

Status Report to the Court Number Fifteen

**For the Period
July 1, 2003 through September 30, 2003**



November 3, 2003

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I. INTRODUCTION

This *Status Report to the Court Number Fifteen* (Report) represents the period from July 1, 2003 through September 30, 2003. The Report is intended to be responsive to the Court's requirement that the Department of the Interior (Interior) provide the Court a periodic statement indicating Interior's progress toward a historical accounting and the reform of ongoing fiduciary trust obligations.¹

This Report is slightly different from previous reports. Two new sections have been added, Trust Review and Audit, which is now separated from Risk Management, and Bureau of Indian Affairs (BIA), Trust Regulations, Policies and Procedures. The latter had been reported on through the Office of the Special Trustee for American Indians (OST) during the time BIA was without a director for that function. OST will continue to report on trust regulations, policies and procedures that impact on its operations and will continue to report on its oversight responsibilities for fiduciary trust regulations, policies and procedures of Interior.

The probate section is provided by BIA and the director of the probate effort. Past reports were presented by OST, which previously had been assigned responsibility for managing the probate backlog. The probate process and probate backlog have now been consolidated under BIA management. OST will continue to oversee this project, but reporting to the Court will be through BIA.

Major accomplishments during this reporting period that will be highlighted in the individual manager reports include:

1. Preparation of the draft "To-Be" model. This has been a combined effort of every Interior agency or office that has fiduciary trust activities. The next step will be to finalize the trust business process model that will be used in the future for fiduciary trust management. A review of the "To-Be" model by a private sector trust company is also planned prior to implementation.
2. Employment of two deputy superintendents and two trust officers at the pilot BIA agencies, Anadarko and Concho, as part of the BIA and OST reorganization effort. This is a significant step toward implementation of trust reform. It should result in much better communication between BIA and OST, as well as other Interior agencies, and permit more decisions to be made at the local level, thus giving beneficiaries timely responses to questions and more efficient management of trust assets.
3. Selection of the software for a new title system to replace the legacy system, Land Records Information System. Implementation of the new system should provide more timely title record information and more efficient recording of title documents.

¹ This report contains information on the broad trust reform efforts underway at Interior. Accordingly, it may include information on reform efforts that are not within the scope of the *Cobell* litigation.

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This Report is compiled in the same manner as previous reports to the Court. Each manager is responsible for writing his or her individual statement and each one executes an assurance statement regarding the factual nature of his or her section. The Report is intended to represent not only progress made in trust reform and historical accounting, but also to advise the Court of obstacles to the performance of these tasks. The recent Structural Injunction issued by the Court on September 25, 2003, is expected to be reported on during the next reporting period.

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II. SECRETARY GALE NORTON'S OBSERVATIONS

During this reporting period, trust reform continued to move forward. It remains a challenging and complex process.

Organizational Changes

On September 12, 2003, the President announced his nomination of David Anderson of Minnesota to be Assistant Secretary-Indian Affairs. Mr. Anderson is an enrolled member of the Chippewa and Choctaw Tribes. He is a successful businessman and skilled manager, having founded the Famous Dave's restaurant chain, as well as other publicly traded companies. Through these efforts, he has created thousands of new jobs. He has the unusual distinction of having received a master's degree from Harvard University without having an undergraduate degree. Mr. Anderson also founded the LifeSkills Center for Leadership to improve the lives of at-risk youth and young adults, with a particular focus on Native American youth.

In the meantime, Aurene Martin continued performing admirably in the leadership role for Indian Affairs. On September 2, 2003, she was promoted to Principal Deputy Assistant Secretary for Indian Affairs.

Interior's leadership team has continued to work with dedication and diligence to create an organizational structure designed to focus on Indian fiduciary trust responsibilities. Significant organizational change is almost always difficult. We have undertaken an extensive effort to explain the rationale for reorganization to both employees and tribal leaders.

As reported by the managers, two Bureau of Indian Affairs agencies were selected to be pilot agencies for the trust reorganization and reengineering effort, leading the way for other agencies to follow. Workforce planning, budgeting for trust activities, assessing space requirements and hiring trust officers and deputy superintendents for trust are all part of the effort to bring these agencies into full compliance with our trust obligations. Although progress may appear slow at times, it is important that we get it right by taking the time to implement the changes at the agencies and regions necessary for a quality trust program.

Activities

Interior continues with its "To-Be" reengineering of trust business processes. A draft of the "To-Be" model was prepared during this reporting period. However, it should be noted that there are still many significant stages of review and further consideration before the model is finalized. For example, a trust company contractor is reviewing the draft to see how it compares with private sector trust processes. In addition, the plan is being compared to the "As-Is" model to determine the differences and fill in any gaps.

During the reporting period, I was pleased to sign a memorandum of understanding with the National Archives and Records Administration to establish an American Indian Records Repository. This agreement creates the framework for a long-term cooperative effort to

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consolidate and preserve designated records at the National Archive's records storage facility in Lenexa, Kansas. An innovative portion of this arrangement will be development of a records management studies program at the nearby Haskell Indian Nations University. With this arrangement, students will receive professional training that can lead to careers with the American Indian Records Repository, or as archivists of their own tribal records.

Broad security improvements have been made within Interior's information technology systems during the past two years, including those systems that remain disconnected from the Internet. The lack of access to this modern – yet common – technology continues to make performance of everyday duties more difficult. The Internet is a wonderful tool for increasing productivity. As we attempt to manage tens of thousands of very small accounts and communicate with individual Indian beneficiaries, Internet technology is needed. The very offices charged with communicating with or providing services for individual Indian beneficiaries are the ones that cannot use the Internet to do so. It is somewhat ironic to think that we may be sacrificing the advantages of the Internet to communicate with or provide services to Indians in order to avoid the marginal risks to electronic data about them. Our public service to Indians has been complicated in so many ways by this pervasive litigation – restoring Internet connectivity to those agencies serving Indians would be very helpful by increasing the level of services we can provide.

Congressional Action

As described in previous reports, Interior sought the funding necessary to perform Interior's historical accounting plan as part of the FY2004 budget process. Ironically, this effort has been opposed by the attorneys for plaintiffs. A letter signed by an attorney for plaintiffs criticized Interior and said "such funds will be wasted and will certainly not benefit Indian Country," even though such funds would further the accounting for which plaintiffs are suing. The fiscal year (and the reporting period) expired without a final Interior appropriations bill.

Court Action

The Court issued its opinion in Trial 1.5 in the last few days of this reporting period. We are studying and responding to the Opinion and the Structural Injunction, including the significant budgetary ramifications.

Conclusion

The following reports from various managers reflect the progress that is being made in trust reform and in the massive effort to perform the historical accounting. We have now completed reconciliations for over 17,000 account holders, accounting for almost \$50 million in funds received for deposit with the trust.

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A. INFORMATION TECHNOLOGY

Introduction

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

Accomplishments and Completions

Computer Security (Interior-wide):

- **Security Awareness Training**

Interior Office of the Chief Information Officer (OCIO) conducted IT Security Awareness seminars for Bureau of Land Management (BLM), Minerals Management Service (MMS), Bureau of Indian Affairs (BIA), Fish and Wildlife Service (FWS), National Park Service (NPS), United States Geological Survey (USGS), and Office of the Secretary (OS) components in the Anchorage, AK area. Seminars consisted of presentations from the OCIO IT Security staff covering the Certification and Accreditation (C&A) process and the underlying laws, guidances, and policies supporting C&A, e.g., Federal Information Security Management Act (FISMA), OMB A-130, National Institute of Standards and Technology (NIST) Special Publications, and 375-Departmental Manual (DM)-19.

OCIO established a standardized IT security awareness and training program that provided a basic understanding of IT security for Interior employees and contractors. The IT Security Office based the training on the "Federal Information Systems Security Awareness, Version 2," developed by the Defense Information Systems Agency (DISA). By the end of FY2003, Interior had trained 75,121 employees and contractors in end-user IT security. To augment on-line training and draw attention to IT security, over 35,000 IT security brochures were printed for distribution to employees.

The technical IT security training program for system administrators, security officers, and IT audit personnel is available on-line through a contractor, for those who have Internet access. OCIO has purchased 100 user licenses from the contractor for this security training. Currently, Interior has 55 personnel using the on-line training.

During this reporting period, 30 Interior employees and contractors had taken the Certified Information System Security Professional (CISSP) training in preparation for

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taking the certification exam. The CISSP certification recognizes mastery of an international standard for information security. Currently, 51 Interior employees have CISSP certification. To help increase the number of certified employees, OCIO is sponsoring classes to prepare IT security staff for the CISSP examination.

- **Federal Information Security Management Act (FISMA)**

During this reporting period, OCIO and the Office of the Inspector General (OIG) prepared and submitted Interior's FY2003 annual report in accordance with the requirements of FISMA and OMB. The annual report provides information on Interior activities to address federal IT security actions needed to comply with the requirements of FISMA and OMB A-130, Appendix III. The OCIO IT security team supported this effort by issuing reporting guidance, collecting the required data, and preparing a coordinated draft of the FISMA report.

- **Virtual Private Exchange (VPX)**

A contractor conducted a review of the security at the VPX point in Denver, CO, in May 2003. VPX provides a common connection point for bureau Wide Area Networks (WAN), which allows bureaus to exchange data over a private network connection. The contractor provided a final report to Interior during this reporting period.

Computer Security (Bureau Specific):

- **BIA**

- As of September 30, 2003, over 8,000 employees and contractors in Assistant Secretary - Indian Affairs (AS-IA) and BIA were trained in computer security. This total includes 828 contractors.
- Almost thirty IT systems have undergone initial C&A reviews for Interim Approval to Operate (IATO).
- BIA received a score of 81.9% on Interior's security scorecard for September 2003.
- BIA has consolidated its IT resources throughout BIA under AS-IA CIO.

- **BLM**

- In July 2003, BLM achieved accreditation of its external network in compliance with Interior's C&A guide.
- BLM has created a new security organization within the information resources management structure. The organization has been operational since August 2003, with staff detailed in those positions. Personnel actions have been taken to recruit new staff.

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- **MMS**
 - MMS Internet access points have been reconnected to the Internet. Remote users have secured dial-in access.
 - 98% of MMS employees completed end-user IT security awareness training.
 - 100% of MMS contractors completed end-user IT security awareness training.

- **OHA**
 - The Office of Hearings and Appeals (OHA) IT Security Manager was certified as a CISSP. OHA employees and contractors have completed security training.
 - A contractor completed an information security assessment of the OHANet. The testing consisted of six separate phases, and the scope of the testing included network components. No System Administrator Networks (SANS)/FBI Top 20 vulnerabilities were identified. The technical vulnerabilities that were identified were considered to be a low threat.

- **OST**
 - Initial assessment of the Office of the Special Trustee for American Indians (OST) - Albuquerque, NM enclave as it relates to OMB A-130, Appendix III C&A, has been completed.
 - Contractor IT security review, as it relates to reconnection of the OST - Albuquerque, NM enclave to the Internet, has been completed. An executive summary of findings was provided to the Interior Trust Security Officer in late September 2003.
 - OST has implemented an internal vulnerability assessment program.
 - OST received a score of 80% on Interior's security scorecard for September 2003.

- **SOL**
 - Interior Office of the Solicitor (SOL) completed the final configuration in the network to ensure readiness for immediate reconnection.
 - SOL completed the engineering design of a secure engineering solution to connect the SOL Alaska Office to SOL's WAN.
 - 99% of SOL employees completed end-user IT security awareness training.

OMB A-130 Compliance (Interior-Wide):

- **Certification and Accreditation**

To ensure continued progress in accrediting systems, Interior is developing Blanket Purchase Agreements (BPA) to retain qualified vendors to assist bureaus with C&A services. Interior expects to have these BPA in place during the next reporting period.

Work has continued in updating both the Interior Security Test and Evaluation (ST&E) and the Interior System Development Life Cycle (SDLC) Security Integration Guides.

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The release of the final version of the Interior ST&E guide is expected during the next reporting period.

- **Training**

OCIO trained over 80 Interior staff in concepts and details of the NIST-based approach adopted by Interior for C&A. Additional training was provided in the underlying laws, guidances, and policies supporting C&A, e.g., FISMA, OMB A-130, NIST Special Publications and 375 DM 19.

OMB A-130 Compliance (Bureau Specific):

- **BIA**

- BIA established a formal security management program in the AS-IA CIO Office, Office of Information Security and Privacy. This office is now operating under an approved BIA IT security plan. Functions include C&A (see Computer Security, above), security awareness training, management control reviews and monitoring, and incident response.
- A Project Management Support Office (PMSO) has been established to provide project management support and formal training to Indian Affairs (IA) IT project managers and teams. The PMSO is also in charge of monitoring and reporting project progress through formal weekly reports delivered to the CIO.
- A formal Capital Asset and Portfolio Management function has been established by BIA for the process of selecting, controlling and evaluating IT assets within IA programs.
- BIA follows the policies and procedures contained in 375 DM 19. BIA established over 40 new IT policies and procedures related to management, technical and operational controls.
- These policies set controls in areas such as strengthening web-based applications (both for Intranet and future Internet use), acquiring and documenting user requirements and analyzing alternatives, setting access controls, assuring backup and recovery of data, defining network infrastructure requirements, establishing change and configuration management, and a host of physical, system and data security controls.
- BIA's procedures are based on policies referenced above, or those promulgated by Interior for all bureaus to use. They include procedures, templates and/or practices for conducting penetration testing, C&A of systems, operations of computer systems and data centers, disaster recovery and backup, conducting risk assessments and writing system security plans.

