTR have the human resources to prepare the documents, OTR has been making arrangements to contract out the document prep work. OTR has been successful in obtaining contractor support, but differences in the interpretation of the level of security clearances that contract employees need to work on inactive paper records have, to date, barred actual access to BIA’s records by contractors. OTR will refer this issue to senior level management in the Department for recommendations and solutions.

Based on the estimated volume of historical documents that continue to be used throughout BIA, as well as the estimated cost of replacing the documents that are part of the four pilot projects alone, this will be a costly, and long-term effort.

Records Management Program Activities. OTR is undertaking the following activities to establish a viable and continuing BIA and OST records management program.

- **Records Schedules.** Records schedules are the key to any successful records management program. Schedules include a description of each records series and detailed instructions for records disposition. The schedules must be comprehensive and include all records regardless of media. The Archivist of the United States must approve all records schedules before they are implemented.

During this reporting period, OTR's two paper-based records schedule teams continued collecting and analyzing data that will be used to develop the various BIA and OST schedules. Action plans, with milestones and due dates, were determined. Forestry and Realty historical crosswalks of past, current and proposed BIA records schedules were developed. The BIA/OST Records Schedule Working Group met on March 12 and 13. The working group members accepted a proposal presented by the BIA Technical Program Expert to review and restructure schedules functionally. Draft functional schedules for land administration processes and natural resources management will be developed and reviewed at a meeting scheduled for the month of April. OTR also worked with OTFM field managers to identify and define records and develop filing plans for records that are created and received at OTFM agency locations.

Also during this period, the OTR team working on electronic records schedules developed a crosswalk for OST financial trust documents identified in various historical records schedules. Action plans, with milestones and due dates, were also determined. In addition, the team completed an initial review of existing BIA business processes that do not have automated systems, but that have documents that are inputs to other automated systems. Inventory questionnaires for BIA's Integrated Records Management System (IRMS) modules were prepared and forwarded to BIA's Office of Information Resources Management for technical review and comment. OTR is currently reviewing the responses received from BIA.

The three teams plan to submit proposed trust-program related schedules to the National Archives and Records Administration (NARA) for review and approval by September 30, 2002.

- ? **Develop and Issue Records Manuals.** All Federal agencies are required to issue directives establishing program objectives, responsibilities, authorities, standards, guidelines, and instructions for their records management programs. While the BIA's records handbook (last updated

in 1989), supplemented by several Departmental directives, provides adequate guidance for implementation of a records management program consistent with Federal regulations, many organizational and operational changes have occurred since 1989. However, the BIA had not incorporated into its handbook Departmental directives on documentation standards, records maintenance, or vital and electronic records. OTR recently submitted a draft Chapter 1 (Records Management Program Requirements) of a new Bureau manual on records management for review and comment. Additional manual chapters will include and offer guidance on such topics as records creation, maintenance and use, and disposition of records in all formats—paper, electronic, audiovisual, and cartographic; electronic and vital records management; files equipment and supplies. BIA employees will be trained on the new directives after they are developed. OTR plans to have the basic manual chapters ready for review and comment by September 30, 2002.

In conjunction with the development and implementation of records manuals and policies, OTR will design and implement a Vital Records Plan, a Plan to Comply with Electronic Records Regulations and a Trust Records Instructional Guide. OTR expects to have these documents ready for review and comment by the end of the calendar year.

- **Program Evaluations.** National Archives and Records Administration (NARA) regulations require all Federal agencies to conduct cyclic evaluations of their records management programs. This process had not been performed consistently throughout the Bureau of Indian Affairs (BIA) for many decades.

Program evaluations have been conducted at 95 BIA locations—Cycle I. This first round of evaluations was conducted by using a questionnaire that was completed by the location being evaluated. OTR reviewed the responses then provided recommendations on how to improve the locations' records programs in reports that were forwarded to the respective managers. To date, few responses to the reports have been received. Follow-up reports will be sent to each BIA regional and agency manager in April that will include overall assessments of the local records programs and proposed action plans.

During this reporting period, OTR also designed a foundation upon which Cycle II (Records Program Improvement) will be based. OTR reviewed the materials and process used to conduct the first evaluations at BIA field locations. Using this information, and NARA guidance, OTR established standards that local records management programs will be evaluated against in the future. OTR also developed criteria that it will use to prioritize the order in which BIA locations will be re-evaluated when Cycle II begins.

Also during this reporting period, preliminary discussions were held with OTFM to determine how records program evaluations should be conducted at its Central

Office and field locations. OTR and OTFM will continue to work together to develop a strategy and plan.

- Training and Technical Assistance. During this reporting period, OTR trained an additional 120+ BIA and tribal employees at sessions held at BIA's Eastern and Western Regional Offices and in Pocatello, Idaho, for the Shoshone Bannock Tribe. OTR is also planning training sessions during the balance of this calendar year for the Great Plains, Rocky Mountain, Eastern Oklahoma, and Southern Plains Regions, and the Central Office East and West locations. OTR is working with the BIA to encourage mandatory attendance at the training sessions as they are offered.

During this reporting period, OTR also met with OTFM field managers to define and develop a training curriculum for OTFM field employees. Training dates were also established. The first class is scheduled for April 23 in Shawnee, Oklahoma.

After the end of this reporting period, on April 11, 2002, the Special Master released the *Second Investigative Report of the Special Master Regarding the Office of Trust Records*. DOI filed its response to the Special Master's Report on April 25, 2002.

- Establish Life Cycle Database (Inventory) for Trust and Other Records. When completed, the systematic and consistent inventory of tens of thousands of boxes and cabinets containing records will be the primary tool and means by which the safeguarding of all BIA and OST trust records can be reasonably assured. OTR is developing a comprehensive nationwide records inventory to include both active and inactive records. The database will address the storage, access, control, and disposition of records. OTR intends to use contractor support to go onsite and manually inventory at the record series level all records held by BIA and OST at their respective locations.

A contract was awarded in March for a contractor to conduct a pilot at BIA's Southwest Region. Upon successful completion of the pilot, the process will be extended across BIA and OST. Estimates indicate that the volume of records currently being maintained in BIA office space may exceed 25,000 cubic feet. OTR, therefore, cannot determine how long it will take to capture all of the information needed to completely populate the database until the pilot has been completed and the experiences learned from the pilot are reviewed and analyzed.

- Establish Pilot Project for Electronic Record Keeping. Managing electronic records at the desktop is the most significant records issue of the past decade. Each day this becomes a bigger and more troubling issue as e-mail and word processing files multiply at an alarming rate. The Department of the Interior Chief Information Office and the Special Trustee for American Indians agreed to

use an OTR electronic records management project as a Department-wide pilot to demonstrate the concept of electronic records management as proposed in the Department's Roadmap to Electronic Records Management. During this reporting period, OTR, with input from the CIO's staff, developed a draft statement of work to acquire contractor assistance with identifying, acquiring, developing and implementing the appropriate application software to perform the pilot. OTR expects the final statement of work to be issued by the end of the next reporting period.

- **BIA Records Transshipment.** In October 2000, it was decided that it was important to provide BIA with a principal FRC to store inactive records. It was thought that by using one central facility rather than 15 nationwide, the National Archives and Records Administration would be able to render greater customer service to BIA and tribal clientele and provide superior records storage, access, and disposition services. It was agreed at that time that all BIA records eligible for transfer to a FRC would be sent to the NARA Lee's Summit facility located near Kansas City, Missouri. The concept worked well and the Deputy Commissioner of Indian Affairs, with the approval of Regional Directors, encouraged OTR to make arrangements for NARA to move—transship—all Indian Affairs records held at NARA records centers to the Lee's Summit facility. The transshipment of approximately 33,300 cubic feet of BIA holdings started in January and is expected to be completed by late April.
- **OST Records Move.** During this reporting period, the Special Trustee for American Indians notified Department and BIA executive managers that OST had decided to retire OST records stored in Albuquerque to the Lee's Summit FRC. This retirement of OST records to Lee's Summit will mean that all retired trust and other Indian Affairs program records will be secure in one centrally located underground records center with near archival temperature and humidity conditions. Included at Lee's Summit is a storage bay and research area specifically dedicated to Indian records. This will greatly improve continued access to the records to conduct any research, such as for the historical trust accounting. OST has contracted with a records management consulting firm to prepare a records transfer plan. The Department will not proceed with actual movement of the boxes until the plan has been reviewed and approved by the Deputy Secretary.

After the end of this reporting period, on April 17, 2002, the Special Master released the Emergency Report of the Special Master Regarding Defendant's Proposed Relocation of Records to the Lee's Summit Federal Records Center wherein he was sharply critical of the Office the Special Trustee's decision to transfer approximately 33,000 boxes of financial and administrative trust records to the Lee's Summit Federal Records Center. On April 18, 2002, on the request of plaintiffs in the Cobell v. Norton class action lawsuit, the Court issued a Temporary Restraining Order, which among other things, bars the proposed move

without prior notice to the Court and the Special Master. Interior is reviewing the Special Master's report in anticipation of meeting the May 1, 2002 response date.