- **BLM**

- Perimeter Security Accreditation - BLM has completed all work necessary to secure its external network and has received accreditation of that network in compliance with Interior's C&A. In addition, BLM has completed a number of

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additional activities which improved perimeter security, including: establishing a bureau level Computer Security Incident Response Team; improving the IT security patch management process to automate the distribution of security patches; and, beginning implementation of a plan to consolidate BLM web servers into the network DMZ.

- Pre-Certification - Alaska Land Information System (ALIS), one of the two identified BLM trust systems, completed requirements for IATO in September 2003. Full C&A is scheduled to be completed by September 2004.
- C&A – The second identified BLM trust system, Automated Fluid Mineral Support System (AFMSS), was accredited in September, 2003.

- **MMS**
 - MMS consolidated the capital planning and investment Control, C&A and trust architecture system inventory lists into one master list.
 - An initial security assessment was completed for MMS IT operational systems.
 - MMS was granted an IATO for the Advanced Budget/Accounting Control and Information System major application.

- **OHA**
 - OHA conducted an initial security assessment and issued IATO for its General Support System (GSS), OHANet, during this reporting period.

- **OST**
 - OST implemented security reporting requirements and processes.

- **SOL**
 - SOL implemented security reporting requirements and processes.

Architecture:

- **Enterprise Architecture**

The draft of Interior Data Reference Model version 1.0, which documents data needs for key Interior lines of business, was completed and is undergoing Interior review.

The draft of the Technical Reference Model version 2.0, which incorporates updated technology and product standards, was completed and is undergoing Interior review.

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- **Trust Architecture**

Probate Case Management and Tracking System

In response to the need to manage and track the probate caseload, Interior's Trust Enterprise Architect (TEA) assumed the lead for developing a probate case management and tracking system. A meeting was held on June 30, 2003, in Washington, D.C. to begin collecting system requirements. During August 4-6, 2003, the TEA held a meeting in Kansas City, MO with representatives from OHA, OST, and BIA regional and agency offices, to review, edit, and update the consolidated list of probate requirements. A probate case management and tracking requirements document was developed in August 2003. On September 23, 2003, the Statement of Work (SOW) for the acquisition of an off-the-shelf probate case management and tracking system was sent to the contracting office. It is expected that a system can be selected by the second quarter CY2004.

Realty/Lease Contract Management

On September 15, 2003, the Trust Enterprise Architecture Integrated Product Team (TEA-IPT) held a meeting in Washington, D.C. to formulate an approach on how to proceed in developing the trust realty lease management and lease income allocation segment of the trust enterprise architecture. After reviewing the BIA Gap/Fit analysis report, TEA, BLM, and OST believe that there is a high probability that there is a commercial product available that could be used for the trust realty lease management and lease income allocation system. The TEA-IPT members support BIA's desire to replace its legacy systems, especially the Integrated Records Management System (IRMS). The TEA-IPT plans to refine and validate the trust realty lease management and lease income allocation requirements during the next reporting period.

Other Accomplishments:

- **BIA**
 - An "IA Service Center" was implemented as a one-stop help desk and IT service delivery point of contact. This service is integrated with an automated call distribution function, and is based on a set of policies and procedures for defining IT incidents, problems, and change requests.
 - The Indian Affairs data center has moved from Reston, VA to nearby Herndon, VA. The new facility maintains the trust systems previously housed in the Reston facility, plus a new integrated Network Operations Control Center for management of the new secure IA network.
 - The network perimeter has been installed, and most BIA locations have been converted onto the network. Converting the remaining sites is an ongoing effort. Managed sites now have a secure network.

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Current Status (Ongoing Efforts)

Reconnection to Internet:

On July 28, 2003, the Court issued a Preliminary Injunction that required Interior to disconnect immediately from the Internet all information technology systems that house or provide access to IITD, subject to exceptions.

The Court further required Interior to submit a proposed method for evaluating Interior proposals to permit reconnection of disconnected computer systems and for determining whether reconnected systems remain secure.

On August 27, 2003, the Department of Justice filed "Interior Defendants' Submission Pursuant to the July 28, 2003 Preliminary Injunction Regarding Reconnection of Computer Systems" (Reconnection Proposal). That filing included a proposal regarding how the Court could address future requests from Interior to reconnect the IT systems to the Internet that have been disconnected due to the original TRO, subsequent Consent Order and the following Preliminary Injunction. The Court has not yet taken any action regarding the proposed approach contained in the Reconnection Proposal.

BIA, OST, OHA and SOL have been and remain disconnected from the Internet since December 5, 2001. Continued disconnection from the Internet adversely impacts the operations of each of the affected entities.

Computer Security (Bureaus):

- **BIA**
 - Full C&A of IA systems that have received IATO are expected to begin during the next reporting period.
- **BLM**
 - BLM has improved its security compliance based on Interior's scorecard criteria from 58% to 72% during this reporting period.
- **MMS**
 - MMS is implementing monthly internal network vulnerability scanning on internal servers and network devices.
 - MMS is improving management controls on computers not connected to the MMS network.

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- **OHA**
 - OHA continues to await the Court's response to Interior's Reconnection Proposal so that it may seek approval to operate its web server and connect to the Internet.
- **OST**
 - An additional security assessment of Trust Fund Accounting System (TFAS) is 50% complete. The renewal of a revised IATO is expected to be completed by the end of CY2003.
 - OST is on schedule to complete C&A for TFAS and GSS by the end of CY2005.
- **SOL**
 - SOL is awaiting network security testing by an independent testing authority.

OMB A-130 Compliance (Interior-wide):

- **C&A**

Interior has made significant progress towards accrediting its Major Applications (MA) and GSS. As of September 30, 2003, 13% of all MA and GSS were accredited and 53% had IATO.

- **Major IT System & IT Project Inventory**

On August 26, 2003, the new Interior Major IT System and IT Project Inventory baseline was established. This baseline integrates previously maintained IT system inventories developed to comply with the FISMA, OMB A-130, and General Account Office (GAO) Information Technology Investment Management Framework. It incorporates IT security enclaves, trust systems, and the FY2004 IT investment inventory as of September 30, 2003. The inventory was mapped to the Department Enterprise Architecture Repository (DEAR) for inclusion in architecture analysis and to capture C&A milestone dates. Interior's Investment Management Program, Enterprise and Trust Architecture Programs, and IT Security Program are planned to have access to the inventory from DEAR. Change control is managed by the bureau or office CIO, who provided monthly validation of the data in August and September 2003.

OMB A-130 Compliance (Bureau Specific):

- **BIA**
 - The processes and functions implemented during this reporting period (as referenced above) will continue throughout subsequent reporting periods. These functions and processes are expected to be continually evaluated and their performance measured to determine the need for future process improvements.

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- **BLM**
 - BLM completed C&A of the AFMSS in September 2003. The other Indian trust system, ALIS, completed initial assessment in September 2003, and is operating under IATO. ALIS is scheduled for C&A by December 2004.
- **MMS**
 - MMS continues to concentrate efforts on C&A of its IT systems. The target date C&A is the end of CY2005.
- **OHA**
 - OHA continues to address and complete items on the Plan of Action and Milestones (POAM), to resolve security weaknesses.
- **OST**
 - OST has identified initial personnel to receive training and project management certification. Training should be completed during CY2004.

Architecture:

- **Enterprise Architecture**

Interior Enterprise Architecture models are being developed consistent with the Federal Enterprise Architecture framework and will be housed in DEAR, which is also planned to become accessible in the first quarter of FY2004.

- **Trust Architecture**

Trust Data Architecture

During August 7-8, 2003, TEA held a meeting in Kansas City, MO with IT representatives from across Interior to continue the process of reviewing and standardizing the trust data elements used by the current and future trust systems, with the goal of establishing trust data standards, which are expected to provide the foundation for data interoperability and help to ensure data consistency among the diverse trust systems.

The architecture support contractor is conducting a detailed analysis of existing trust systems, data models and data dictionaries with the purpose of developing a set of proposed data standards for a logical data model to be known as the Trust Data Reference Model. The TEA and the contractor are also developing a sustainable, long-term trust data management strategy for the trust enterprise architecture.

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Virtual Data Warehouse and Portal

A contract was awarded to assist the TEA-IPT in creating a web-enabled information management and access architecture. The trust architecture support contractor is currently working to analyze the trust systems profile, metadata, data models and data dictionaries of Interior trust systems. Based on the contractor's analysis, virtual data warehouse architecture and portal architecture for employee, end-user, and management portal environments can be developed. The contractor is also developing a data security architecture concept for the virtual data warehouse and portal environment.

CGI Land Title System

During this reporting period, BIA continued discussions with the vendor regarding the expanded use of the CGI Land Title System formerly known as TAAMS. BIA is negotiating the possible adoption and use of an updated title module, version 1.49. Contract negotiations are expected to be completed during the next reporting period.

Network Assurance:

Interior continued testing the WAN against an operational security profile based on the SANS/FBI Top 20 vulnerability list. The number of hosts with potential high-risk vulnerabilities remained low and relatively constant throughout this reporting period. The results were distributed to Interior CIOs to take appropriate remedial actions.

Audit Findings Database:

The Audit Findings Database contains a consolidated list of audit findings and recommendations. Interior has addressed over 60% of the findings.

In particular, there are 901 "findings" listed in the database for BIA. Of these, BIA determined that 770 items (85%) have been resolved. There were 108 items (12%) listed as "pending." There were 23 items (3%) listed as "open" to indicate that a resolution has not yet been determined.

Of the remaining items, 24 are findings from OIG audits. BIA is waiting for the final audit report from OIG, but the indications are that most of the open-audit items will be closed. For example, OIG has informed BIA that it intends to close 12 of the 19 Notice of Final Rulings. Twenty-one items are pending the completion of C&A for IT systems.

Delays and Obstacles

There are many challenges that must be addressed regarding the integration, performance, funding, security, and data integrity of Interior IT systems. Interior initiated or completed steps

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to address some of the challenges reported in previous reporting periods. However, delays and obstacles listed here still impede progress to achieving Interior's IT management goals.

- Employee fears about becoming personally implicated in the *Cobell* litigation are undermining creativity and decision-making. This continues to be an impediment within Interior as contempt or other disciplinary actions against individuals working on this issue exacerbate this concern.
- Information system technical leadership and support staffs are insufficient. Bureau and office IT staffs are insufficient, and through normal attrition, OCIO also has several leadership and staff vacancies. Also, this obstacle is impacted further by employee fears of working on Indian trust issues. Interior is undergoing workforce planning training to help support this need.
- The government needs to evaluate current funding requirements. Interior's FY2004 budgets are currently before Congress for approval and its FY2005 budgets are in preparation. Funding availability will continue to dictate the timing of IT related initiatives.
- Interior is conducting a business process reengineering effort to standardize and streamline trust business processes. The "As-Is" portion of that process has been completed and "To-Be" reengineering efforts are underway. IT systems specifications may depend upon the timing and results of the reengineering effort.
- Interior receives extensive telecommunications services support from MCI WorldCom. Much of the planning for BIA's secure telecommunications service (sometimes referred to as TrustNet) depends upon services provided by this contractor. The General Services Administration is considering the nature of the federal government's relationship with its contractor considering the contractor's recent financial difficulties and status with the bankruptcy court.
- Several Interior bureaus and offices have not been permitted by the Court to have Internet access since December 5, 2001. Lack of Internet access impedes work processes and the ability to communicate effectively, both internally and externally.

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Assurance Statement

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

Date: November 3, 2003

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

November 3, 2003

B. CADASTRAL SURVEY

Introduction

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

Accomplishments and Completions

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

BLM, in collaboration with the Bureau of Indian Affairs (BIA), continues to refine the CARS database. The FY2004, FY2005 and FY2006 nationwide inventory of requests for cadastral survey services was a major focus of BLM this reporting period.

Each BIA regional office submitted its priorities for FY2004, FY2005 and FY2006, along with the “priority drivers.” Priority drivers are the underlying reason for performing a survey, and include such things as type of survey, economic benefit, statutory requirements and administrative needs, each of which is assigned a numerical value within CARS. Approximately 1400 survey services for a cost of 68 million dollars were requested for FY2004, FY2005 and FY2006. The breakout for survey services requested for each year is as follows: FY2004, 675+ requests at an estimated cost of 33 million dollars; FY2005, 375+ requests at an estimated cost of 18.5 million dollars; and FY2006, 350 requests at an estimated cost of 16.5 million dollars. These survey services requested were received from BIA and then entered into the database by BLM to create a nationwide survey service list, which ranked the priority from highest to lowest need to determine the allocation of funding for each project.

BLM and BIA used this nationwide survey service list to aid in the distribution of eight million dollars of projected funding for survey services during FY2004. The eight million dollars of cadastral survey services are expected to facilitate completion of projects with an estimated economic value of 66 million dollars.

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BIA and BLM Coordination Meeting

Working as a team, BIA and BLM held a joint meeting in September 2003, to finalize the selection of survey services for FY2004, and to discuss other issues associated with surveying in Indian country. Issues discussed included: Regional Priority Funding needs, a need to clarify priority criteria and evaluation of scoring in CARS, whether safety issues should be priority drivers, ranking the priority of Geographic Coordinate Data Base (GCDB) and Cadastral Geographic Information Systems (CGIS) requests, and improving communication and coordination through conference calls, faxes, and key meetings on a regular basis between BIA, BLM and the Office of the Special Trustee for American Indians (OST). These issues will continue to be addressed during the next reporting period.

The Western Governors' Association (WGA) Policy Resolution 03-05 "Public Lands Survey System and Ownership Database"

WGA, with BLM support, sponsored a two-day forum in May 2003, on land records as described in the last report to the Court. Tribal officials and BIA participated in the forum.

As a follow up to the May forum, WGA signed a resolution on September 15, 2003, which recognizes that the collection and integration of cadastral data through a CGIS is vital to managing public, tribal and private lands. The WGA resolution is consistent with and supportive of recommendations in the "As-Is" report and the draft "To-Be" model. WGA encourages BLM, tribal entities, member states, local governments and the private sector to engage in a coordinated effort to standardize best practices for land record modernization, and to create a unified digital cadastral infrastructure. Land record modernization gives Tribes and community leaders the tools for more efficient and effective management of their activities.

WGA recognizes GCDB as the standard representation for land ownership boundaries. WGA urges BLM to complete, enhance, and maintain the GCDB in coordination and partnership with state, tribal and local governments, and the private sector. The resolution also calls on Congress to provide the necessary funding for BLM to undertake this important effort.

BLM, BIA, Tribal, and OST Training Course, "Land Tenure in Indian Country" (LTIC)

The initial LTIC course was held August 11-14, 2003, at the Pechanga Tribal facility in Temecula, CA. This training course provided communication tools to realty specialists, cadastral surveyors, appraisers, attorneys, other land tenure specialists and managers about land issues facing BIA, BLM, OST and tribal governments. The course received positive reviews from the participants. The next course is scheduled for July 19-23, 2004, in the BIA Rocky Mountain Region and outreach for participants has already begun.

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Opening of a Cadastral Survey Office on the Yurok Indian Reservation

A Cadastral Survey Office was established by BLM on the Yurok Indian Reservation to perform survey services on the top national priorities within the BIA Pacific Region. This office employs 11 tribal members as survey aides and technicians on cadastral survey crews. These crew members are being trained in the basic skills of field surveys, thus fulfilling a vital role in helping to perform cadastral surveys of trust land. The information produced at this office is coordinated with the Tribal Geographic Information Systems Office to incorporate cadastral data into management decisions regarding land-based trust activities.

Current Status

Department of the Interior (Interior) Indian Trust Lands Boundary Standards (Draft)

These standards are expected to increase efficiencies in land transactions and boundary issues by establishing standard processes and formal procedures for consulting between title and realty specialists, resource managers and land surveyors on land tenure and boundary issues. Efficiencies are expected to be gained by avoiding unnecessary costly surveys and reducing the duplication of efforts in land tenure activities. The draft standards are pending various Interior agency review processes. These standards were discussed at the BIA and BLM coordination meeting in September 2003, and additional briefings are scheduled in the next reporting period. Upon completion, it is anticipated that these standards will be incorporated into the Departmental Manual.

Assistance in Interior's Reengineering Efforts

In September 2003, the draft cadastral elements of the "To-Be" reengineering efforts were presented to Interior managers at the "To-Be" reengineering workshop and at the joint BIA and BLM meeting. BLM expects to continue to be involved in further "To-Be" development efforts.

Coordination with OST Training Coordinator on Future Classes of LTIC

The BLM Cadastral Indian Program Manager and the Cadastral Survey Training Coordinator worked with the OST Training Coordinator on the number and types of future LTIC classes. It has been recommended that offering the course two times a year may be more practical than four times a year. OST is in the process of preparing a proposal to allow these courses to be scheduled, planned and presented in FY2004. BLM expects to receive this proposal in the next reporting period. The BLM Cadastral Indian Program Manager and the Cadastral Survey Training Coordinator expect to continue to assist the OST curriculum committee and BIA in the development and implementation of future trust training.

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Geographic Coordinate Data Base (GCDB) Data Collection of High Priority Areas

GCDB is a computerized graphic portrayal of the Public Land Survey System and is derived from a compilation of best available survey and title records. GCDB is not the official survey record, but is a computerized representation of the boundaries. The official survey is a composite of the on-the-ground survey markers and monuments and recorded survey plats, located within BLM and county offices. In addition to assigning latitudes and longitudes to parcel corners and boundaries, the GCDB also provides error estimates of the survey point positions as determined by professional surveyors. GCDB must be maintained with new surveys and newly acquired survey information. GCDB is an essential layer for a CGIS as it provides the most current, accurate and best available information on allotment and other Indian boundaries within a computerized Geographic Information System (GIS). A CGIS provides managers with detailed information that is based upon cadastral survey expertise. A CGIS is most useful for management of high valued resources, such as minerals and timber. CGIS adds the essential cadastral layer to a GIS, by including boundaries, ownership and land use encumbrance records.

BLM is in the process of determining the priorities for GCDB collection in Indian country. This information is expected to be compiled in the next reporting period and to be used to plan and schedule the GCDB data collection for reservations and to build more CGIS in Indian country.

OST Training Course, “Trust Foundations: An Introduction to Trust Reform and Change”

OST advised BLM that the course is planned to be available on CD ROM format. This CD ROM will be provided to surveyors who still need to complete this course.

Delays and Obstacles

Limited Resources

The total cost for survey requests is approximately 68 million dollars during the next three fiscal years, and the current budget of eight million dollars per year can only address the most urgent needs. An estimated two to three million dollars in new cadastral requests are generated each year. Carefully allocating cadastral services for the highest priority surveys, focusing on the development of the CGIS as envisioned by the WGA, and incorporating the numerous recommendations in the “As-Is” report should help alleviate the projected backlog of high priority survey needs.

Missing BIA Indian Service Survey Records

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

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owners. Currently, missing records are identified as the surveys are performed in the field, where evidence of BIA Indian Service surveys is found. Once the on-the-ground surveys are identified, a search is made for the missing records. A formal and coordinated search effort for these surveys is needed until all potential sources of records have been searched. Dedicated personnel, surveyors and archivists are needed to locate, inventory, image and store these records. BLM plans to contact the Office of Trust Records during the next reporting period to help develop a plan for recovering these records.

Disconnection from the Internet

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

Assurance Statement

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

Date: October 30, 2003

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

November 3, 2003

C. MINERALS MANAGEMENT SERVICE

Introduction

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

Current Status

Electronic Data Systems (EDS) *DOI Trust Reform Report*

This January 2002 report contained two recommendations concerning documentation of interagency procedures and agreements. Neither represents problems that are adversely affecting the fulfillment of the Department of the Interior's (Interior) Indian Trust responsibilities. The first recommendation is complete. However, the timely completion of the second recommendation will depend not only on MMS but also on the cooperation of the BIA and Office of Trust Fund Management (OTFM).

- **Coordinate Information Exchanges Between MMS and All Systems.** EDS made this general recommendation to help address information exchange issues between MMS and other Interior bureaus. In June 2003, the Chief Information Officers of MMS and BLM executed an Interconnection Security Agreement (ISA) to document the sharing and transmission of data between the two bureaus. An ISA is required by National Institute of Standards and Technology (NIST) security guidelines, as adopted by Interior, to document information exchanges and security requirements. MMS currently has no electronic interconnections with other bureaus; however, as additional interconnections are contemplated, MMS will, in compliance with NIST guidelines, execute ISA's. Because this requirement is an ongoing expectation for all bureaus, this particular reinforcement of the requirement is redundant. Therefore, this recommendation is considered complete.
- **Document Procedures Regarding Royalties Disbursement.** This will document inter-bureau procedures regarding information exchanges associated with mineral revenue disbursements. Memoranda of understanding (MOU's) should contain agreed-upon performance expectations between MMS and BIA and between MMS and OTFM. By December 31, 2003, MMS expects to submit draft MOU's to BIA and OTFM, containing proposed formats along with MMS's relevant mineral revenue disbursement procedures. MMS expects to request that BIA and OTFM incorporate their relevant procedures and other comments, and work with MMS to finalize and approve the MOU's. The target date for completing the two MOU's is March 31, 2004.

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Indian Oil Rule

On February 12, 2003, MMS reopened the comment period on the proposed rule for valuing crude oil produced from Indian leases. The purpose was to propose amendments to simplify and improve the proposed rule in the areas of pricing and allowances for royalty valuation purposes and reporting of adjustments. The comment period closed on April 14, 2003. The proposed rule, along with the comments received from industry and Tribes, are currently undergoing policy and legal review within MMS, the Office of the Solicitor, and the Assistant Secretary for Land and Minerals. A timeline for implementation of the new rule has not been established.

Records Destruction Incident - Farmington Indian Minerals Office

In the previous report to the Court, MMS reported an incident of improper records destruction in the Farmington Indian Minerals Office (FIMO). MMS immediately notified Interior officials and completed an administrative investigation with participation from BLM, BIA, the Office of the Special Trustee for American Indians, and the Office of Trust Records. As a result of this incident, MRM developed a short-term action plan summarizing the actions to be taken at FIMO in the areas of personnel and records management. Most action items have been completed, including the detailed implementation plan for FIMO records. The only unfinished item is the ongoing review of all existing policies and procedures within FIMO to assure they are in compliance with applicable laws, regulations, delegations, etc. The target date for completion of this review is December 31, 2003.

Delays and Obstacles

None.

Assurance Statement

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

Date: October 31, 2003

Name: *Signature on File*

Phil Sykora
Chief, Financial Management
Minerals Revenue Management
Minerals Management Service

November 3, 2003

D. WORKFORCE PLANNING

Introduction

Workforce planning is a comprehensive process that provides managers with a framework for making staffing decisions based on an organization's mission, strategic plan, budgetary resources, and the associated skills needed to accomplish mission tasks now and in the future. Indian trust management workforce planning is continuing in the Department of the Interior (Interior) and involves a comprehensive process of assessing: current workload, current program efficiencies and gaps, future work and skill gaps, together with options for addressing future workforce needs. This planning process is a large undertaking that requires both significant top-down leadership and the involvement of field-level personnel. The trust planning team is combining budget, program performance, and workforce priorities into a cohesive strategy that is useful for human resources planning as well as for budget justifications.

Accomplishments and Completions

Workforce Plans

The Offices of the Assistant Secretary - Indian Affairs and the Special Trustee for American Indians (OST) have completed initial Workforce Plans (Plans) for FY2004 – 2008, as has each Interior bureau and office. Further, Interior completed its *Strategic Human Capital Plan Implementation and Workforce Planning Report*, dated September 30, 2003.

The Plans result from a year-long initiative of consulting across bureau lines and preparing leaders to identify workforce challenges and to collaborate in the design of solutions that are tailored to the needs of the organization. The Plans are expected to be updated periodically and used in conjunction with performance plans to ensure that OST and the Bureau of Indian Affairs (BIA) strategically manage human capital assets. The BIA and OST Plans (drafted in concert with related budgets) outline human resources strategies and provide language to support funding for employee development initiatives and staffing.

BIA is focused on developing essential skills. Its Plan addresses the need for more systematic and effective training. Its analysis of the most populous positions suggests that BIA employees are primarily carrying out clerical and technical duties, with some trust administrative responsibilities, using skills that were historically acquired on-the-job. Stronger educational backgrounds may be required for some employees to gain a better conceptual understanding of trust work. In addition to its focus on fiduciary trust-related technical training, BIA intends to take advantage of its predicted attrition of about 500 employees per year to reshape its workforce.

The OST Plan also provides an analysis of its current workforce skills and identifies critical skill requirements for the future. The delivery of services to the beneficiary based on in-depth

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knowledge of trust funds management will continue to be critical to effective trust asset management reform. OST's Plan calls for a major training and employee development initiative.

Deputy Superintendents and Trust Officers

As part of the reorganization, the staffing of BIA Deputy Superintendent – Trust Services and OST Fiduciary Trust Officer positions was completed for the Concho and Anadarko agencies in Oklahoma.

“To-Be” Reengineering Workshops

Throughout these workshops, OST ensured that human resource issues were emphasized. On August 13, 2003, the Assistant Secretary - Indian Affairs Employee Development Specialist and the Indian Trust Reform Human Resources Advisor provided briefings about requirements for implementation of the “To-Be” model. These briefings posed questions about the current and future workforce: What capabilities will existing staff need? What are the ideal locations to provide improved service? What new positions and capabilities will be created, and what additional resources will be necessary to complete the reengineering of trust business processes? Is the need for these skills temporary or permanent? Are the duties more appropriately performed by another organization? As Interior considers these questions, the required analysis of future workload and related workforce needs should proceed.