- **Jacket Folder Issue with Three Tribes.** In calendar year 2000, three Tribes registered objections to the removal of active IIM jacket folders to Albuquerque for cleanup and storage in OST records facilities. Although attempts have been made to reach a suitable, mutually agreeable solution, this matter remains unresolved. In June 2001, the Department of Justice forwarded to the Special Master a letter from the Department explaining that, despite diligent efforts, the Department has not been able to resolve issues with the Tribes. In addition, a fourth tribal group recently passed a resolution barring removal of additional records from the reservation. These situations are impeding the Department's ability to ensure that all IIM-related documents are properly stored and preserved in appropriate storage facilities. Records related to IIM beneficiaries are federal property and must be used and maintained in accordance with statutes and implementing regulations.
- **Establish Advisory Committee on Records.** As originally visualized, this committee would ensure that attention remained focused on Indian affairs records. Over the course of the last year, a committee charter and proposed membership were developed and forwarded to the Department's Committee Management Officer for final approval. In February 2002, OTR requested that the committee package be placed on temporary hold because of impending organizational changes that could affect sponsorship and direction of the committee. An issue has also been raised as to whether another advisory committee is actually needed. OTR will re-evaluate this requirement after it has been determined where the new "trust organization" will be aligned within the Department.
- **Compact and Contract Tribes.** As reported previously, OTR has focused on providing technical support and performing records assessments and program evaluations at BIA locations. To date, OTR has provided technical assistance and customized training to a handful of Tribal organizations, at their request. During this reporting period, OTR identified the number and names of Tribes and Tribal organizations that compact or contract BIA programs. OTR also sent a memorandum to each BIA Regional Director stating that we would like to work with or through them to coordinate records management activities with Tribes or Tribal organizations in their respective regions. While OTR firmly believes that records assessments must be conducted at those Tribal locations that maintain records that are created or received in conjunction with the performance of Indian affairs programs, OTR is performing these assessments or providing training at the Tribe's request. Although record ownership relative to records created or maintained by Tribes performing IIM, probate, leasing, or grazing programs was clearly delineated in the March 2001 regulations, there are issues raised by some Tribes that must be resolved at a higher level within the Department.

- Award New Contract for OST Imaging. The unexpected complexities of this effort resulted in the termination on March 16, 2001, of the imaging contract awarded on November 29, 2000. Since that time OTR contracted for an independent assessment of options that should be considered for future efforts. OTR also requested assistance in identifying subject matter experts in the document management field that could be tapped to aid in defining the system strategy for an imaging project. Although OTR has received a report, this effort has been put on hold until such time that needed program experts are available to develop solid imaging requirements and actively participate in contract monitoring and testing. OTR is still assessing user needs with regard to imaging and will need to identify appropriate hardware and software to support the ultimate imaging requirements.
- Analyze BIA Records Imaging Requirements. While OTR has had various discussions with individual BIA offices, a systematic evaluation of imaging requirements has not been started. OTR has been advised that before any technology is purchased and applied as a records management solution, the processes that generate the paper records should be examined to see if improvements in the processes can be made and instances of records over-duplication eliminated. Misapplied technologies such as electronic scanning and microfilming can solidify bad practices as easily as it can solve them. OTR has, therefore, recommended that further research and analyses be delayed until after the Trust Systems and Projects group completes its review of BIA's business processes. The upcoming program review will likely address imaging requirements for BIA and OST.

EDS Roadmap Comments

During this reporting period, OTR reviewed and analyzed the recommendations made by EDS. OTR is undertaking actions to implement three of the four recommendations:

- Elevate the creation and maintenance of an ongoing records management program
- Increase communications regarding records management, and
- Expand records management resources

The one recommendation concerning migration to an Electronic Records Management System is an action that OTR is unable to undertake fully at this time due to restrictions imposed by the Department on implementing electronic records management systems. A pilot, however, is currently underway (see update on Establish Pilot Project for Electronic Record Keeping).

Assurance Statement

I believe that the information provided by me in the Records Management Project Section is an objective and informative analysis of that project as of March 31, 2002. My belief is based on my personal knowledge, my review of certain documents, and my review of credible evidence and documents provided to me by my staff.

Date: April 30, 2002

Name: *Signature on File*
Debbie Meisner

C. TRAINING AND TRUST MANAGEMENT STAFFING

Summary Description

The lack of adequate training of those persons who manage Indian trust assets has been cited in numerous Office of Inspector General and General Accounting Office reports and has been identified as a significant obstacle to the more effective management of and accountability for the proper discharge of the Secretary's trust responsibilities to Indian tribes and individual Indians for whom the Department holds or controls trust assets. The Secretary has a continuing responsibility to provide adequate staffing, supervision and training for trust fund management and accounting (25 U.S.C. 162 a(d)(7)). Training, coupled with intelligent supervision and productive experience, is essential to the successful management of any operation. The objective of the training project is to support the systems implementation and specialized skills training for the overall trust reform effort in order to increase the job performance and interorganizational effectiveness of Departmental and Tribal personnel who manage Indian Trust assets on behalf of the Secretary.

Project Manager's Observations

This section of the 9th Report to the Court will report on the training for which the Office of Special Trustee (OST) is directly responsible. A training section to detail specific training needs, the training audience, required courseware and the courseware provider is included in those project reports where appropriate. The Special Trustee, in his oversight role, will continue to monitor and, where necessary, give guidance on the adequacy and appropriateness of all the training provided, or to be provided, to support trust reform and trust asset management in the future.

OST TRAINING: Trust Foundations

During the period January 1, 2002, to March 31, 2002, Upper Mohawk, Inc., the contractor that has been retained to assist in the development and conduct of classes in basic trust reform topics, initiated the single 3-day Trust Foundations: An Introduction to Trust Reform and Change course. This training will be offered to all Departmental and tribal trust employees on an ongoing basis.

The purpose of this non-technical training is to provide trust system personnel at every level with an increased understanding of the Government's and the Department's fiduciary responsibilities with respect to those Indian assets held in trust for particular tribes and individuals. This training is designed to give the entire fiduciary staff that understanding by introducing them to general concepts of fiduciary conduct and productive organization interaction. It sets forth the proposition that each person engaged in any manner in the Indian trust asset management process is part of a large fiduciary team, that each job is important to the successful operation of that process, that the trustee is required to make reasonable decisions based on fiduciary principles, that such

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decisions are dependent on full and accurate information, maintained in a useful system of records, that such information can only be produced by the use of productive communication and objective management skills, and that those Departmental habits that frustrate the use of those skills must be changed in order to better serve the interests of the trust's beneficiaries. The objective of this training is to support a trust asset management system that operates as an organic whole.

This 3-day course was developed after the successful introduction of Trust Foundations I, a 2-day course, which was to be followed several months later by a 3-day Trust Foundations II course. After pilot projects indicated that a single 3- day course was more suitable, the present 3-day course was created. The remaining task, therefore, is to offer a 1-day course to the approximately 1500 employees who took Trust Foundations I. That supplemental training was begun during the January 1 to March 31 period. It is expected that the other half of the population to be trained will have the 3-day course during 2002.

The Trust Foundations training program has not experienced any serious shortfalls or failures in this reporting period. The following chart illustrates the number of students who have attended either the one day or the three day trust training classes this quarter, and the results of the anonymous student evaluations of the training. As illustrated, the vast majority of attendees rated the class as either completely or generally successful in meeting its stated objectives which include: to understand the purpose of the 1994 Reform Act; to be familiar with the Secretary's Trust Principles; and to be familiar with the concepts of Fiduciary Conduct.

Course	Number of Students Attending	Completely Successful	Generally Successful
Trust Foundations - One Day Training	347	69%	29%
Trust Foundations - Three Day Training	126	77%	20%

To determine if the course objectives have a longer-term positive impact on the knowledge base of attendees, follow-up surveys on a sampling of course attendees and their supervisors will be conducted.

Customer Service

Upper Mohawk has been instructed to develop a customer service training course that addresses the methods by which a trustee is able to deliver fiduciary services to its beneficiaries and keep itself informed about the needs of those beneficiaries. It is planned for introduction in September 2002.

Trust Management Training

A broad range of trust asset management training, to include systems, nonsystems and particular skills training, must continue if the reform of the trust management process is

to be successful over the long term. Therefore, an essential reform element will demand the creation and maintenance of suitable training requirements for all persons within the control of the Department who manage or administer Indian trust assets. A permanent commitment to training must be institutionalized.

Obstacles

A major goal of the Trust Foundations training program is to change or at least modify the Departmental corporate culture with respect to the discharge of the Secretary's trust responsibilities. The obstacles to achieving that goal continue to be the widely-held beliefs of many senior career managers that trust reform is not warranted, that the traditional fiduciary principles drawn from common law are inappropriate to the Indian trust relationship and that all that is needed is increased funding to better support the existing management system. These beliefs have been demonstrated in statements and in actions that include preventing employees from attending the training and restricting their full participation in the course. The success of both the training program, as well as overall trust reform, however, depends on strong support and leadership demonstrated in the field and in the Washington, D.C. headquarters.

Training is an ongoing statutory obligation of the Department. The Training project will terminate with the successful implementation of trust reform, when training will be institutionalized in the regular conduct of trust activities. It will be replaced by a commitment of the Department to comply, in a productive way, with the requirements of 25 U.S.C. 162 a(d)(7)

EDS Roadmap

The Electronic Data Systems (EDS) recommendations and roadmap should be given serious consideration for the design of the ultimate commitment to training as required by the Reform Act. EDS recommends that the general, systems, and job-specific training be coordinated by a single organization and leader. This can be conducted within Office of Indian Trust Transition, OST or another appropriate office and will involve significant planning, logistical and financial coordination with the other projects. Consistent with his oversight role, the Special Trustee will monitor the adequacy and appropriateness of all the training provided now and in the future. At this time, a major revamp in the design of the Trust Foundations course is not warranted, as continuing reviews of the curriculum will assist in identifying weaknesses. Finally, until business processes are developed, it is premature to begin developing either systems or task-specific training. Effective systems training can only occur after the business processes are developed and mapped.