Human Capital Accountability System

By memorandum dated July 9, 2003, the Interior Chief Human Capital Officer issued an Interior policy on the Human Capital Accountability System. The accountability system provides a comprehensive framework for managers and employees to understand the key linkage points between the Interior Strategic Plan and the performance standards for the individual employee. The policy outlines requirements for the continuous process of monitoring and adjusting goals, measures, budgets and initiatives to ensure a systematic approach to employee accountability. At Interior, top leadership support and accountability is promoted through the Senior Executive Service (SES) Performance Management System that links individual SES performance plans to organizational performance goals and strategic management initiatives. A review of current SES performance plans indicates that each executive in an Interior trust asset management organization has a performance element related to trust management.

Current Status

Workforce Planning

Analyses of trust-related work in conjunction with the “To-Be” model should be completed by March 31, 2004. This activity will be key to identifying Indian trust management workforce requirements throughout Interior.

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As work analyses are carried out in each area of trust management, employees may be expected to learn new methods and skills. Today, each trust organization has a designated unit that is engaged in and will continue workforce planning activities specifically relating to development and improvement of critical employee skills. The assessment of critical skills may require revision to Interior formal and on-the-job trust-related training and should be considered in reviews of the Individual Development Plans.

Delays and Obstacles

The Court-ordered restriction on the use of the Internet in many trust organizations has continued. Due to the lack of Internet access, valuable resources must be expended on communications in order to continue operations. There is a critical unmet need to provide easy access to real-time information to trust management employees.

Assurance Statement

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

Date: October 30, 2003

Name: *Signature on File*

Kathryn A. Bown

Indian Trust Human Resource Advisor

Office of Assistant Secretary-Policy, Management and Budget

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E. OFFICE OF HISTORICAL TRUST ACCOUNTING

Introduction

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

This *Status Report to the Court Number Fifteen* (Report) marks OHTA's transition from reporting preliminary work in progress that helped refine OHTA's accounting methods, to reporting accounting work results accomplished during the reporting period. For example, OHTA will no longer report on imaging or Special Deposit Account (SDA) cleanup procedures and will now focus on reporting results of work accomplished during the reporting period, such as number of documents imaged, SDA accounts resolved, etc. For this Report, OHTA will report project completions stated in the *Status Report to the Court Number Fourteen* that were expected to be completed in this reporting period.

Accomplishments and Completions

Accounting Reconciliation Tool (ART) Start-Up

During this reporting period, OHTA's integration contractor completed development of ART version 1.0. ART is intended to standardize the historical accounting reconciliation work performed by OHTA's CPA contractor firms. OHTA conducted two User Acceptance Tests, July 8-10 and September 3-5, 2003, with the participation of the CPA contractor firms and quality control users to evaluate the performance requirements of ART. On September 29, 2003, the Designated Approving Authority, OHTA's Executive Director, granted ART an Interim Authority to Operate (IATO) for OHTA's Alaska reconciliation work.

IIM Accounts for Four of the Named Plaintiffs and Their Agreed-Upon Predecessors

An OHTA CPA contractor prepared historical accounting work regarding eleven IIM accounts for four of the named plaintiffs and three of their agreed-upon predecessors, and transmitted the results to OHTA on July 24, 2003. Several predecessors had multiple accounts. On August 22, 2003, OHTA's quality control contractor issued a report on this work. The quality control contractor's report indicated that the performing CPA contractor's results were appropriately supported.

Retention of Tribal Records

During this reporting period, OHTA's Deputy Director participated in the American Indian Records Conference held at Haskell Indian Nations University in Lawrence, September 23-25, 2003. The conference was attended by about 200 university and tribal leaders, and their representatives. The Deputy Director gave a presentation on the importance of Indian records to

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the historical accounting, and reminded tribal leaders to retain records that could potentially be used to complete the historical accounting work.

Current Activities

Judgment and Per Capita IIM Accounts

An OHTA CPA contractor has been tasked to reconcile Judgment and Per Capita IIM accounts. As reported in previous *Status Reports to the Court*, this contractor continues to perform historical accounting procedures on these IIM accounts.

When the account reconciliation for Judgment and Per Capita IIM accounts commenced, the accounts coded as Judgment IIM accounts and Per Capita IIM accounts were separated from the total of all IIM accounts. Statistics for these accounts were reported in the July 2, 2002, *Report to Congress* and the January 6, 2003, *Plan for the Court*. However, as the contractor continues to work, new facts about these accounts affect the statistics regarding the completion of the accounting work. To report this, OHTA is revising its presentation herein on Judgment and Per Capita IIM accounts.

On December 31, 2000, there were 33,205 Judgment IIM accounts open, with balances of \$80.8 million. These numbers do not reflect the Judgment IIM accounts closed prior to December 31, 2000 (funds disbursed), which require additional work to reconcile. Also, some Judgment IIM accounts were found to have receipt transactions from a source other than a deposit of a judgment award. The Judgment IIM accounts with multiple sources of funds and former accounts that closed in the 1985-2000 time period are added to the total number of Judgment IIM accounts and funds reconciled, as explained further below and shown in the table "Judgment IIM Accounts Partially Reconciled."

On December 31, 2000, there were 9,013 Per Capita IIM accounts open, with balances of \$69.5 million. These numbers for Per Capita IIM accounts do not include closed accounts, and the December 31, 2000, balance does not reflect the per capita distributions that have been deposited in and disbursed from these accounts in the 1985-2000 time period. To date, the reconciliation of Per Capita IIM accounts has focused on per capita distribution receipts from Tribes and not on disbursement transactions. Also, some Per Capita IIM accounts have funds from a source other than per capita distributions. Accounts will only be reported as fully reconciled when all the receipt and disbursement transactions have been reconciled. However, to report accurately to the Court the progress on Per Capita IIM transactions, information is now included on the number of receipt transactions reconciled during the 1985-2000 time period. This is explained further below and shown in the table "Per Capita IIM Transactions Reconciled."

For Judgment IIM accounts, the contractor found that there were four subgroups – (1) accounts with a single credit deposit and interest through December 31, 2000, and no disbursement of funds, (2) accounts with a single credit deposit and interest with a single disbursement, (3) accounts with a single credit deposit and interest with multiple disbursements, and (4) accounts with the single credit deposit and interest, and land-based transactions (income from land

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interests owned by the account holder). These IIM accounts were classified as Subgroups A, B, C and D, respectively. The contractor concentrated its reconciliation work on Subgroup A. Reconciliation work was also performed on Subgroups B, C and D as to the initial deposit of the judgment award, but not on the interest accruals, disbursements, and land-based revenue transactions. Because the disbursements have not been reconciled, Subgroups B and C are only partially reconciled. Similarly, subgroup D is partially reconciled only as to the receipt of judgment awards.

For Per Capita IIM accounts, the contractor found that land-based revenue transactions were included in some of the Per Capita IIM accounts, but with greater frequency than that of Subgroup D Judgment IIM accounts described above. The total number of transactions and amount of funds associated with Per Capita IIM accounts will continue to change as more accounts are analyzed, and more receipt and disbursement transactions are reconciled.

Accordingly, to report better the partial reconciliation progress on Judgment and Per Capita IIM accounts, commencing with this *Status Report to the Court Number Fifteen*, OHTA will include a summary of the partially reconciled Judgment and Per Capita IIM accounts.

Following is a summary of progress during the reporting period and cumulative progress to date for Judgment IIM accounts fully reconciled, Per Capita IIM accounts fully reconciled, and partially reconciled IIM accounts.

Judgment IIM Accounts Fully Reconciled

The contractor and the CPA quality control contractor have completed work as follows.

	IIM Judgment Accounts Reconciled to 12/31/00		Quality Control Checks Completed¹	
	Subgroup A			
	Number of Accounts	Dollars	Number of Accounts	Dollars
Reported in earlier <i>Reports</i> (cumulative through June 30, 2003)	16,821	\$48,496,799	14,137	\$45,786,521
Report delivered September 24, 2003	555	985,363	--	--
Report delivered September 30, 2003	--	--	<u>1,013</u>	<u>953,761</u>
Totals through September 30, 2003	<u>17,376</u>	<u>\$49,482,162</u>	<u>15,150</u>	<u>\$46,740,282</u>

(1) Quality control work is in process for three deliveries covering 2,226 accounts with December 31, 2000, balances of \$2,741,880. This quality control work is expected to be completed during the next reporting period.

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Partially Reconciled Judgment Accounts

The contractor has completed partial reconciliation work on Judgment and Per Capita IIM accounts as summarized below.

Judgment IIM Accounts Partially Reconciled

	Subgroup B		Subgroup C		Subgroup D		Total	
	Number of Accounts	Dollars	Number of Accounts	Dollars	Number of Accounts	Dollars	Number of Accounts	Dollars
Accounts Partially Reconciled, June 30, 2003 ¹	16,983	\$21,943,964	2,531	\$3,146,147	17,880	\$20,049,499	37,394	\$45,139,610
Report Delivered, September 24, 2003	<u>296</u>	<u>273,216</u>	<u>11</u>	<u>21,173</u>	<u>349</u>	<u>328,466</u>	<u>656</u>	<u>622,855</u>
Accounts Partially Reconciled, September 30, 2003	<u>17,279</u>	<u>\$22,217,180</u>	<u>2,542</u>	<u>\$3,167,320</u>	<u>18,229</u>	<u>\$20,377,965</u>	<u>38,050</u>	<u>\$45,762,465</u>

(1) These data have not been previously reported

Per Capita IIM Accounts Fully Reconciled

The contractor and the CPA quality control contractor have completed work as follows.

	IIM Per Capita Accounts Reconciled to 12/31/00		Quality Control Checks Completed¹	
	Number of Accounts	Dollars	Number of Accounts	Dollars
Reported in earlier Reports (cumulative through June 30, 2003)	--	--	--	--
Reports Delivered July 3, 2003	408	\$2,081,775	408	\$2,081,775
Report delivered September 24, 2003	<u>211</u>	<u>511,640</u>	<u>--</u>	<u>--</u>
Totals Through September 30, 2003	<u>619</u>	<u>\$2,593,415</u>	<u>408</u>	<u>\$2,081,775</u>

(1) Quality control work is in progress for the 211 reconciled Per Capita IIM accounts. This quality control work is expected to be compiled during the next reporting period.

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Per Capita IIM Transactions Reconciled

	Number of	Dollars
	<u>Transactions</u>	
Transactions Reconciled, June 30, 2003 ¹	117,425	\$161,930,285 ²
Report Delivered July 3, 2003	2,191	760,609
Report Delivered September 24, 2003	<u>2,987</u>	<u>772,237</u>
Totals Through September 30, 2003	<u>122,603</u>	<u>\$163,463,131</u>

(1) These data have been reported in previous *Status Reports to the Court*.

(2) Revised from \$162,180,239, resulting from a typographical error in the previous report.

Eastern Region IIM Land-Based Accounts

An OHTA CPA contractor firm has completed a draft report regarding the historical accounting project for the Eastern Region land-based IIM accounts. The contractor's draft report provides results on a sample of 289 transactions with a throughput amount of \$126,362 from a population of 515 transactions. These sample transactions spanned fourteen years, from April 1986 to December 2000, and affected 42 land-based IIM accounts, reduced from 48 accounts as reported in the *Status Report to the Court Number Fourteen* owing to misclassification of Regional administration responsibility for six accounts.

Special Deposit Account (SDA) Clean Up Project

The SDA Clean Up Project is identifying the proper ownership of residual funds in SDAs existing at December 31, 2000. The objective is to identify or reclassify funds that were improperly held in SDAs and distribute monies to proper IIM accounts, tribes, or private entities. On August 5, 2003, OHTA and the Office of the Special Trustee for American Indians (OST) reached an agreement whereby OHTA assumed responsibility for SDAs with residual balances during the January 1, 2001 – December 31, 2002 period. This previously had been the responsibility of OST.

OHTA is coordinating the SDA Clean-Up by working with and providing assistance to BIA agencies to clean-up their own SDAs or, if an agency chooses, using a contractor to perform the work. During this reporting period, OHTA held orientation meetings on the SDA Clean-Up Project with four BIA regional offices – Southern Plains, Northwest, Eastern Oklahoma, and Western. Meetings were also held with 27 BIA agencies and field offices, and with six self-governance or contracted tribes.

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

	<u>Number of Accounts</u>	<u>Dollars</u>
Data reported to Congress on July 2, 2002, as of December 31, 2000	21,415	\$ 67,888,781
Reclassification of SDA types in TFAS and SDAs reconciled through March 31, 2003	<u>(6,510)</u>	<u>(22,291,943)</u>
Remaining December 31, 2000, SDA Clean Up Population	14,905	45,596,838
SDAs from January 1, 2001, through December 31, 2002, transferred from OST to OHTA	<u>2,823</u>	<u>9,895,895</u>
Revised total OHTA SDA Clean Up Project Population	<u>17,728</u>	<u>\$ 55,492,733</u>
Status as of August 18, 2003 ¹	<u>15,425</u>	<u>\$ 45,221,094</u>
SDA Reconciled March 31, 2003, through August 18, 2003	<u>2,303</u>	<u>\$10,271,639</u>

(1) Statistics provided as of August 18, 2003. Statistics not yet available for September 30, 2003.

In addition, OHTA's contractor prepared 543 Recommended Action Forms (RAFTs) addressing the clean up of \$4,301,794 in SDAs. It is expected that these RAFTs will be forwarded to the OST Office of Trust Funds Management (OTFM) for review and disbursement by OTFM to IIM account holders, tribes, or non-Indian owners during the next reporting period.