Assurance Statement

I believe that the information provided by me in this report is an objective analysis of the subject training as of March 31, 2002. My belief is based on my knowledge and review of credible evidence.

Date: April 18, 2002

Name: *Signature on File*
Richard Fitzgerald

D. RISK MANAGEMENT AND INTERNAL CONTROLS

SUMMARY DESCRIPTION

This project's objectives are to (1) systematically address and resolve management control deficiencies and (2) design and implement a comprehensive Risk Management Program which includes extensive management controls to monitor and evaluate the Department's Indian Trust Asset Management Program. Pursuant to this, the Risk Management Program plan was issued in September 2000. At the end of the same year, the Risk Management Handbook, which provides overall guidance for the development of a comprehensive risk assessment and management control program, was issued to all Departmental entities involved in Indian Trust Asset Management.

PROJECT MANAGER'S OBSERVATIONS

Originally, over 300 sites were identified as having potential Indian Trust Asset Management impact. About one-half of these sites were identified as having significant program activities (i.e., realty, leasing, revenue collection and disbursement). These sites were initially selected for site visits and surveys to determine: the extent of their Indian Trust Asset Management programs; and their documented processes for accomplishing these unique trust management and accounting responsibilities. The survey and site visits were designed to identify which specific programs fell under these offices and to what extent they had implemented effective management control programs.

Analyses of the results of the survey and site visits disclosed that effective and efficient, documented management controls or formalized risk management programs were non-existent in some locations and only partially in place in others. Therefore, additional site visits were discontinued and instead were replaced with pilot programs designed to implement a formal, documented "Risk Management Program for Indian Trust Assets."

The Management Control Plan methodology outlined in the "Risk Management Program for Indian Trust Assets" parallels current corporate practices used in particular by trust and financial organizations. The Office of Trust Risk Management (ORTM) has appropriately modified the corporate models of risk management to apply directly to Indian Trust Asset Management activities. A brief summary of the "Risk Management Program for Indian Trust Assets" is as follows:

Communicate – A brief introduction on the purpose of risk management has been incorporated into the overall Trust Foundations course that is being delivered to all Department employees involved in trust functions. Risk Management awareness training has also been developed within OTRM and is being presented in the initiation phase of the pilot programs. Presently, this training has been completed in the Bureau of Indian Affairs (BIA) Northwest and Great Plains Regions and will be conducted during the next quarter for the BIA Southern Plains Region and Bureau of Land Management (BLM). OTRM and one of its

contractors developed the training. Training can vary in the level of detail depending on the audience (managers, supervisors, and line employees), but usually has involved one-day training for higher level managers and half-day training for staff. During this period, 146 BIA and 28 Tribal personnel were trained.

Develop – The “**Risk Management Document**” (RMD) identifies specific business objectives for each trust asset management program, the associated risks and the documented controls in place, which are intended to mitigate these risks.

Evaluate – The “**Management Control Reviews**” (MCRs) consist of detailed self-evaluations of documented management controls. The MCRs evaluate whether the controls identified are producing the intended results. The MCR process consists of interviews, observations, questionnaires, transaction tests, and document analysis.

Correct – The “**Corrective Action Plan**” (CAP) provides a written outline of when programmatic management control deficiencies will be corrected, what resources will need to be allocated to this effort and who is responsible for the corrections. A variety of reports will be created to track control deficiencies.

Report – The “**Statement of Assurance Letter**” (SAL) is the ultimate objective of the Management Control Plan. Each program, agency, and organization which is charged with Indian Trust Asset Management shall be able to provide a statement of reasonable assurance that management controls are, or are not properly designed and working effectively and efficiently.

OTRM has developed a relational database that records and reports on the programmatic objectives, associated risks, management controls, corrective action plans, and the progress toward producing annual statements of assurance. This Management Control Plan Database (MCPD) is intended to store repositories of information, which are applicable on a nationwide basis for each Indian Trust Asset Management program. The benefits for using the Management Control Plan Database are significant. They include: the standardization of program objectives, management controls, management control evaluations, and all other documentation; a “Best Practices” approach to each program; the systematic ranking of the current risks which affect Indian Trust Assets; the automation of the formalized tracking of control deficiencies and corrective actions; and, a process to streamline fieldwork. Upon implementation of the MCPD, OTRM can effectively monitor, assess, and report on the current status of Indian Trust Asset Management programs to the Special Trustee and others. This is an ongoing project which will be fully implemented.

PILOT PROGRAMS

The Risk Management Program for Indian Trust Assets is being adapted and applied to all related programs in the Office of Trust Funds Management. Also, the pilot program –

which implements the general approach of the Risk Management Handbook issued in 2000 - is currently being applied to the larger revenue producing trust asset management programs for five agencies and two tribes that have elected Self-Determination and Self-Governance in the BIA Northwest Region. OTRM plans implementation for these agencies and tribes within the Northwest Region beginning in late June 2002.

Additionally, initial contacts have been made to initiate a pilot program in the BIA Southern Plains Region and its four agencies, and BLM. The Southern Plains pilot is planned to begin in April and implementation is planned for late this fiscal year. The BLM is not scheduled to start until June; an implementation date is not yet established. The Risk Management Program continues to be adapted and will be applied to relevant sections of the Minerals Management Service as MMS systems are implemented.

As soon as the pilots are complete, the risk management and management control prototypes developed will be applied as the framework for all Indian Trust Asset Management programs. This standardized process shall reduce the total time required for program implementation, a concern of ours, confirmed by EDS in their recent report.

To date, the major development efforts of risk programs have been based on an operational, rather than systems, basis. Assessment of the management controls in the automated systems was planned in the original subproject. However, that work has been delayed due to systems implementation delays. The court-ordered computer system shutdowns have impacted the progress of further systems analyses.

OTHER ITEM

During this quarter, KPMG completed the annual audit of the OST/OTFM trust fund financial statements for 2001. These audits are required by the Trust Fund Reform Act and have been conducted independently each year since 1995. The annual audit was contracted for by OTRM and was monitored for conformance to standards by the Office of the Inspector General (OIG). The audit results have been provided to the OIG for final issuance. The audit contains material weaknesses and is expected to be released during the next quarter.

EDS COORDINATION

Recently, the EDS contract was modified to include the assessment of “as is” business processes employed by the different entities conducting various Indian Trust Asset Management programs. Portions of the risk management surveys OTRM conducted at approximately 70 field sites included a summary of current business processes. To avoid duplication of effort, all of this summary data is being provided to EDS to incorporate as appropriate in their study.

EDS ROADMAP

In its analysis of the former High Level Implementation Plan (HLIP) subproject, EDS basically endorsed OTRM’s approach for implementing the Risk Management Plan.

However, EDS questioned whether OTRM had applied sufficient resources to cure past and continuing management control deficiencies. The EDS Roadmap included milestones and steps for implementing its recommendations. The recommendations have been accepted. We have completed categorizing the management control deficiencies, selected cash management as the top priority internal control issue for resolution and increased our coordination efforts for many of the projects.

In addition, we are again reviewing all past reports and updating/verifying the classifications of the deficiencies and obtaining complete reports in those cases where we had only summaries. Once completed, the database will be continuously maintained and categories of additional deficiency groups can be targeted for resolution once the case management issues are resolved or resources are available to pursue additional deficiency categories.

CASH MANAGEMENT

Since the mid-1980's, the GAO, the OIG, and private audit firms have reported at least 70 instances of management control deficiencies dealt with ineffective cash management, such as the lack of segregation of duties and significant delays in depositing receipts. After learning of several instances of continuing deficiencies, OTRM reviewed cash management processes in 27 of the risk surveys conducted by OTRM and found continuing deficiencies such as untimely deposits. We concluded that cash management across the Indian Trust Asset Management programs is relatively archaic: checks are remitted to locations where depositories are not available resulting in their physical transfer to another location; receipts are sometimes on hand for long durations before being deposited; and some receipts, after deposit, remain undistributed in holding accounts for months, sometimes years.

In addition to incorporating improved cash management internal controls into the pilot programs underway, during the next reporting quarter, we will develop options for piloting improvements in cash management processes for major leasing programs such as farming and grazing. Options will include considerations for electronic funds transfers, remittance directions to locations for prompt deposit, etc. All options will require extensive coordination, with both the Office of Special Trustee and BIA, changes to longstanding practices and requirements on the lessees of Indian lands and resources, and appropriate redirection, transfer, and possible increases in resources.

Assurance Statement

The information contained in this project report for Risk Management and Internal Controls is, to the best of my knowledge and belief, a comprehensive portrayal of the project's status. It was objectively developed and key subordinates and I have reviewed it in a manner and to an extent sufficient for me to concur with its contents.

Date: April 29, 2002

Name: *Signature on File*

Kenneth M. Moyers

E. APPRAISALS

Summary Description

Various regulations governing trust land transactions require the Secretary to obtain valuations. To meet this requirement, an appraisal or other valuation method is used as a management tool to ensure that fair and just compensation is received on transactions including, but not limited to, leases, rights-of-way, land sales, timber sales, land exchanges, grazing and range permits. This project covers surface appraisals of Indian Trust and Restricted lands.

A key objective of this project is to ensure that the integrity of the valuation process promotes objectivity, independence, professionalism, leadership, accountability and oversight by management. Other objectives include: ensuring timely comprehensive valuations of trust resources; managing appraisal priorities through staffing, training and introduction of new methods; developing a tracking and monitoring system for appraisal requests; developing nation-wide comprehensive valuation practices which are in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP); and updating provisions in trust program manuals that outline appropriate appraisal methodology and administrative procedures for ensuring the timely completion of appraisals.