During this reporting period, OHTA completed the process of executing Memoranda of Agreement (MOAs) with 21 BIA agencies in BIA's Pacific, Great Plains, Western, and Northwest Regions. These memoranda clarify the level of support OHTA or its contractor is to provide for SDA clean up.

New Projects

Imaging/Coding – Alaska Documents

On July 9, 2003, OHTA's imager/coder contractor firm began imaging and coding IIM documents for the Alaska historical accounting, using OHTA's coding and imaging specifications that were finalized during this reporting period. As of the end of this reporting period, the imager/coder contractor firm has imaged 526,524 pages of Alaska records and coded 19,286 documents. In September 2003, initial deliveries of coded documents were loaded into ART to allow the Alaska historical accounting work to proceed.

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Obstacles/Delays

OHTA has identified the following problems and concerns.

1. *Internet Access* – On July 14, 2003, the Court issued an order that required Interior to disconnect from the Internet all information technology systems that house or provide access to IITD. OHTA was disconnected from the Internet, causing some delays in completion of its historical accounting work. OHTA was re-connected to the Internet during this reporting period pursuant to the preliminary injunction of July 28, 2003.
2. *Delay on Starting the Alaska Historical Accounting* – OHTA did not achieve its FY 2003 target goal of completing the reconciliation of 20,000 land-based IIM transactions. The Alaska historical accounting did not commence until September 29, 2003, when ART was granted an IATO. Further, facility and space limitations delayed the start of OHTA's imager/coder contractor to July 9, 2003, to begin imaging documents for the Alaska project.
3. *Structural Injunction* – OHTA is evaluating the extent to which this September 25, 2003 Structural Injunction may affect OHTA's historical accounting work.
4. *Funding Limitations* – Interior is under a Congressional Continuing Resolution that limits current funding amounts for projected historical accounting activity to FY 2003 levels. Interior has requested substantial amounts of additional funding from Congress for historical accounting.

Assurance Statement

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

Date: October 31, 2003

Name: *Signature on File*

Bert T. Edwards, Executive Director
Office of the Historical Trust Accounting

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III. OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS

Introduction

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

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

As part of a recent reorganization of the Indian fiduciary trust functions, OST is placing trust officers in the field to be located at or near Bureau of Indian Affairs (BIA) agency offices. In turn, BIA has established deputy superintendents for trust operations. The people hired in positions of trust officer and deputy superintendent are expected to manage or oversee fiduciary trust operations at the local level.

Special Trustee's Observations :

Accomplishments and Completions

Each project manager is responsible for explaining to the Court his or her accomplishments, therefore the observations of the Special Trustee will only highlight a few of the accomplishments during this reporting period.

Reengineering ("To-Be")

The reengineering group was extremely busy during this reporting period. A draft of the "To-Be" business model was prepared and is now expected to be reviewed by affected parties. During the next reporting period, plans include a review by a private sector trust company of the "To-Be" Model. This review should help ensure that the model meets the requirements of a fiduciary trustee, the Act, and other relevant statutes, regulations and court decisions.

Audit and Review

During this reporting period, an official from the Office of the Comptroller of the Currency was detailed to OST to provide assistance and guidance for the development of a comprehensive operations audit and review program. As part of this project, it is expected that a fiduciary trust

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rating system, similar to that found in the private sector for rating the quality of trust businesses, will be created. This rating system is expected to be applied to all organizations that have a fiduciary trust duty, including BIA, OST, Minerals Management Service, and Bureau of Land Management, as well as Indian Tribes that have contracted or compacted to provide fiduciary trust services.

Reorganization

Implementation of the reorganization plan is underway. Trust officers were hired during this reporting period for the Anadarko and Concho BIA agency offices. The BIA also completed its hiring of deputy superintendents for trust services for these agencies. Several meetings have occurred with the agencies to develop the requirements for efficient and effective operations including space demands, additional staff, delegations of authority and reporting relationships. Trust officers are being recruited for additional BIA agencies. These agencies are being selected based on the volume of fiduciary trust work being performed, number of individual Indian money account holders and dollar volume of business.

Information Technology

Progress was made during this reporting period with the selection of the CGI (formerly TAAMS) real property title system as the replacement for the legacy system, Land Records Information System (LRIS). Final negotiations on the contract are expected to be completed during the next reporting period. The full conversion process is expected to take approximately 15 months; however, the largest title plant conversions should be completed during the first six months following the execution of the contract.

A Request For Proposal (RFP) for replacing the realty legacy system, Integrated Resource Management System (IRMS), should be developed during the next reporting period. The Assistant Secretary-Indian Affairs Chief Information Officer advises that the current legacy systems, IRMS and others used locally, are not able to be supported in an appropriate manner because of their outdated technology. While several systems have been through an initial evaluation as to their feasibility for meeting the needs of the BIA realty program, the trust architect for Interior has suggested that a competitive RFP process might result in identifying other systems that should also be considered. A competitive procurement approach could also provide an objective evaluation of the ability of each company to meet the requirements of such a system. A final decision regarding an RFP or selection of one of the already identified systems is expected to be made during the next reporting period.

Opinion of the Court, Trial 1.5 and Structural Injunction

The Court issued its opinion and Structural Injunction (SI) in Trial 1.5 on September 25, 2003. The SI appears to have changed the nature of the historical accounting proposed by Interior. The major impact of the change appears to be the cost and time necessary to do the kind of accounting required by the Court.

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Delays and Obstacles

A major obstacle to enhanced performance of the Indian trust is lack of access to the Internet. Interior has engaged in a major reform of its information technology security systems and has presented this information to the Court. It is critically important that Interior agencies with fiduciary trust duties to beneficiaries be reconnected to the Internet as soon as possible. Such things as locating “whereabouts unknown,” researching, investing, communicating between offices, responding efficiently to beneficiaries and performing probate and title work are hindered by not having access to this common technology. Interior awaits the Court’s response to Interior’s August 27, 2003, Internet reconnectivity proposal, submitted pursuant to the Court’s July 25, 2003, Preliminary Injunction.

The fractionated nature of the individual Indian land has been discussed at great length in many articles and reports during the last century and continuing today. Past fractionation remains a serious problem that requires innovative thinking. The cost of purchasing fractionated interests is estimated to be in the billions of dollars, yet the ongoing cost of managing fractionated interests will, in the long-term, cost much more or may even become impossible. I believe the solution to this problem will come from continued dialogue among Interior, Tribes, individual allottees and Congress. During the next reporting period, Congress may address this problem, in part, by amending the Indian Land Consolidation Act of 1983. Interior has been actively involved with Congress in developing these proposed amendments that primarily affect the probate provisions written to address future fractionation.

Regardless of Interior’s best effort to reengineer the core trust business processes, until such issues as fractionation are resolved, trust reform will remain difficult to achieve. Maintaining thousands of accounts with balances of less than one dollar could not have been envisioned when Congress enacted the General Allotment Act of 1887.

Assurance Statement

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

Date: October 29, 2003

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

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A. TRUST REVIEW AND AUDIT

Introduction

The Office of Trust Review and Audit (OTRA), reports directly to the Special Trustee. OTRA is responsible for conducting performance audits of agencies and offices managing trust activities, providing a numerical rating of their performance and conducting audits and reviews that may be requested by individual account holders, Tribes and the Special Trustee. This activity was formerly part of the Office of Trust Risk Management. As previously reported to the Court, risk management is a separate activity of the Trust Program Management Center. Risk management activities are reported separately in this report.

Accomplishments and Completions

Compliance Reviews

Compliance reviews result from inquiries by beneficiaries or other interested groups and usually question the adequacy or status of trust and fiduciary activities of the Department of the Interior (Interior). OTRA assigns the inquiries to internal audit staff to investigate and, when needed, recommends appropriate corrective actions. This reporting period, the Office of the Special Trustee for American Indians (OST) allocated funding for and began preparing a cooperative agreement with the Office of Inspector General (OIG) to provide investigator assistance when appropriate.

During this reporting period, 7 new cases were added to the inventory resulting in 23 cases in inventory, of which 5 were completed. Of the 5 cases completed, 2 reports were prepared, 1 was referred to the OIG, 1 was closed upon receipt of an OIG report, and 1 was closed with no findings. Of the remaining 18 cases in inventory, field work is underway on 13 and draft reports are being prepared and reviewed on 5.

This period, all inquiries were screened for validity and the need for additional information to determine the appropriate actions to pursue. In many instances, OTRA queried the complainant for additional information in support of the complaint; in others OTRA queried responsible Interior offices for background information and any results of previous reviews of the same or similar inquiries. This screening process should result in a more timely resolution of cases.

Current Status

Annual Interior Indian Trust Funds Financial Statement Audit

The Indian Trust Funds Financial Statement audit is required by the American Indian Trust Fund Management Reform Act of 1994, and has been conducted by an independent third party each year since 1995. OIG assumed the management of the FY2003 annual audit.

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

Annual Audit Corrective Actions

The Data Quality and Integrity project is designed to resolve the material weakness inherent in the legacy land records systems of ownership records in the FY2002 and prior years audits. This project is expected to validate the critical data elements necessary for correct distribution of funds. This project is designed to first validate the individual Indian money records at the largest trust revenue processing agencies, which is expected to yield coverage of over 80 percent of trust revenues.

The corrective action plans for outstanding FY2002 and prior years audit findings and recommendations continue to be developed. Much of the necessary information was received late this period and follow-ups to obtain additional information are underway. Once corrective action plans are developed, progress toward implementation should be monitored monthly. Corrective actions on one audit (OIG No. 97-I-196) were completed this period.

Indian Trust Rating System

Previously reported development work is ongoing. A senior examiner from the Office of the Comptroller of the Currency (OCC) began working with OTRA full-time this reporting period. OTRA and OCC staff are cooperatively developing examination procedures that include the planning processes, data needs and evaluation processes, definitions of and processes for assigning ratings and evaluating results for the overall Indian Trust Rating System. These procedures are scheduled for completion during the next reporting period. Interior offices, agencies and compacting and contracting Tribes performing fiduciary trust functions are expected to receive a rating of their performance of those trust activities.

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Assurance Statement

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

Date: October 29, 2003

Name: *Signature on File*

Kenneth M. Moyers

Acting Director, Office of Trust Review and Audit
Office of the Special Trustee for American Indians

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B. CHIEF INFORMATION OFFICE

1. RECORDS MANAGEMENT

Introduction

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

Accomplishments and Completions

Fiduciary Trust Records Definition

On September 5, 2003, the Assistant Secretary – Policy, Management and Budget released “Indian Trust Responsibilities [-] Indian Fiduciary Trust Records,” which is a new chapter in the Department of the Interior (Interior) Departmental Manual (DM). The new chapter, 303 DM 6, provides records management guidance for Interior bureaus and offices to identify, manage, protect and control Indian fiduciary trust records.

The record series matrices identifying Indian trust records for the Bureau of Indian Affairs (BIA) and the Office of the Special Trustee for American Indians (OST) were finalized during this reporting period. These matrices are expected to be issued in the next reporting period.

Record Keeping Requirements

On September 12, 2003, the Secretary of the Interior and the Archivist of the United States signed a “Memorandum of Understanding Between The Department of the Interior and The National Archives and Records Administration [(“NARA”)] Regarding an American Indian Records Repository Located at NARA’s Lenexa, Kansas, Regional Records Services Facility” (MOU). This MOU was entered into for “the purpose of consolidating and preserving on a continuing and long-term basis designated Indian records in the possession of DOI’s Bureau of Indian Affairs (BIA) and the Office of the Special Trustee for American Indians (OST), and related DOI fiduciary trust records, as jointly agreed to, at NARA’s regional records service facility in Lenexa, Kansas.” Additionally, the MOU contains an agreement between Interior and NARA to develop an archival and records management studies program at Haskell Indian Nations University.

During September 23-25, 2003, the Assistant Deputy Secretary, OTR and BIA held a conference with tribal leaders, tribal records custodians and other users of Indian records. The conference,

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“Indian Records for the 21st Century and Beyond: Creating a Tribal/Federal Vision,” provided Tribes with information on records management and a tour of the Federal Records Center at Lee’s Summit, MO. A scoping session was held with Tribes present to identify records management issues facing compacting and contracting Tribes. Records management issues were identified and are expected to be used for future records management discussions with these Tribes.

Evaluation of Records Programs

Using established criteria, OTR staff conducted twelve site assessments of Office of Trust Funds Management (OTFM) records management programs during this reporting period. Findings and recommendations are expected to be discussed with OTFM offices during the next reporting period.

Record Retrieval Technical Issues

The database problems identified in the *Status Report to the Court Number Fourteen* at the Kansas City, MO index contractor site were corrected during this reporting period. The contractor has fully staffed its Albuquerque, NM site.

Current Status

Records Management Liaisons

Ten OTR records management liaison positions were advertised during this reporting period. Nine of these positions were filled. These records management liaisons are expected to be placed at the BIA regions in the next reporting period to provide technical assistance to BIA and OST staff. The tenth position is expected to be filled in the next reporting period.