The Appraisal Transition Team (ATT) completed a preliminary draft of the Office of Appraisal Services Plan on March 29, 2002. The Plan describes two options to structure the Office of Appraisal Services. The final Plan will be submitted to the Assistant Secretary – Indian Affairs and to the Special Trustee for American Indians for implementation in the next reporting period.

The Office of Appraisal Services has been established as a milestone of trust reform. ATT recommends the Office of Appraisal Services be directed by a licensed professional appraiser who has the authority to mitigate and manage the appraisal process from beginning to end, including, but not limited to, making the selection of key vacant appraiser positions.

Project Manager's Activities This Reporting Period (January 1, 2002 to March 31, 2002)

Realign Line Authority to Ensure Consistent Management and Overview of the Appraisal Program

The Secretarial Order to transfer the appraisal function from BIA to OST was signed by the Secretary on March 12, 2002. Department officials are reviewing a draft letter to Congressional Appropriations Committees. This letter will be sent to OMB for clearance in the next quarter.

In March 2002, the BIA issued a memorandum to convene a Regional Appraiser meeting during the first week of April. The meeting provided information regarding the status of the transition and its effects on the Appraisal Program. During this meeting, a task force consisting of Regional Appraisers was identified to proceed with revising the Appraisal Handbook. We anticipate the handbook revision to be completed by the end of the second quarter, calendar year 2003.

Computer Systems Milestones: Develop and Maintain Database for Tracking Appraisals; and Implement An Automated Comparable Sales/Lease Data Base System. These systems were recommended for development in the overall Trust Asset and Accounting Management System (TAAMS) project; however, the funding was never identified in the TAAMS budget for this project. Consideration of an appraisal tracking system will occur in connection with the Business Process Modeling (BPM) to be completed by Electronic Data Systems (EDS).

The Automated Comparable Sales/Lease Data Base System (CDS) is an off-the-shelf system with an estimated developmental cost of \$1.2 million with reoccurring annual costs of approximately \$89,000. A life cycle systems analysis for CDS was suspended in November 2001 when TAAMS was placed on hold. The proposed system will be reviewed upon completion of the BPM proposed by EDS.

Program Reviews:

Program reviews began in December 2001 and were completed March 29, 2002, for each of the twelve Regional Appraisal Offices. Program reviews were conducted to assess whether or not the recommendations of the reviews completed in FY-2000 were implemented. The program activities reviewed consisted of workload, staffing, qualifications, training needs, reporting formats, and compliance with the USPAP, directives, and policies. The results of the program reviews will be compiled and reported in the next reporting period.

Appraisal Backlog:

Management decisions can influence or interrupt the completion of the appraisal process. As an example, the Rocky Mountain Region had reported a backlog of nearly 2,000 appraisals. The 2,000 appraisals had been completed, but, due to a regional management decision to review the completed appraisals further, the appraisals were re-analyzed, even though the appropriate professional expert had approved the appraisals.

The effect of re-reviewing 2,000 appraisals, which took regional appraisers nearly a year to complete, created an additional backlog of approximately 1,000 appraisals, because the appraisal staff could not process the routine workload. This situation was one of the findings of a program review of the Rocky Mountain Region Appraisal Program completed in January 2002. The 2,000 re-reviewed appraisals have been cleared out of backlog status, but the Rocky Mountain Region Appraisal Program is now coping with additional appraisal requests that accumulated during the subsequent calendar year.

In addition, the current backlog of approximately 1,000 appraisals results from the required appraisal of fractionated interests in allotments. The BIA appraisal practice for appraising undivided heirship interests is to appraise the entire trust allotment. Appraisal methodologies have not been enforced in a standardized way from region to region. It is expected that standardized methodologies will be strengthened as a result of realignment and the revision of the handbook.

Projected Workload Increases:

The Appraisal Program provides appraisal valuation services for all trust transactions involving Indian allotments including probate, acquisition and disposal. The appraisal workload is expected to substantially increase through routine probates and special projects such as the Indian Land Consolidation Act (ILCA) and Land Consolidation Pilot Project (LCPP). Future appraisal workload projections for probate purposes cannot be accurately estimated at this time.

The Department is reviewing the LCPP to determine whether to maintain implementation on a reservation-by-reservation basis, or to implement the project nation wide. The LCPP currently involves only three Tribes in the Midwest Region. In addition, one Tribe from the Northwest Region is receiving LCPP funds under a special arrangement. Additional funding requests have been submitted to OST in order to expand the LCPP to include two more Tribes in the Midwest Region and one Tribe in the Great Plains Region. If this or additional funding requests are approved, the appraisal workload may likely increase.

Training Components of Appraisals:

Under Title XI of the Financial Institutions Reform, Recovery and Enforcement Act, the Appraisal Foundation acting through the Appraiser Qualifications Board establishes the national minimum education, experience and examination requirements for state certification. The state certification requirements consist of 180 classroom hours of formal real estate appraiser training (based on each state's approved list of training courses and hours); 3,000 hours of actual appraisal experience working with a certified general appraiser which cannot be completed in less than 30 months; successful completion of the state appraisal exam; and payment of certification/licensing fees. In order to promote certification of appraisal staff, Individual Training Plans are required for all appraisers not yet certified in order to work toward and achieve their state certified general license.

The states require continuing education for certified appraisers to maintain licensing. For the level of complexity of appraisal assignments performed for Indian trust assets, the State Certified General license is required. A standardized position description requiring state certification for all Regional Appraiser positions has been completed. Specialized training and familiarity with Indian Real Estate laws and policies is required for the

valuation of Indian trust properties. This is accomplished through on-the-job training and OAS sponsored courses.

Drafting of Appraisal Regulations:

In the next fiscal year, a work group will be formed to examine and study existing statutes to determine the feasibility of drafting regulations for the valuation of Indian Trust Lands.

Implementation of Roadmap Recommendations:

The Project Manager has reviewed the recommendations provided by EDS in the report titled *DOI Trust Reform, Final Report and Roadmap*, dated January 24, 2002. In general, the Project Manager concurs with the recommendations made by EDS but is concerned by the milestone completion dates identified in the report. The transition of the appraisal function from BIA to OST is currently underway and may not be completed until the end of the 4th quarter; therefore, many milestone dates identified in the EDS report need to be revised to commence after the transfer of the appraisal function is completed.

D.2.1 and D.2.1.1 Address the Potential Conflict of Interest Issue and Review and Assess Realignment Strategies for Appraisal Program Reporting Lines of Authority. The BIA Chief Appraiser and members of the Appraisal Transition Team completed the Appraisal Plan for the Office of Appraisal Services on March 29, 2002. The Plan details two options to structure the appraisal management and line authority to resolve current management problems that have resulted in backlogs in some regions. Problems are characterized as appraisal problems, when they often may be management problems. One option recommends a total centralization of the appraisal program, while the other recommends a tiered structure. In both options, the line authority of having appraisers supervise appraisers promotes the independence and objectivity of the appraisal function. The organizational structure ensures accountability and full oversight of the appraisal program. The Secretarial Order established the Office of Appraisals Services under the Office of the Special Trustee for American Indians. The Plan recommends that a professional certified general licensed appraiser direct the office.

D.2.1.2 Review and Assess Outsourcing Alternatives for all Appraisal Work to Independent, Real Estate Appraisal Firms. The valuation of Indian trust lands is a trust responsibility. The EDS report incorrectly states that performing appraisals of Indian trust lands is not a core mission function of the BIA. However, the final review and approval of appraisal of Indian trust lands are an inherently federal function.

It must be clarified that the development and reporting of an appraisal assignment is not a core mission function of the BIA, but the review and approval are core functions of the Department. Factual data also indicate that circumstances exist in which contracting of appraisal services has been unsuccessful due to non-responsive bids from the private sector requiring BIA to provide the service.

The EDS observation of the appraisal function is inaccurate as it relates to Indian trust assets because it does not recognize the complexity, risk, and uniqueness of appraising these properties. The appraisal function consists of two professional appraisal processes: 1) The review and approval function for appraisals, which is an inherently federal function that is the basis of trust responsibility; and 2) The development and reporting of an appraisal assignment can be outsourced, but the technical requirements for the scope of work have to be developed by the responsible appraisal official.

In the next reporting period, a team will be identified to collect and analyze data to determine in what instances outsourcing of appraisal services is a viable option.

D.2.2 and D.2.2.1 and D.2.2.2 and D.2.3 and D.2.3.1 and D.2.3.2 Continue to Develop the Appraisal Tracking System; and Determine the Need for a Comparable Sales/Lease System. The Project Manager agrees with the observations and recommendations made by EDS. It must be clarified that funding for these systems has never been identified or provided for the development and implementation.

D.2.4 and D.2.5 Establish Performance Metrics Program; and Eliminate Region-centric Approach to Selection of Appraisal Valuation Methods. The Project Manager agrees with the concept of establishing performance metrics and appropriate and efficient valuation methods; however, it must be noted that these must include compliance with USPAP. Standardization of appraisal methods must not be permitted to infringe on the independence and objectivity of the appraiser's opinion.

Standard Rule 1-1(a) of USPAP states:

Comment: "This rule recognizes that the principle of change continues to affect the manner in which appraisers perform appraisal services. Changes and developments in the real estate field have a substantial impact on the appraisal profession. Important changes in the cost and manner of constructing and marketing...real estate as well as changes in the legal framework in which real property rights and interests are created, conveyed, and mortgaged have resulted in corresponding changes in appraisal theory and practice. Social change has also had an effect on appraisal theory and practice. To keep abreast of these changes and developments, the appraisal profession is constantly reviewing and revising appraisal methods and techniques and devising new methods and techniques to meet new circumstances."

D.2.6 and D.2.7. Continue to Formalize and Expand ATB Efforts; and Update the Real Estate Services Appraisal Handbook. The Project Manager agrees with the observations and recommendations of the EDS report.

Ninth Report to the Court
May 1, 2002

Assurance Statement:

I concur with the content of the information contained in the 9th Report to the Court. The information provided in this section is accurate to the best of my knowledge.

Date: April 29, 2002

Name: *Signature on File*
Gabriel Sneezy

VII. BUREAU OF INDIAN AFFAIRS

A. OFFICE OF INFORMATION RESOURCE MANAGEMENT (OIRM)

Steps Completed

Complete the personnel safety and emergency response plan.

Bureau of Indian Affairs (BIA) and the National Business Center published an emergency evacuation plan on January 25, 2002.

ACTIVITIES IN PROCESS BUT NOT COMPLETED

Evaluate and enhance the OIRM Security Plan to meet OMB A-130 standards

The Department of the Interior (DOI), Office of the Chief Information Officer, provided an Information Technology security policy, Department Manual Part 375 Chapter 19, and a separate implementation plan. The Department security policy is currently receiving final comments from DOI Bureau Security Managers. The security policy is considered interim guidance until it is published. April 2002 is the expected date for completion of the policy. The OIRM security plan will follow.

Floor to ceiling security for OIRM computer room perimeter, Replace computer room doors to meet OMB A-130 standards

Proposals to correct these two issues are being reviewed by the Director of Management and Accounting.

Convert the draft Disaster Recovery Plan to a full Continuity of Operations Plan

OIRM has identified two staff members to accomplish this task and has identified formal training for them on Disaster Recovery Planning. One individual has completed training and the other individual is scheduled to attend. They will begin converting the OIRM Disaster Recovery capability into a Continuity of Operations Plan for Information Technology functions under the control of OIRM. Scheduled completion date for the first draft plan is the second quarter, 2002.

Review Access Control Lists

It has been the policy of BIA Personnel and Physical Security to require the written approval of a senior manager or supervisor prior to a grant of access to any area of the Ely S. Parker Building. Prior to November 2001, the responsibility for approving access to OIRM and the Data Center was delegated to the Director of OIRM. No further delegation followed changes in personnel. BIA Personnel and Physical Security staff continue to work with the acting Director and the acting Deputy Director for access, pending written confirmation of the designation of different authority from senior management.

Separately, the Acting Director of OIRM is establishing a policy to periodically review access control lists used to identify who is allowed entry into OIRM office and computer room spaces, including the Datacenter and Unisys mainframe computer room.

Develop and implement a Hardware life cycle plan

The two Unisys mainframe computers at Reston and Albuquerque are nearing the end of manufacturer support for hardware and software maintenance. Efforts are underway to prepare a hardware life cycle plan [replacement schedule] for these systems.

Complete and implement a comprehensive training plan for personnel and asset security.

By memorandum signed on January 8, 2002, by the Assistant Secretary – Indian Affairs and the Deputy Commissioner of Indian Affairs, senior managers and key staff were advised of personnel and physical security requirements for all BIA facilities.

The Personnel and Physical Security Office circulated, for comment, a revised copy of the security brochure disseminated at the Ely S. Parker Building following the events of September 11, 2001. The security brochure contains information related to the emergency evacuation of the building. The brochure should be completed during the next reporting period.

RECOMMENDATIONS TO MAKE OIRM SUCCESSFUL

Supervision of the OIRM organization should be provided directly by the Chief Information Officer for The Assistant Secretary - Indian Affairs, instead of the Director, Management and Accounting, because OIRM's mission and roles encompass more than accounting. OIRM directly supports other Indian Affairs and BIA programs.

Security policies of the Information Technology and Personnel/Physical Security organizations often conflict, causing confusion and opportunities for security overlaps and lapses. The OMB A-130 Appendix A guidelines and the DOI security plan should be identified as the standard for the Department of the Interior. This will result in fewer conflicts between the Department CIO and Department Security personnel.

Assurance Statement

I concur with the content of the information contained in this section of the 9th Report to the Court. The information provided in this section is accurate to the best of my knowledge

Date: April 19, 2002

Name: *Signature on File*
William Roselius

B FRACTIONATED HEIRSHIP

Fractionated ownership of individually owned trust and restricted land presents a unique challenge to the Federal government's administration of these lands and fulfilling the fiduciary and trust responsibilities to the Indian beneficiaries as mandated by Congress and the Federal courts. In addition to creating management difficulties that impact the ability of Indian owners to use and benefit from the lands, fractionated ownership hinders the Federal government's ability to efficiently administer transactions, maintain current and up-to-date ownerships, maintain trust records, maintain and account for trust funds and timely distribute trust funds.

Staff Training

During the month of December 2001 and this reporting period, two training sessions were conducted. A total of 234 persons attended the sessions designed to brief and provide guidance to Department of the Interior (DOI) staff on the changes brought about by the passage of the Indian Land Consolidation Act Amendments of 2000 (ILCA 2000). Additionally, two notices were published in local/tribal newsletters in December 2001 and a notice was published in the Federal Register during this reporting period. The purpose of the notices is to advise Indian country of the changes for the inheritance of Indian trust and restricted lands. The requirement to provide notice to Indian country is imposed on the Secretary under ILCA 2000.

Indian Land Consolidation Program

The Indian Land Consolidation Program (ILCP) continues to acquire small undivided fractional interests and consolidate those interests in the Indian tribe. During this reporting period a total of 3,505 undivided interests, approximating 2,201 acres, were acquired for a total cost of \$1,997,785 at an average cost of \$570 for the undivided interests. These acquisitions will result in the elimination of 118 Individual Indian Monies (IIM) accounts and the need to probate 157 fractionated interests on three reservations under the ILCP project office. Data for December 2001 is included since the data was not available for the 8th Report to the Court.

Confusion exists with regard to the manner in which the number of eliminated IIM accounts and future probates are computed. In order to eliminate the confusion, the number includes only those individuals who sold and no longer hold any interest in land for purposes of arriving at the number of eliminated accounts and future probates. Further, the reason for the difference between the eliminated number of IIM accounts (118) and future probates (157) is due to the difference (39) not having an open IIM account. Thus, an IIM account that is not open is not counted as an eliminated account. An individual can have an account that is not open because the land in which he or she owns an interest does not generate any income. Federal funds are used to pay for the interests acquired under the ILCP. The procedures used by the ILCP project office provide that upon completion of the sale requirements, the Bureau of Indian Affairs

(BIA) requests the Department of the Treasury to issue a check in the name of the seller for the amount of the sale. The seller then picks up the Treasury check at the BIA office and signs a receipt.

During the previous reporting period, issues regarding the processing of payments and maintenance of records relating to the land purchases made through the ILCP were raised. The issues center on the inability of the Federal government to account for funds derived from the disposal of a trust asset when the sale proceeds are not deposited to the seller's IIM account through the Trust Fund Accounting System (TFAS) and maintenance of the transaction record. The Department stated in the 8th Report to the Court that it would review and make recommendations for resolution of the issues. During this reporting period the Secretary met with officials of the Department, Office of the Special Trustee (OST) and the BIA to review and discuss potential solutions. A workgroup composed of OST and BIA will be formed to develop procedures to resolve the issues. Regarding the issue of records maintenance, the BIA will continue to adhere to 16 BIAM that prescribes the procedures for establishing and maintaining records.

The Department is exploring the possibility of a reservation-by-reservation or national rollout of the ILCP and developing standardized procedures for the potential expansion. The Department believes the ILCP has the potential for measurable results and benefits to aid its trust reform efforts.

An Amendment for the 8th Report to the Court was filed with the Court to amend the mis-stated average monthly system cost to administer an IIM account. The cost is \$14.06/month per account if 20 or more transactions (\$168.72/year) and \$3.23/month per account if less than 20 transactions (\$38.76/year).

ILCA Implementation Issues:

Individual Indian owners of trust and restricted lands have expressed concern about the methodologies employed to reduce the Federal government's administrative costs associated with individually owned lands.

The ILCP acquires interests owned by individuals and consolidates the interests in the Indian tribe. In essence, the acquisitions reduce the number of owners, result in a reduction to the Federal government's administrative costs, and enable transactions to be processed more efficiently. In addition, the acquisitions and facilitate the government's ability to maintain up-to-date ownerships, maintain trust records, account for trust funds and timely distribute trust income.

However, various individuals and Indian organizations representing individual Indians, particularly the Indian Lands Working Group (ILWG), believe the same benefits could be achieved by consolidating the ownership within the existing individual Indian owners. The ILWG also believes the consolidation program should be made available to individual Indian owners and suggests that the Federal government propose legislation that benefits individual Indian owners and not Indian Tribes.

One area of concern with the employed methodology is the ability of an Indian Tribe to determine the ultimate use of the land when the Indian Tribe has acquired an interest in individually owned land. Any action pertaining to land or interest in land owned by an Indian Tribe requires the consent of the Indian Tribe. If an Indian Tribe owns land with individuals and does not consent, the individual Indian owners may be unable to derive benefit from their ownership of a trust asset.