Records Retention Schedules

On September 11, 2003, OTR resubmitted the following electronic records schedules to NARA for approval: Integrated Records Management System (IRMS) Lease, Range, Lease Distribute, Owner, People and Individual Indian Monies; Royalty Distribution and Reporting System (RDRS); Land Records Information System (LRIS); and the Osage Annuity System. These electronic records schedules were revised based on meetings held between OTR and NARA during the week of August 11, 2003.

OTR submitted updates to the 4000 series of volume 16 of the Bureau of Indian Affairs Manual (BIAM) to NARA on September 29, 2003. The updates included: Environmental Quality Services; Forestry and Fire; Natural Resources (Range Management); Real Estate Services and Land, Title and Records Office; Roads and Transportation; and Irrigation and Power. OTR continued to work on the update to the 4800 records schedule series of volume 16 of the BIAM, concerning trust funds and individual Indian money account records. The 4800 series is expected to be submitted to NARA in the next reporting period.

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Training

OTR added a second team of two records management specialists to provide the revised trust records training program for BIA, OST and tribal employees during this reporting period. Eight training sessions were held during this reporting period and 245 individuals were trained. Additionally, OTR and NARA staff provided records management training to the 13 employees of the Farmington Indian Minerals Office on August 27, 2003.

Record Retrieval

As initially reported in the *Status Report to the Court Number Twelve*, OTR entered into an agreement with a contractor to develop an index of all Indian records in the control of OTR. The index was designed to serve as a finding aid for parties to research the boxes of records. It provides a box and file level index for all boxes, that is, within each box, the title on each folder is captured along with the region or agency that created the records; and in the case of financial records, a document type and date range are also captured. The indexing project does not include the imaging of individual documents. As initially reported, the index will facilitate access to and use of the records. It will do so by reducing the number of boxes that must be retrieved and physically searched in order to retrieve specific documents.

The contractor continued indexing Indian records in Albuquerque, NM and in Kansas City, MO. The total number of boxes indexed through September 30, 2003, is approximately 24,800.

Search engine software training was provided to OTR by the manufacturer of the software. Server administration/maintenance and end user training for the contractor, OTR and Office of Historical Trust Accounting staff was also provided. The contractor has reported that, of the 24,800 boxes, 22,601 box indexes have been loaded into the search database. Data is expected to be loaded onto the search database every two weeks. The search engine is being tested by a limited number of researchers on a trial basis. It is expected that this testing will continue through the next reporting period.

Priority for the indexing of boxes of Indian records at both the Albuquerque and Lee's Summit locations continued to be given to boxes of records potentially responsive to tribal trust litigation.

Development of Policies and Procedures

OTR continued to develop records management policies and procedures. These include record keeping requirements, creation of records, maintenance and use, records dispositions, vital records, records schedules, OTR research, site assessments, records management training and providing OTR technical assistance. As a part of this work, the site assessment policies and procedures drafts continue to be reviewed by OTR. The completion of the site assessment policies and procedures took longer than expected due to extensive revisions and reviews. They are expected to be distributed in the next reporting period. OTR will continue its work on the other policies and procedures and expects to issue them as they are completed.

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Delays and Obstacles

- OTR continues to be faced with competing priorities in the indexing of boxes necessary to respond to tribal trust litigation discovery requests and the requirements of federal agencies and contractors to access the same boxes for research and scanning for the historical accounting. Indexing of accessions of boxes is occasionally interrupted while boxes determined to be of higher priority are indexed first.
- Lack of Internet capability hinders OTR's ability to provide access to the record index database by client agencies and authorized users of the records. Currently, the only two options available are for researchers to come to Albuquerque in person to conduct searches or for OTR to print thousands of pages of search results. If the Internet was available, authorized researchers of client agencies could conduct their searches remotely from their work sites. In addition to the cost to the client agencies, this causes a burden on OTR's resources.

Assurance Statement

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

Date: October 30, 2003

Name: *Signature on File*

Ethel J. Abeita

Director, Office of Trust Records

Office of the Special Trustee for American Indians

November 3, 2003

C. TRUST ACCOUNTABILITY

1. TRUST BUSINESS MODELING

Introduction

The Department of the Interior (Interior) is striving to build a highly effective fiduciary trust services organization through the “To-Be” Reengineering effort. The “To-Be” reengineering phase is a process redesign activity that is expected to transform the current trust business processes into more efficient, consistent, integrated and fiscally responsible business processes that better meet the needs and priorities of the beneficiaries while addressing more broadly the duties of the Trustee. The major trust business processes being reengineered include the following:

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

Accomplishments and Completions

A major milestone was met on September 30, 2003, when the draft “To-Be” Trust Business Model was prepared. Development of the draft “To-Be” Model, for each of the above processes, addressed the Secretary’s Trust Principles and followed concepts outlined in the Comprehensive Trust Management Plan (CTM). The draft “To-Be” Model includes process flow diagrams for each sub-process, as well as accompanying information templates that identify inputs, outputs, process descriptions, offices, roles, mechanisms, controls, fiduciary obligations, etc. The draft

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model also includes a preliminary comparative (gap) analysis of the “To-Be” business processes with the “As-Is,” or existing, business processes.

During this reporting period, the trust business process reengineering core team developed the draft model through continued monthly “To-Be” Reengineering Workshops. During these workshops, appropriate Interior bureaus, agencies and offices, as well as Tribes, were engaged in identifying and documenting trust business process alternatives and opportunities for improvement.

- During the July 2003 workshop, the business process teams reviewed the recommendations outlined in the “*As-Is*” *Trust Business Model* report, clarified the linkages between business processes and began to identify new process improvements related to workflow tools, standard automated forms, and performance metrics.
- During the August 2003 workshop, the reengineering core team was joined by personnel dedicated to the universal support functions who are responsible for establishing integrated, cohesive and consistent support activities across Interior. Each business process team identified preliminary universal support function requirements for their process.
- During the September 2003 workshop, the reengineering core team focused on completing the sub-process information templates, which contain the descriptive information for the process steps or actions delineated in the process flow diagrams. Process teams also developed initial information technology requirements for the “To-Be” Model so that they could be incorporated in Interior’s system architecture design.

Also during July 2003, the trust Program Management Center (TPMC) made a summary presentation on the “To-Be” reengineering effort to the Bureau of Indian Affairs senior leadership and Regional Directors.

After the September 2003 workshop, the process sponsors continued to refine the sub-processes, fill in any missing information and close any gaps in the process logic. For the five major business processes comprising the initial “To-Be” Model, there are 130 sub-processes with process flow charts and information templates for each sub-process.

Current Status

After the draft “To-Be” Model was prepared, copies were readied for internal review and preparations are currently underway for presenting the draft “To-Be” Model to the Trust Executive Steering Committee. A schedule has been developed for explaining the draft “To-Be” Model to stakeholders through site visits. During these site visits, which are expected to begin in the next reporting period, Interior will be able to validate the feasibility of the reengineered businesses processes and to obtain constructive input for enhancing and improving the model.

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During the next reporting period, a private sector trust company is expected to begin review of the draft "To-Be" Model for comparison with private sector trust business processes.

Delays and Obstacles

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

- the lack of Internet access;
- the sheer complexity of reengineering the existing trust business processes to achieve integrated and consistent business processes;
- the cost and complexity of managing highly fractionated land interests and the resulting extremely numerous and small accounts.

Assurance Statement

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

Date: October 31, 2003

Name: *Signature on File*

D. Jeff Lords

Acting Deputy Special Trustee-Trust Accountability

Office of the Special Trustee for American Indians

November 3, 2003

2. COMPREHENSIVE TRUST MANAGEMENT PLAN

Introduction

The Comprehensive Trust Management Plan (CTM) continues to guide the Department of the Interior (Interior) in its efforts to reform trust management. CTM was designed as the roadmap to accomplish changes in management, organizational structure, and business processes while improving trust services. Whereas the High Level Implementation Plan sought to improve trust management by undertaking discrete projects and issuing new policies and procedures, CTM emphasizes the need for comprehensive organizational change and reengineering trust business processes. In conjunction with the February 2003 release of CTM, Interior began the process of realignment to improve current trust services through the reorganization of the Office of the Special Trustee for American Indians (OST) and the Bureau of Indian Affairs (BIA). CTM continues to focus efforts on trust reform to create a more dynamic organization using improved business processes to address trust responsibilities.

In CTM, Interior states that the “To-Be” model would be completed in approximately fifteen months (about April 2004). Further, CTM explains that implementation of the “To-Be” model, once it is completed, will take several years.

Accomplishments and Completions

A memo by OST and BIA was issued, creating joint working teams to address a selected subset of the “Quick Hits” identified in the “As-Is” report. Quick Hits are those items the “As-Is” contractor has identified as areas of improvement that could be implemented within an 18-month timeframe.

The Trust Reform Project Management Tracking Software, now called the Trust Tracking and Coordination (TRAC) system, was developed and is in the final stages of testing prior to implementation. TRAC was created to incorporate project work plans within the context of the CTM strategic framework and provide management with the ability to determine any given project’s status on a weekly basis. TRAC is designed to be a project management reporting tool, allowing the Special Trustee to address obstacles and delays that might otherwise hinder trust reform efforts. When fully implemented, TRAC is expected to provide management at all levels of the organization with access to information about the various ongoing trust initiatives to help ensure the accomplishment of plan goals and objectives.

Current Status

TRAC implementation is expected to begin during the next reporting period. Once TRAC is fully implemented, an inventory of existing projects and action items is expected to be entered into the system and the status of each project will be monitored, allowing management to become more effective and efficient in its trust reform efforts.

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Delays and Obstacles

Appropriations: Congress has enacted a continuing resolution limiting agencies to FY2003 levels. Fulfillment of trust reform efforts may be hindered or delayed, depending upon the length of time it takes Congress to pass the FY2004 appropriations legislation.

Personnel Considerations: Personnel transition uncertainty and change management, resulting from the OST/BIA reorganization, continue to present a delay to trust reform.

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

Assurance Statement

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

Date: October 30, 2003

Name: *Signature on File*

Victor J. Christiansen

Acting, Director-Budget, Finance, and Administration

Office of the Special Trustee for American Indians

November 3, 2003

3. TRUST DATA QUALITY AND INTEGRITY

Introduction

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

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

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

The Anadarko and Concho Agencies are the initial DQ&I pilot agency project sites. Once successfully implemented at these locations and the SPRO-LTRO, the DQ&I pilot agency project is scheduled to be expanded to the following four additional BIA locations: (1) Pima Agency; (2) Eastern Navajo Agency; (3) Pine Ridge Agency; and (4) Palm Springs Field Office. DQ&I pilot agency project implementation is tentatively scheduled to occur at these locations during the first quarter CY2004.

Accomplishments and Completions

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

- Post-QA processes were initiated at the Anadarko Agency, Concho Agency, and SPRO-LTRO. The Post-QA processes provide for a review of the previous day's encoding of CDE transactions relating to land title and realty (i.e., tract identification (ID) numbers, land owner ID numbers, ownership interests, encumbrance documents, etc.). Specifically, a Post-QA examiner compares the accuracy of transactions encoded into the BIA legacy systems to their source input documents to help ensure CDE updates are accurate.

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- The contractor prepared to perform document scanning at the SPRO-LTRO. The contractor plans to utilize scanned documents for the validation/correction of CDE. CDE validation/correction for the Anadarko Agency, Concho Agency, and SPRO-LTRO is scheduled to begin during the next reporting period.
- A proposed variance reporting design document was finalized and provided to the Deputy Assistant Secretary Information Resources Management/Chief Information Officer-Indian Affairs (CIO). The design document provided proposed format and content specifications for CDE variance reports, which would identify by land tract: (1) their respective CDE; (2) CDE variances between BIA and OST systems, where CDE are common among systems, and (3) CDE updates. It is conceptualized that the utilization of these variance reports should result in timely and efficient Post-QA and CDE validation/correction.
- A DQ&I pilot agency operations assessment was conducted at the Pine Ridge Agency. The purpose of this assessment was to: (1) collect information pertaining to the trust systems used; (2) quantify volume of trust transactions processed; (3) identify the predominant source(s) of trust income, and (4) identify backlogs in the processing of trust related documents. This information is expected to be used as a baseline for planning the implementation of the DQ&I pilot agency project at this location.

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

- 5,883 land tracts under the jurisdiction of the Anadarko Agency and 1,482 land tracts under the jurisdiction of the Concho Agency were researched. This task was comprised of extracting CDE information from land title reports to be utilized in identifying conveyance and encumbrance documents necessary for CDE validation/correction.
- 925 Anadarko Agency oil and gas (O&G) files were organized.
- 83 Anadarko Agency O&G lease assignment documents were prepared for recordation and submitted to the SPRO-LTRO.
- 10 Anadarko Agency O&G unitization agreement files were organized and prepared for recordation at the SPRO-LTRO.
- 221 Anadarko Agency O&G communitization agreement files were sorted and organized.
- 609 Concho Agency surface lease files were sorted and organized.

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Current Status

During this reporting period, the contractor's continued efforts in support of the DQ&I pilot project were:

- Researching land tracts under the jurisdiction of the Pima Agency. This task is comprised of extracting CDE information from land title reports to identify conveyance and encumbrance documents necessary for CDE validation/correction.
- Preparing Anadarko Agency surface leases for encoding.
- Organizing and preparing Concho Agency O&G communitization agreement files for recordation.