A provision to address this concern is contained in ILCA 2000 (see ' 219 (d)(2)(a)) which binds the interest owned by the Indian Tribe to a lease or agreement even though the Indian Tribe did not consent, provided the undivided interests have consented to the lease or agreement. However, individual Indians are concerned that the Secretary may be more inclined to make best interests determinations, required under ILCA 2000, which favor the interests of the Indian Tribe since it is the governmental authority having jurisdiction over the land and its members.

Further, there is also a concern that the value and benefit of the individual interest may be reduced by the addition of an Indian Tribe to the ownership. The concern centers on the loss of marketability since third parties may be unwilling to undertake transactions on lands in which an Indian Tribe is an owner. This is due, in part, to the ability of an Indian Tribe to prevent actions on lands in which the Tribe owns an interest.

Additionally, there is a concern that internal Tribal disputes will arise because Tribal needs and priorities may be placed in competition with individual owner needs and priorities. Elected Tribal officials represent the Tribe but some of the individuals who own the land with the Indian Tribe may not support the elected tribal official(s). Thus, internal problems are being created between the Indian Tribe and the individual owners and may be detrimental to the individual Indian owners' ability to derive benefit from the lands.

Assurance Statement:

I concur with the content of the information contained in the Fractionated Heirship part of the 9th Report to the Court. The information provided in this section is accurate to the best of my knowledge.

Date: April 19, 2002

Name: *Signature on File*
Larry Scrivner

C. TRUST POLICIES AND PROCEDURES

Summary:

Proper management of Indian trust assets has been hampered by a lack of comprehensive, consistent, up-to-date regulations, policies, and procedures covering the entire trust cycle, from managing resources that produce trust income to accounting for and reporting of income to trust beneficiaries. This has resulted in program gaps and divergent practices both within and across bureaus and offices that are responsible for various aspects of the management of Indian trust assets. Moreover, numerous laws and regulations remain on the books that reflect the paternalism of earlier federal policies and fail to recognize the appropriate role of tribal governments in managing tribal affairs.

The goals of this project are to:

- Interpret the principles that guide the Department's trust operations;
- Work with appropriate program offices to systematically identify and update regulations to ensure that the official policies reflect the trust principles;
- Work with appropriate program offices to develop or revise program manuals and handbooks so that internal guidance and operational procedures reflect current policies and technologies;
- Propose changes in legislation to modernize Indian trust statutes; and
- Assist trust management offices on an ongoing basis to identify and rectify problems and inconsistencies in their policies and procedures.

Project Manager's Report

Steps Completed During Reporting Period:

While the project did not produce any final products during the last quarter, progress was made in several areas as noted below.

Progress on Remaining Uncompleted Steps:

Statutory Revisions:

Bureau of Indian Affairs/Office of the Special Trustee

Review of Title 25, United States Code – Trust Policies & Procedures (TPP) staff completed an initial review of all laws affecting the Department of the Interior that are codified in Title 25 U.S.C. TPP staff have recommended the repeal of more than 200 sections of the Code and identified almost 50 additional provisions for amendment. After internal clearance with senior management in the next reporting period, TPP plans to send the recommendations to tribal leaders with a request for comments. Following the comment period, TPP will schedule

consultation sessions to discuss further the proposed legislative package. The project staff currently expects DOI to submit a legislative proposal to update Indian laws to the Congress, subject to Departmental and OMB clearance, in February 2003.

Regulatory Revisions:

Bureau of Indian Affairs

Repeal of Outdated Regulations – TPP is proceeding with an initiative to repeal a number of trust-related regulations because all activities associated with the particular authorizing statute and its implementing regulations have been completed (i.e., the regulation is obsolete) or because the regulations do not reflect current Federal Indian policy:

- Part 112 – Pro Rata Shares of Tribal Funds
- Part 116 – Trusts for the Five Civilized Tribes
- Part 121 – Osage Judgment Funds
- Part 123 – Alaska Native Fund
- Part 125 – Payment of Sioux Benefits
- Part 154 – Osage Roll, Certificate of Competency
- Part 156 – Reallotment of Lands to Unallotted Indian Children
- Part 178 – Resale of Lands within the Badlands Air Force Range
- Part 243 – Reindeer in Alaska

The proposed rule to repeal the regulations was published in the *Federal Register* on February 21, 2002 (67 FR 7986). TPP sent a copy of the proposed rule to all tribal leaders with a reminder that public comments are due by April 22, 2002. TPP had received no comments at the end of the reporting period, which is not unusual since tribal comments were already solicited before the proposed rule was published and the repeal therefore should be non-controversial. TPP expects to publish the final rule during the next reporting period.

25 CFR 2 – Appeals from Administrative Actions – TPP staff completed their analysis of the comments received from tribes during the consultation meetings (reported in the 8th Report to the Court), as well as received from Bureau of Indian Affairs (BIA) field offices and the Office of Hearings and Appeals, and prepared the final draft of the proposed revisions to the BIA's appeal regulations. At the end of the reporting period, the regulation package had been submitted for departmental clearance. TPP expects to publish the proposed rule in late Spring 2002, but publication will depend on completion of the Departmental clearance process. When published, the proposed rule will have a sixty-day comment period.

25 CFR 161 – Navajo Partitioned Lands Grazing Permits – Following a December 2001 consultation and drafting meeting between TPP staff and the

Navajo Nation Grazing Committee (reported in the 8th Report to the Court), the Grazing Committee held a series of chapter meetings within the Navajo Nation to obtain local input on the revisions to the proposed rule that were recommended by TPP. During this reporting period, TPP staff continued to communicate with the Grazing Committee and expects to receive a response from the Navajo Nation in April 2002, which will contain the results of the chapter meetings and any recommendations for further revisions to the draft proposed rule. TPP will review the submission and develop a schedule for completing and publishing the proposed rule.

25 CFR 124 – Deposits of Proceeds of Lands Withdrawn for Native Selection under the Alaska Native Claims Settlement Act – TPP staff completed a draft revision of Part 124 and forwarded the draft to OTFM for their review and comment. TPP expects to publish the rule during the next reporting period.

25 CFR 162 Subparts C and D – Residential Leases and Business Leases -- Drafting work groups for these two subparts, which consist of BIA and Solicitor's Office staff and tribal representatives, held meetings in Phoenix, AZ (January 7-11) and Palm Springs, CA (March 11-15), in coordination with TPP, to complete work on the draft regulatory revisions. The work groups distributed the drafts to TPP and to BIA field offices for review and comment by April 26. The Work Group will incorporate appropriate changes in the draft regulations and begin tribal consultation in May. Tribal consultation is scheduled to run through September 2002.

Energy Initiatives -- In response to the Administration's goal of increasing domestic supplies of energy, the BIA established an Energy Planning Group, which held an Indian Energy Summit in December 2001 in Denver, Colorado (reported in the 8th Report to the Court). In connection with the Summit, the BIA is evaluating energy-related program areas for regulatory revision. During this reporting period, TPP project staff completed a review of the draft proposed revisions to Part 216 -- Surface Exploration, Mining, and Reclamation. In the next reporting period TPP will forward recommended revisions to the Division of Energy and Minerals and work with the Division to establish a schedule for completing the regulatory revisions.

Minerals Management Service

As reported in the 8th Report to the Court, Mineral Management Service (MMS) completed its internal review of the proposed rule on the valuation of oil produced from leases on Indian trust lands. At the end of the current reporting period, the Office of the Solicitor had not yet completed its review of the rule.

Internal Program Guidance

Note: The BIA April 2001 Report identified almost 70 trust-related manuals and/or handbooks within BIA that need to be written or revised. In all but a few cases, under the current management structure, BIA program staff is responsible for this work and TPP project staff monitor progress and provide a trust management review.

Interagency Handbook - Completion of the Interagency Handbook was delayed by the need to coordinate and resolve policy and procedural differences between BIA and Office of Trust Funds Management (OTFM) on two collateral directives (described below) that must accompany the Handbook in order to effectuate new policies and procedures that are incorporated in the Handbook. TPP, OTFM and the Solicitor's Office worked intensively together throughout the reporting period to complete the Interagency Handbook and the two directives. At the end of the reporting period, work on the Handbook was complete with the sole exception of the chapter addressing the management of funds posted to special deposit accounts (see discussion of the related directive below). With the execution of these directives – expected in the next reporting period -- the Handbook will be finalized and issued. Working with the Training Project as much as possible, TPP and OTFM will collaborate to develop an appropriate training schedule for the Interagency Handbook.

IIM Account Numbers / BIA Identification Numbers: Both BIA and OTFM will issue identical directives establishing a common method for issuing Individual Indian Money (IIM) account numbers and BIA identification numbers. The directives will ensure that the unique BIA Identification numbers and the associated IIM account numbers retain their uniqueness and that BIA and OTFM staff will all be using a common method of assigning account/ID numbers until such time as a new common system is developed in association with automated trust management systems. BIA and OTFM completed work on these directives during the reporting period but delayed their issuance in order to coordinate with the effective date of the Handbook.

Management of New Special Deposit Accounts: In a second directive, the BIA expects to provide direction to Regional, Agency and Field Offices regarding the management of future postings of trust funds to special deposit accounts while the necessary title and ownership determinations are made. The guidance is intended to ensure rapid and accurate distribution of the trust funds in the special deposit accounts, in coordination with OTFM. At the end of the reporting period the final draft of this directive was awaiting review and clearance from OTFM. The chapter in the Interagency Handbook that addresses the management of special deposit accounts will be revised to reflect the final special deposit accounts directive.