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

- Drafting and encoding Eastern Navajo Agency (ENA) administrative probate modifications, into the Land Records Information System (LRIS).
- Encoding ENA encumbrances into the LRIS.
- Encoding ENA Certificate of Indian Blood administrative modifications into LRIS.
- Encoding Alaska Region land title documents (i.e. trust patents, conveyances, encumbrance documents, etc.) into the CGI land title system.

Delays and Obstacles

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

- Delayed access to BIA legacy systems due to lengthy delays in issuing user IDs from the Office of Information Resource Management.
- Delayed access to BIA legacy systems due to untimely user ID security profiles set-up by local BIA system administrators.
- Cumulative delays in on-going tasks at the Southwest Regional Office LTRO resulting from LRIS technical problems.

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

Assurance Statement

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

Date: October 30, 2003

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

November 3, 2003

4. INDIAN FIDUCIARY TRUST TRAINING PROGRAM

Introduction

In order to clarify that the purpose of this section is to report on fiduciary trust-related training, the name has been changed from Training to Indian Fiduciary Trust Training Program.

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

Accomplishments and Completions

The Office of the Special Trustee for American Indians (OST) offered two sessions of the course, *Fiduciary Overview Program*. The courses were given in Denver, CO and Albuquerque, NM during this reporting period. A total of 173 Bureau of Indian Affairs (BIA), OST, Minerals Management Service (MMS) and tribal managers have attended the course. This course compares and contrasts the federal Indian trust administered through Interior with private sector trusts administered through banks and other financial institutions.

During this reporting period, a contractor provided the course, *Trust Foundations: An Introduction to Trust Reform and Change*, to 359 students in 19 locations. This course provides employees with a basic knowledge of the federal trust responsibility and trust reform activities. The number of employees who have completed the training is 3,320.

OST signed a Memorandum of Understanding that authorized the sharing of registrar services with the Bureau of Land Management (BLM). The registrar system is expected to track attendance and course completion for employees who enroll in fiduciary trust training classes, as well as advise employees of the training they are required to complete. The fiduciary trust training data will be kept on a stand-alone computer separate from BLM's system. This system is expected to be used until an Interior-wide system is implemented.

A draft *Indian Fiduciary Trust Training Program (Program)*, developed in partnership by OST and BIA, was completed and presented to senior management of both agencies. The *Program* details the strategic objectives, roles, responsibilities, policies, and guidelines for fiduciary trust training. The *Program* is a vehicle for the orderly development and implementation of all Interior fiduciary trust-related training for employees involved in managing Indian trust assets.

A curriculum committee was authorized for the purpose of setting priorities for the *Program*. The curriculum committee selections were completed this reporting period, and include leaders from BIA, OST, MMS, and BLM. The committee plans to review course content and make recommendations about the value of all courses and whether revision is required to meet Interior employee needs.

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OST training staff leaders joined the Interior Training Directors Council and attended its meeting in Lakewood, CO. The council is comprised of training directors from the training centers of other Interior bureaus and agencies.

Current Status

OST training staff and BIA training staff are working together to develop orientation sessions for new employees, as well as for current employees who may be assigned new duties under the reorganization. Two draft orientation plans are being finalized; one for Fiduciary Trust Administrators and Deputy Regional Directors, and one for Trust Officers and Deputy Superintendents.

OST has contracted for the development of a computer-based version of the *Fiduciary Trust Foundations: An Introduction to Trust Reform and Change* course. The CD version is expected to provide trust personnel with a basic understanding of the Federal Government's fiduciary responsibilities. A draft version has been reviewed by OST training staff and senior management.

OST training staff received the draft document entitled "*To-Be*" *Trust Business Model Information Gathering Template*. The document lists seven process requirements for each of the universal support functions, one of which is the training process requirement. OST training staff plans to review these requirements during the next reporting period and incorporate the training requirements in the *Program's* curriculum.

A contractor has been hired to develop a training inventory identifying training that was provided to trust employees during the past three years. This should provide an inventory of existing courses, what has been successful, who provided training, and in which locations and subjects training has been a priority. The inventory is expected to be complete within the next reporting period.

Delays and Obstacles

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

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Assurance Statement

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

Date: October 30, 2003

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

November 3, 2003

5. RISK MANAGEMENT

Introduction

The project objectives are to (1) systematically address and make recommendations to resolve management control deficiencies and (2) design and implement a comprehensive risk management program that includes extensive management controls to monitor and evaluate the Department of the Interior (Interior) Indian trust asset management program.

Accomplishments and Completions

Pilot Risk Management Programs

During this reporting period, OST continued work with contractors to develop the processes necessary to implement a comprehensive risk management program for the Bureau of Indian Affairs (BIA) at the regional level. On July 28, 2003, these processes were presented to BIA Regional Directors and Central Office staff for comment, and to obtain each Regional Directors' preferred dates for training on both risk management awareness and the Risk Management Assessment/Evaluation tool (RM-PLUS). The presentation and following discussion resulted in the Regional Directors' selecting dates for comprehensive risk management program training.

The training phase of the comprehensive risk management program began during this reporting period. The Southern Plains, Northwest, Alaska, Eastern, and Eastern Oklahoma Regions have had the training. The five training sessions held were attended by personnel from 33 BIA agencies and a total of 109 BIA employees. The other seven regions have scheduled the training for before the end of CY2003.

Current Status

Following the training of BIA personnel on risk management awareness and RM-PLUS, Agency Superintendents and Program Managers were to conduct risk assessments/evaluations of their respective programs. OST's Chief Information Officer (CIO) recommended that the RM-PLUS stand-alone version be converted to a web-based version accessible through BIANET in order to ensure application security requirements would be met. However, until the web-based version of RM-PLUS is completed and approved, agencies will be unable to conduct the planned risk assessments/evaluations. OST originally anticipated that all BIA agency risk assessments/evaluations would be completed by December 31, 2003. That date may need to be extended depending on the completion of the web-based version.

The Risk Management Help Desk automated application has been developed for use during the BIA agencies' risk assessments/evaluations. Contractors have been trained in techniques to assist callers in using this application. Calls are anticipated once the risk assessments/evaluations begin, contingent upon the completion of the web-based version of RM-PLUS.

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Assurance Statement

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

Date: October 31, 2003

Name: *Signature on File*

D. Jeff Lords

Acting Deputy Special Trustee, Trust Accountability

Office of the Special Trustee for American Indians

November 3, 2003

6. REGULATIONS, POLICIES AND PROCEDURES

Introduction

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

OTP is also responsible for assisting the Secretary in establishing “consistent, written policies and procedures” for trust management and accountability as required by the American Indian Trust Fund Management Reform Act (25 USC 162 a(d)(6)). OTP expects to facilitate and be a clearinghouse for the Interior-wide activities that are necessary to achieve the statutory mandate in an efficient and timely manner.

Accomplishments and Completions

During this reporting period, both Albuquerque, NM and Washington, DC staff received training in the use of SiteScape Enterprise Forum. Although the Electronic Library of Interior Policies was considered for the Interior fiduciary library mentioned in the last report to the Court, it appears that a better choice would be SiteScape Enterprise Forum, a program of collaborative software that will enable this office to shepherd draft policies, procedures, and regulations through the steps of review and issuance. Work on the fiduciary library is moving forward in conjunction with the implementation of SiteScape.

The following policies and procedures were signed during this reporting period:

Policy	General Witness Requirement for an Unrestricted Individual Indian Monies (IIM) Account
Policy	Telephone Request for Changes to an Unrestricted Individual Indian Monies (IIM) Account
Interim Procedure	General Witness Requirement for an Unrestricted Individual Indian Monies (IIM) Account
Procedures	Telephone Request for Address and Disbursement Instruction Changes to an Unrestricted Individual Indian Monies (IIM) Account

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Interim Policy Preservation of Electronic Trust Data

Current Status

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

The status of other regulations, policies and procedures, reported in this space in the last report to the Court, is now found in the BIA Trust Regulations, Policies and Procedures section of this report.

As previously reported, OTP is building a close working relationship with the core group working on the “To-Be” Project. OTP staff members attended the “To-Be” Project’s Tier 1 Workshop in Minneapolis, MN in July 2003 and in Albuquerque, NM in August 2003.

The review of the draft OST internal policies, mentioned last reporting period, continues and these policies should be finalized during the next reporting period. These policies are expected to be the first items processed by the SiteScape software.

The liaison group, with members from those Interior bureaus with fiduciary trust responsibilities, as described in the previous report to the Court, is expected to meet during the next reporting period. Members are expected to discuss the needs and methods of their organizations and the role which OTP could play in their work.

Delays and Obstacles

Access to the Internet and its repository of online statutes, the Federal Register, and other resources would be helpful to the work of this office.

Assurance Statement

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

Date: October 30, 2003

Name: *Signature on File*

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

November 3, 2003

D. FIELD OPERATIONS

1. APPRAISAL

Introduction

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

Accomplishments and Completions

The Western Regional Appraiser was designated as the Acting Director, Office of Appraisal Services (OAS), in August 2003.

As reported in the *Status Report to the Court Number Fourteen*, on March 21, 2003, a contract was awarded to The Appraisal Foundation. The purpose of the contract was to perform an evaluation of the OAS organization, policies and procedures, overall efficiency, and staff credentials and expertise. The contract also included a review of findings and recommendations in the March 2003 *Department of the Interior (Interior) Trust Reform "As-Is" Trust Business Model Report*. The Appraisal Foundation is authorized by Congress to establish appraisal standards and qualifications.

The final report by The Appraisal Foundation was issued on August 29, 2003. The report indicated that: "the degree of appraisal independence within OAS is very good, with virtually no reports of pressure being placed on staff or contract fee appraisers to achieve preconceived value estimates. The recent transfer of OAS to the Office of the Special Trustee for American Indians (OST) apparently has increased that degree of independence." Appraisal backlogs, policies and procedures, and training issues were discussed in the report, with suggestions for improvement.

As reported in the *Status Report to the Court Number Fourteen*, planning was underway to delegate budget and financial responsibility to the Regional Appraisers. In support of this planning, Federal Finance System budget training was provided to Regional Appraisers and Appraisal Support Specialists July 29-30, 2003. As a result of a proposal by Interior to consolidate real estate appraisal programs, the decision to delegate budget and financial responsibility is expected to be addressed when and if OST joins the Interior consolidation.

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Current Status

As reported in the *Status Report to the Court Number Fourteen*, on June 19, 2003, the Secretary announced her intent to consolidate the real estate appraisal programs within Interior beginning in October 2004 in order to achieve significant reform of the appraisal function. Two OST representatives have been appointed to participate on the Interior Appraisal Reform Team (Team). The Team, comprised of career professionals from the respective bureaus and offices, has been preparing the framework for managing the transition to the new consolidated structure.

A reprogramming letter sent to Congress regarding the proposal stated, "The transfer of the OST appraisers would occur at a later date following planned consultation with Indian Country regarding the relevant aspects of implementing this initiative." During this reporting period, two such tribal consultation sessions were held on September 24, 2003, in Tulsa, OK to discuss benefits and issues relating to OST's participation in Interior's consolidation plan. Two more tribal consultations are planned for October 28, 2003, in Las Vegas, NV.

During this reporting period, staff with extensive appraisal and standards knowledge began the process to revise and update the *OST-OAS Appraisal Handbook* (Handbook). The Handbook is expected to be finalized during the next reporting period, and training is anticipated to begin.

The Bureau of Indian Affairs (BIA) and OST have been engaged in a dialogue regarding appraisal services to Eastern Cherokee Agency. At issue is the necessity of a valuation requirement for tribal leases. In CY2000, BIA issued a policy memorandum requiring appraisals or valuations in support of trust transactions. The Eastern Region received a Solicitor's opinion in March 2003, providing clarification of valuation requirements that affect the BIA policy. In the next reporting period, BIA and OST are expected to draft a joint policy memorandum to provide guidance regarding cases that do not require an appraisal, such as subleases of possessory interests.

The Appraisal Foundation report recommended that a second level review be established to strengthen the technical review process. As of September 2, 2003, right-of-way appraisals and appraisal reviews are planned to be reviewed by an independent team of internal review appraisers. The review team is expected to review right-of-way appraisals for compliance with applicable industry standards.

In addition to implementing a secondary review process, OST is seeking an independent contractor review of right-of-way appraisals that were completed prior to September 2, 2003, on tribal and allotted Indian lands. This review is planned to sample four right-of-way appraisals per region. The evaluations are expected to help ascertain whether appraisals prepared by OAS, tribal appraisers, and third-party contract appraisers are consistent with generally recognized industry right-of-way valuation methods and techniques. The reviews are planned to be conducted at the twelve BIA regions.

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During the last reporting period, the Special Master for the *Cobell* litigation made a visit to OAS in Gallup, NM, and the BIA Navajo Realty Office in Window Rock, AZ and issued a report regarding his findings. Following receipt of the Special Master's report, a team of appraisers was assigned to review the findings in the report.