Environmental Compliance Handbook – BIA’s Office of Trust Responsibilities (OTR) completed a draft of its handbook for environmental compliance for trust resources and circulated the draft for comments. TPP reviewed the draft handbook and provided comments and suggestions relating to trust issues. OTR will revise the draft accordingly and circulate again for final review with an expectation of issuing the final handbook by September 30, 2002. OTR has also developed six new chapters of the Indian Affairs Manual (IAM) to guide field offices in environmental protection of trust resources. OTR expects to finalize and issue these IAM chapters in the next reporting period.

Financial Conflicts of Interest - The 1994 amendments to the Ethics in Government Act amended Title 18 U.S.C. (Crimes and Criminal Procedures) in Chapter 11 (Bribery, Graft, and Conflicts of Interest) by including within “acts affecting a personal financial interest” those activities that affect the financial interests of the Indian tribe in which the employee or the employee’s spouse is a member. During this reporting period the Department’s Ethics Office requested a legal opinion from the Solicitor’s Office and consulted several times with the Solicitor’s Office to further refine the issues. The Department’s Deputy Assistant Secretary for Human Resources visited a number of BIA field offices to further assess the potential impact if restrictions were placed on Indian employees dealing with their own tribe. The Ethics Office expects to receive legal guidance within the next several months. Based on the legal guidance, the Ethics Office will determine future steps to implement these statutory provisions within the Department.

Forestry Program Manual – The Division of Forestry in OTR completed a draft of a revised forestry program manual in March, which it circulated to BIA field offices, tribes, and other affected DOI organizations. Comments are due by May 15, 2002. The Division expects to evaluate the comments and complete and distribute the manual by July 2002, though that target may slip depending on the scope and volume of comments received. The Division has begun work on a detailed handbook for the forestry program and will develop a schedule for completing the handbook after the manual is issued.

Agriculture and Range Program (Grazing Permits) Handbook – The Division of Real Estate Services in OTR organized a large work group composed of BIA employees and tribal representatives to update the agriculture and range program handbook. The group, including TPP staff, held its first meeting in Dallas, Texas on March 4 – 5, 2002, and completed an initial draft, which is under review. The Division expects to circulate the draft to TPP, BIA field offices, and other affected DOI organizations for comments by the end of April 2002. The work group will identify a target completion date in the next reporting period.

Real Estate Services Program Handbook – Staff in the Division of Real Estate Services in OTR completed a preliminary draft of a major overhaul of real estate services handbook that will provide guidance to BIA and tribal staff on

agricultural, business, and residential leasing and permitting of trust lands. A drafting team representing realty specialists from all BIA regions met for a week in March 2002 to review and revise the draft. Following completion of the revisions, the draft handbook will be circulated to TPP, BIA field offices, and other affected DOI organizations for comments in May 2002. OTR expects to complete the handbook and conduct training in June and July 2002. OTR also began work on additional handbooks that will provide guidance to field offices on trust acquisitions and rights-of-way. OTR will develop a schedule for completing these additional handbooks in the next reporting period.

Realty Caseload Performance Reporting -- TPP staff provided technical assistance to the Division of Real Estate Services in OTR in programming an Access database to improve annual caseload reporting. The new automated Performance, Acreage and Lease (PAL) Report will be implemented at the Field, Agency and Regional levels and will greatly enhance the BIA's ability to monitor, manage, deliver and report on real estate services provided to tribes and individual Indians. OTR expects to implement and provide training on the new reporting process during the next quarter.

Self-Governance Compacts and Self-Determination Contracts -- TPP staff continued to meet regularly with officials of the Office of Self-Governance to discuss trust reform initiatives and necessary provisions for compacts and contracts. The provisions to be addressed in such instruments currently include trust records and trust system security requirements. The Office of Self-Governance will present the compact language and negotiation guidance at a conference with Self-Governance Tribes in Albuquerque in April. The complexity and difficulty associated with amending Self-Governance compacts and mature Self-Determination contracts under the Indian Self-Determination, Education and Assistance Act, where necessary, will continue to require thoughtful planning and negotiation with Tribes.

Supervised Individual Indian Money (IIM) Accounts: Distribution Plans -- Staff from TPP continued to work with the Division of Human Services in the Office of Tribal Services to implement a new form and instructions to record distribution plans for supervised IIM accounts. TPP coordinated with the Office of Tribal Services in planning a meeting of regional social workers to be held in April 2002 in Albuquerque to address the new distribution plan procedures as well as pertinent chapters of the Interagency Handbook that will govern social services programs.

Miscellaneous:

Special Deposit Account Cleanup Project Workplan -- The TPP project director reviewed and provided comments on Tom's proposed workplan for the remainder of its special deposit cleanup project. The proposed workplan, which was developed out of the work done at four pilot sites during the previous year,

fails to achieve its stated goal of complete distribution of funds to the proper entities, does not address the full range of work and staffing by both OTFM and BIA that is necessary for the cleanup of special deposit accounts, and does not attempt to integrate its efforts with those of related trust reform initiatives. The project director recommended that the workplan be reconsidered in close coordination with Electronic Data Systems (EDS), the Office of Trust Risk Management, the ongoing BIA data cleanup efforts, and the Office of Historical Trust Accounting. The director will work with OTFM to further refine the plan during the next quarter.

Steps Remaining to Completion of Project:

The project director is not in a position to identify the steps remaining on this project at this time. While the EDS “roadmap” report has been received by the Department and a revised strategic plan to guide trust reform apparently is being developed, there have been no discussions regarding any future realignment of the project between the project director and senior management who are evaluating the EDS report or preparing the updated plan.

Shortfalls, Failures and Obstacles to Progress:

The observations on shortfalls, failures and obstacles that were provided in the 8th Report to the Court are still applicable at this time. Additional concerns are highlighted below.

Staffing: With the departures of two senior project staff members, full-time staff was reduced by 50 percent during the last reporting period. Remaining staff include the project director, who is on a limited term appointment expiring in October 2002 and who continues to serve as acting director of the BIA Trust Management Improvement Project office (since February 2001), and two full-time employees assigned to the project. One of those employees is eligible for retirement and will be leaving within six months; the other serves under a non-renewable term assignment that expires in July 2002.

Budget: Operating funds for the project have been limited to roughly half of what the project spent last year pending review of the EDS “roadmap” and decisions by senior management on future realignment of the project. In light of the funding restriction, the project director sent a memorandum to senior management (Assistant Secretary – Indian Affairs, Special Trustee for American Indians, Director, Office of Indian Trust Transition, and Deputy Special Trustee for Trust Systems and Projects) on March 5, 2002, requesting information on plans for the project and guidance regarding the need to fill staff vacancies. The Assistant Secretary for Indian Affairs was briefed on the issue and the Director of OITT has sent a proposal forward to the Associate Deputy Secretary, Special Trustee and Deputy Special Trustee, requesting comments on the establishment of a fully staffed office of Policy, Procedures and Regulatory Affairs.

Currently there is virtually no likelihood of meeting the ambitious schedule of BIA policies and procedures work identified by the project in April 2001, as the plan required a substantial budget increase to support implementation that has not been provided. Current activities are determined based on their urgency and the limited availability of staffing.

Comments on the EDS Roadmap:

The detailed EDS recommendations for this project are set forth below. Responses are provided where believed appropriate.

2.1 Establish Coordination of Policy and Procedure Development

EDS: All trust-related policy and procedure development should be coordinated through one organization. The Policy and Procedures Project has been under capable, but temporary leadership for the past two years; however, a permanent leader is needed to assume control and provide direction to ensure consistent, relevant, and timely policy and procedure development occurs for all trust-related areas.

2.1.1 Establish the role of Director of Policy & Procedure within the Indian Trust Organization

EDS: This role will function as the final decision maker with the authority and responsibility to put policies in place. It is essential that strong management support and commitment to consistent policies and procedures be established early in the development of the Indian Trust organization to ensure their success. This role would also serve as a congressional liaison to understand the schedule and impact of new laws passed and the retirement of old laws no longer in effect.

Response: It is inappropriate to identify this position as “the final decision maker with the authority and responsibility to put policies in place.” Under the Federal government structure, the final decisions on policies rest with political appointees – not with career staff. The Assistant Secretary and the Secretary are the “final decision makers.” Further, “Congressional liaison” is a term generally used to denote the federal staff who assist Congressional offices in responding to requests from constituents. “Legislative liaison” is a more accurate term. With those caveats, the project director agrees that Department of the Interior (DOI) should establish a permanent position.

2.1.2 Expand the activities of the project to include all Trust policies and procedures

EDS: Under the direction of the Director of Policy & Procedure, coordinate all policies and procedures related to Trust Management (not just BIA). Today there

are pockets of policy development that are not coordinated and do not seek out one another to share lessons learned and prevent overlap.

Response: If a consolidated trust organization were implemented, the Office would coordinate all policies and procedures for those functions and responsibilities assigned to the new organization. If the Department continues to have trust functions performed in various organizations that report to different Assistant Secretaries, however, procedures are currently in place to provide intra-agency review of regulations and policies issued through the Departmental Manual (DM). Coordinating internal bureau-specific guidance, while a reasonable recommendation, would most likely be very difficult to accomplish given the long-standing DOI culture that favors limited central management. One possible solution would be to publish all DOI internal trust policies in the DM rather than in bureau manuals. This could be accomplished within the existing organizational structure and established review processes and would minimize organizational conflicts that are almost inevitable under the EDS proposal if a consolidated trust organization is not implemented.

2.1.3 Develop a team to support development of regulations, policies, and procedures for Trust Management

EDS: A permanent full-time team will be responsible for writing the overarching Trust Management regulations for the Indian Trust organization. This team will also provide guidance to Program Offices writing trust related policies and procedures. The capabilities of the team will need to include the ability to write, conduct research, interpret statute/policy, and analyze regulations. Within this team, establish process ownership to provide stewardship and accountability for policy and procedure development.

This team would continue to apply, as appropriate, industry standards such as those referred to in the 1990 Comptroller's Handbook for Fiduciary Activities. (OCC, 1990)

Response: The project director agrees with this recommendation. At the request of the Director, Office of Indian Trust Transition (OITT), TPP staff prepared a functional statement, staffing plan, and proposed budget to support a permanent organization such as that described in the recommendation. Senior management is reviewing the proposal.

2.2 Replace the Trust Policy Council

EDS: The Trust Policy Council that was named to be the governing body for policies and procedures has never met. The Trust Management Improvement Project (TMIP) Steering committee has served in this capacity in its absence. Through a permanent governing body, a system of checks and balances between the policy and procedure organization and the rest of the Bureau of Indian Trust

Assets Management will ensure comprehensive, thorough Trust Management policies and procedures are implemented.

Response: The Trust Policy Council was conceived as an organization that would resolve policy disputes that arose between bureaus and offices. EDS proposes a Trust Board of Advisors (TBA) to resolve conflicts within a single organization. The head of the organization rather than a board should be the final arbiter on internal policy differences. If the EDS recommendation to identify a single executive sponsor for trust reform were adopted, it would be expected that such individual would make these decisions in a timely manner. If DOI continues to have multiple lines of authority with separate responsibilities for trust reform, there must be an effective forum through which to raise and resolve policy differences in a timely manner.

2.2.1 Utilize the proposed Trust Board of Advisors in place of the Trust Policy Council

EDS: The Trust Board of Advisors, in addition to their other duties, would have the responsibility of reviewing and commenting on regulations and policies and procedures along with ensuring compliance with OCC directives.

Response: The duties for the TBA by EDS may not be feasible. In addition to potential delays related to Board reviews of proposed regulations, policies, and procedures, it is unlikely that most Board members would have the requisite technical, professional and/or legal background needed to add value to the process. It is unrealistic to expect Board members to comment on the detailed procedures used to reconcile the general ledger and subsidiary ledgers with Treasury balances or on how appraisers should determine the most appropriate land valuation method to be used for a given transaction.

2.2.2 Establish an Annual Planning Session

EDS: The planning session would be between the Director of Policy & Procedure and the Trust Board of Advisors to develop priorities for the year. This annual session should be a facilitated off-site session to identify regulations that need to be reviewed or written and corresponding policies and procedures developed in the next fiscal year.

Response: Subject to clarifying the duties of the TBA, the project director agrees with this recommendation, with the caveat that the planning session should also include program managers and field representatives.

2.2.3 Establish a performance measurement system

EDS: Up-to-date policies and procedures need to be developed and communicated, but in addition, compliance with those policies and procedures

must be monitored. To assist in measuring compliance, management reports will need to be generated and distributed to all managers who will be held accountable for those results. Developing an appropriate performance measurement system should be coordinated through the Performance Measures and Reporting Center described in Recommendation 4.3 in Section IV: Overall Trust Enterprise Analysis and Recommendations of this report. This will not be a small undertaking and will require performance management expertise outside of the project to accomplish.

Response: The placement of this function should be evaluated further. The EDS report places responsibility for the same activity in multiple organizations. For example, the Performance Measures and Reporting Center is responsible for establishing, monitoring and reporting ongoing Trust functions and services performance metrics. “This Center will provide quantifiable measures, achievable business performance objectives, priorities, and performance improvement.” Also, on page 126 of its report, in discussing the Internal Controls project, EDS notes that the “Standards for Internal Control in the Federal Government” require a process that, among other things, provides reasonable assurance that the activities are conducted in “compliance with applicable laws and regulations.”

2.3 Redesign policy and procedure development

EDS: There are multiple groups writing policies and procedures with respect to Trust Management, each using its own method with differing results. With one organization focused on developing policies and procedures, a consistent repeatable set of processes will expedite development and acceptance. EDS believes that these consistent processes could significantly improve the level of effort necessary for policies and procedures development.

Response: The range of policies and procedures involved in trust management is far too diverse and complex for the kind of standardization suggested thus far by EDS. Policy and procedure directives, such as handbooks and manuals, are subject to vastly differing methods of development, depending on the subject matter. For example, a policy or procedure directive for trust management electronic systems will be developed quite differently from a financial control or a regulation for a trust asset management program. Moreover, while there can be a standard list of items to be considered when developing regulations or policies, that does not mean that each regulation, policy or procedural directive is subject to the same process. For example, there are a dozen Executive Orders that must be considered in developing proposed rules and regulations. A proposed rule may be subject to none, some, or all of the Executive Orders in which case the level of effort and procedures required will vary accordingly. Further, some regulations such as the repeal of outdated BIA regulations can be managed easily by one person, while more complex matters require various subject matter experts, legal advisors, and extensive tribal consultation.

2.3.1 Redesign policy and procedure development

EDS: The redesign effort would cover not only “how work is done,” but also by whom and when. This could be one of the first tasks undertaken by the team (see Recommendation 2.1) working under the direction of the Director of Policy & Procedure. The redesign effort should be led by someone experienced in process analysis and include subject matter experts from trust related organizations.

Response: The project director agrees with this recommendation.

2.4 Complete the Interagency Handbook

EDS: Since the inception of Office of Special Trustee (OST), roles and responsibilities between BIA and OST have not been clearly defined, causing conflict. These conflicts cause re-work which results in beneficiaries’ not receiving timely payments.

Response: The project director agrees with this recommendation. As noted above, the Interagency Handbook is expected to be completed in the next reporting period and distributed thereafter in 2002.

2.4.1 Provide interim procedures by completing the Interagency Handbook

EDS: Completing the Interagency Handbook will provide interim procedures to bridge the gap between the current BIA/OST organizations and the implementation of the Indian Trust organization. EDS recommends the effort on the handbook continue in order to provide these interim procedures while redesign efforts get underway. The handbook could provide a starting point for the redesign effort as it will outline high-level processes that will have to continue in order to process Trust funds.

DOI must implement the Interagency Handbook, but recognize that the Handbook will not be the “fix all” solution – more coordination efforts are needed that will be provided under Recommendation 2.3. Completion of the handbook should be escalated to the highest levels for resolution to improve the timetable for implementation.

Response: The project director agrees with this recommendation. As noted above, the Interagency Handbook is expected to be completed in the next reporting period and distributed thereafter in 2002.

2.4.2 Accelerate the Handbook training

EDS: Change management strategies should be included in the Handbook's implementation to ensure acceptance and widespread use. Employees as well as managers should attend the training and be held accountable for compliance to the Handbook. It is taking much too long to get the Handbook completed and implemented, the sign-off should happen as quickly as possible in order to get training underway.

Response: The project director agrees with this recommendation, and has begun discussing the training schedule for the Handbook with OTFM. It is important to note, however, that the staff levels and funding of both OTFM and TPP are inadequate for the amount of training that will be required throughout BIA and OTFM. Instead, this training should be the responsibility of the Training project.

With respect to the EDS recommendation for training generally, if DOI were to follow EDS recommendations for Policies and Procedures, this organization would be responsible for developing the policy, establishing performance standards for operations under the policy, training everyone on the policy, and monitoring and reporting compliance with the policies. The proposed scope of responsibility is far too great, notwithstanding the fact that it conflicts with other EDS recommendations. In its recommendations for the Training project, EDS recommends that DOI "expand training scope to include all trust related training," and "put into place a single organization and leader to support Trust Management training and workforce planning."

2.5 Redesign Processes for Updating Policies and Procedures

EDS: It is difficult for the regions/field to assemble complete and up-to-date policies and procedures which results in their having to interpret them on their own, in their own way. Redesigning the communication process and removing old regulations will go a long way in helping everyone work from the "same page."

2.5.1 Develop a new process for communicating updated or new policies and procedures

EDS: Streamlined communication processes are needed to ensure policy, procedure, as well as regulation changes are distributed quickly and efficiently to all Trust Management personnel. DOI should consider the use of alternative communication methods such as electronic communication and storage to communicate consistent, documented policies and procedures. The communication process should come under the auspices of the Trust Program Management Center.

Response: The project director agrees with this recommendation. The BIA has been distributing updated manuals electronically since 1997, and DOI has a major effort underway to put the entire Departmental Manual on its website. A far more common problem is that managers use memoranda or e-mails to rescind or revise policies published in manuals. These communications are not subject to any systematic collection or publication process and it may be years before the formal manuals are updated to reflect changed policies or procedures.

2.5.2 Remove outdated regulations

EDS: Assign one of the policy and procedure team members (identified under Recommendation 2.1) the task of identifying and removing outdated regulations. Removing the old regulations would go a long way in simplifying compliance to the current regulations in effect. It would remove the ambiguity now faced by the field as well as made documentation easier.

Response: This task is almost complete as the proposed rule to remove the outdated regulations from the Code of Federal Regulations was published in the Federal Register on February 21, 2002. The public comment period closes on April 22, 2002.

Assurance Statement:

I concur with the content of the information contained in the Trust Policies and Procedures Section of the 9th Report to the Court as modified in the final draft dated April 17, 2002. The information provided in this section is accurate to the best of my knowledge.

Date: April 17, 2002

Name: *Signature on File*
Arthur E. Gary