Appraisal Backlog

As reported in the *Status Report to the Court Number Fourteen*, OAS has initiated a "Backlog Plan" to resolve appraisal backlogs that were identified at the Navajo, Northwest, Rocky Mountain and Midwest regions. As of this reporting period, the appraisal backlogs have been greatly reduced or eliminated at the Navajo and Midwest regions. An appraisal backlog project team is scheduled to proceed with a backlog project at the Northwest Region on October 27, 2003. The region has reported 845 backlogged appraisals. This project is expected to take approximately three to four weeks to complete these appraisals.

During this reporting period, 206 appraisals in backlog status were completed. OAS reported a total of 1,237 appraisal backlogs (appraisal requests still pending after 90 days) nationwide for this reporting period as follows:

<u>Region</u>	<u>Backlogs</u>
Northwest	845
Rocky Mountain	345
Navajo	47
Western	0
Great Plains	0
Pacific	0
Southwest	0
Eastern Oklahoma	0
Southern Plains	0
Midwest	0
Midwest Indian Land Consolidation Program	0
Alaska	0
Eastern	0
Total Backlogs	1,237

This table does not include appraisal backlog information from the compacted and contracted Tribes.

Delays and Obstacles

As a result of the upcoming Interior appraisal consolidation, the Assistant Secretary-Policy, Management and Budget issued a memorandum on August 6, 2003, establishing temporary hiring controls for the real estate appraiser positions. The purposes are to avoid disruption of current employees, and to allow Interior to determine appropriate qualification requirements for employees needed to staff the consolidated office of real estate appraisal functions. OAS is

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complying with the temporary hiring controls in conjunction with the Interior plan for appraisal consolidation. However, this creates a concern regarding further appraisal backlogs due to unfilled OAS vacancies. The current appraiser position vacancies are located at the Navajo, Northwest, and Rocky Mountain Regions. OAS will explore the use of contract appraisers to assist in maintaining the current workload at these regions. This concern should be addressed when a decision is made on OST-OAS participation in the Interior appraisal consolidation.

The inability to use the Internet to communicate with outside contacts and to conduct research is a continued hardship.

Assurance Statement

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

Date: October 31, 2003

Name: *Signature on File*

Gabriel Sneezy

Acting Director, Office of Appraisal Services

Office of the Special Trustee for American Indians

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E. TRUST SERVICES

1. CURRENT ACCOUNTING ACTIVITIES

Overview

Current accounting activities include the following: 1) Locate Missing Mandatory Documents for Unrestricted Accounts; 2) Trust Funds Accounting System (TFAS); 3) Whereabouts Unknown (WAU) accounts; 4) Special Deposit Accounts (SDA); 5) Small Balance Accounts; and 6) Accounting Discrepancies.

1. Locate Missing Mandatory Documents for Unrestricted Accounts

Introduction

All unrestricted accounts with automated disbursements require certain documents. For accounts that were established prior to conversion to TFAS, some of these documents are missing, and efforts to acquire them are continuing. These documents include disbursement authorizations and W-9 forms or copies of Social Security cards.

This report contains information for all remaining unrestricted accounts that require documentation identified for this project. As previously reported, Phase II is underway.

Accomplishments and Completions

Phase II includes data collection for the remaining unrestricted accounts regardless of their disbursement totals. At the beginning of this reporting period, there were 19,656 accounts remaining on this project. During this reporting period, either documentation for automated disbursement has been received or status has been changed from unrestricted for 852 accounts, leaving 18,804 unrestricted accounts awaiting documentation.

The Office of the Special Trustee for American Indians (OST) issued a new policy during this reporting period regarding witness requirements to make changes to an unrestricted account. The new policy replaces the previous notarization requirement with a general witness of an account holder's signature. This change is expected to reduce the burden on account holders to make changes to their unrestricted accounts.

Current Status

OST expects to issue a letter in the next reporting period to all unrestricted account holders who remain on the missing mandatory documents project list, informing them of the policy change for witness requirements and notifying them that their account may be restricted if the required information is not received by December 31, 2003.

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In January 2004, TPMC intends to expand this project to include accounts in TFAS that are classified as missing mandatory documentation.

Delays and Obstacles

The lack of Internet access limits communication effectiveness. OST and its contractor are limited in responding to IIM account holders by mail and telephone. Additionally, lack of account holder response remains an issue.

2. Trust Funds Accounting System

Introduction

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

Accomplishments and Completions

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

The TFAS contract has been modified to explore the possibility of using TFAS to distribute income generated from real property assets to the owners of those assets. OST expects to provide the final data requirements to the contractor during the next reporting period. Testing of TFAS as a real property income distribution vehicle is expected to begin in mid-May 2004 upon release of the bi-annual update to TFAS by the contractor.

Delays and Obstacles

None.

3. Whereabouts Unknown Accounts

Introduction

Accounts are classified WAU for various reasons including: new accounts are established without an address, notification of a change of address has been received from a third party, correspondence has been initiated but the account holder has not responded, mail is returned due to invalid addresses, or account holders refuse or do not claim their mail. OST continues to use

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multiple methods to locate account holders whose whereabouts are unknown as described in previous reports.

Accomplishments and Completions

One of the current initiatives to locate valid addresses includes working directly with Tribes and Bureau of Indian Affairs (BIA) field agencies. The first field visit was to the Ft. Hall Agency in the Northwest region in September 2003. There were 359 WAU accounts under the Ft. Hall agency code in TFAS. TPMC received several hundred addresses from both the Shoshone-Bannock Tribes and the Ft. Hall agency. Letters were sent to 220 account holders using the addresses obtained during the field visit. The next projected trip is to the Flathead field office in October 2003. Because of the success of the Ft. Hall field visit, it is expected that these efforts will result in an overall reduction in WAU accounts.

OST has entered into an Interagency Agreement with the Social Security Administration (SSA) where the SSA will provide OST with addresses for IIM account holders whose whereabouts are unknown. OST provided SSA a list of WAU account holders who had a valid social security number and birth date. SSA will match the provided WAU list to the SSA database and provide OST current addresses.

OST continues efforts to work with other Interior personnel agencies to find current address information. OST provided a WAU list to BIA personnel staff to compare with their personnel records. BIA returned names of 125 BIA personnel who are on the WAU list. OST staff is contacting BIA personnel on this list and will update addresses.

Current Status

OST is still awaiting a cost reimbursement proposal from the Veterans' Administration for its assistance in locating valid addresses.

Priority is placed on locating the current top 100 highest dollar balance WAU account holders. Efforts include looking for phone numbers, calling other account holders with the same last name, calling field offices, etc. During this reporting period, 10 out of the top 100 WAU account holders were located, with combined accounts in excess of \$672,000.

During this reporting period, 4,031 accounts were added to the WAU list and 3,499 accounts were removed. As of September 30, 2003, there were 67,716 whereabouts unknown accounts with a balance of \$88.5 million. The following table illustrates the number of accounts stratified by account balance and WAU category:

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Account balance	Correspondence/ Check Returned	Account Setup W/No Address	Awaiting Address Confirmation	Refused/ Unclaimed Mail	Total
Equal to or over \$100,000	26	13	4	0	43
Under \$100,000 and equal to or over \$50,000	41	10	11	0	62
Under \$50,000 and equal to or over \$5,000	2,787	693	508	4	3,992
Under \$5,000 and equal to or over \$1,000	6,412	1,686	1,185	5	9,288
Under \$1,000 and equal to or over \$100	11,207	3,755	1,918	26	16,906
Under \$100 and equal to or over \$1	17,341	6,372	4,012	73	27,798
Under \$1	6,176	2,244	1,185	22	9,627
Total	43,990	14,773	8,823	130	67,716

Delays and Obstacles

The regular influx of WAU accounts categorized as “accounts set up with no address” causes the total number of WAU accounts to remain approximately constant in spite of OST’s successful resolution of WAU accounts in other categories. The accounts set up with no address result from probates determining heirs whose whereabouts are unknown and from Tribes that have not provided an address for individuals due per capita payments.

Individuals who know they are on or know of someone who is on the whereabouts unknown listing but neglect or refuse to update their respective accounts have proven to be a challenge in reducing the total number of WAU accounts.

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

4. Special Deposit Accounts

Introduction

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

In this reporting period, the SDA project was divided into two projects: 1) The Office of Historical Trust Accounting (OHTA) has responsibility for SDA that had residual balances on or before December 31, 2002, also known as the retrospective activity. 2) Current or prospective

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activity tracks and monitors receipts deposited to SDA since January 1, 2003. In the current activity, it is the responsibility of BIA, with oversight by OST, to distribute funds within 30 days of receipt into SDA in accordance with the BIA-issued SDA policy.

Accomplishments and Completions

In this reporting period for the prospective portion of the SDA, as of September 30, 2003, there were 617 SDA with a combined dollar balance of \$3,491,437, with 1,927 undistributed receipts aged over 30 days from January 1 – September 30, 2003.

Also in this reporting period, a contractor was selected to assist OST with the daily operation and reporting functions of the SDA prospective database.

Current Status

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

TPMC sent two staff members to the Pima Agency to assist BIA staff with research to update Integrated Records Management System (IRMS) ownership files. Four SDA were identified as a priority with a combined dollar balance of over \$1.078 million, with 66 undistributed receipts aged over 90 days during the period January 1 – July 29, 2003. Although funds were distributed from the four SDA, there remain 51 undistributed receipts greater than 90 days old with a total balance of \$603,166.50.

Previous *Status Reports to the Court* discussed the automated lease program referred to as the Management and Accounting Distribution System (MADS). Several agencies in the Great Plains Region did not have the interest program installed on MADS. Therefore, when principal amounts were distributed from SDA, the corresponding interest earnings remained in many SDA. In this reporting period, the Great Plains Region reports that the interest program was installed across the region in the automated lease program in MADS. However, the range program still does not have this feature, although they pay interest on range payouts by running a separate distribution from the principal.

Delays and Obstacles

There were various problems associated with the IRMS that impeded progress, such as the inability to print various reports that the staff needed for verification purposes, the hours of operation to use IRMS, and the number of staff allowed on the system simultaneously with maintenance capability to update ownership. By the end of September, the IRMS issues were being addressed by the BIA Office of Information Resource Management in Reston, VA.

In the previous reporting period, TPMC requested the assistance of four BIA Realty Specialists to help oversee problems of non-compliance with the SDA policy. On August 28, 2003, three

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Realty Specialists were assigned to assist OST in the effort to work with BIA agencies to distribute funds greater than 90 days old. OST is awaiting clarification on how to structure this arrangement so it will work to the benefit of both organizations.

5. Small Balance Accounts

As of September 30, 2003, there were 19,694 accounts that have a \$.01 - \$1.00 balance with no activity for the previous 18 months. The total sum included in those accounts is \$5,678.50. Statements are sent to accountholders for these accounts on an annual basis pursuant to direction from Congress. OST continues to explore options for managing these accounts.

6. Accounting Discrepancies

Introduction

Prior to conversion to TFAS, and as previously identified in the High Level Implementation Plan, a number of accounting discrepancies existed and needed to be researched. Some of these discrepancies may impact individual accounts.

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

Accomplishments and Completions

In September 2003, representatives from OST, OHTA, and the Solicitor's Office met to discuss non-legislative options for resolving some of the long-standing discrepancies. Many of the discrepancies are expected to be resolved with the passage of the legislation discussed below. During the next reporting period, OST plans to request a Solicitor's opinion on the timing and compounding of interest related to these differences.

Current Status

Efforts continue to resolve the nearly \$6 million difference between the subsidiary account ledger (liabilities) and the IIM investment pool (assets). Proposed legislation requesting an authorization and appropriation for approximately \$6 million was sent to Congress on June 3, 2003, to resolve this problem.

In September 2003, a draft plan addressing the actions needed to resolve these discrepancies was developed. The plan is currently being finalized and expected to be completed during the next reporting period.

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Assurance Statement

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

Date: October 31, 2003

Name: *Signature on File*

D. Jeff Lords

Acting Deputy Special Trustee, Trust Accountability

Office of the Special Trustee for American Indians

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IV. BUREAU OF INDIAN AFFAIRS

A. TRUST REGULATIONS, POLICIES AND PROCEDURES

Introduction

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

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

A Director for PPA was named during the initial reorganization. The Director and his staff are developing a plan to organize the office so that it carries out its functions effectively and efficiently.

Accomplishments and Completions

No directives were published this reporting period due to the establishment of and need to organize PPA.

Current Status

Automated Systems - PPA has participated in discussions with the Office of the Special Trustee for American Indians (OST) and the Indian Affairs Chief Information Officer for the establishment of the SiteScape Enterprise Forum, also referenced in the OST Regulations, Policies and Procedures section of this Report.

Prioritization of Work - PPA is in the process of reviewing and updating/prioritizing the directives list for Indian Affairs. Completion is expected by the end of the second quarter CY2004.

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25 CFR 161 - Navajo Partitioned Lands Grazing Permits – Changes to 25 CFR 161 as suggested to Interior have been made. The proposed rule is now in the final approval process. The goal is to have the proposed rule published in the Federal Register during the first quarter FY2004. The Navajo Nation has requested a 90-day comment period, during which time two or three public meetings are expected to be held at sites on the Navajo Partitioned Lands in Arizona. Once the comment period is over, PPA expects to incorporate the comments. The final rule is expected to be published during the third quarter of FY2004.

25 CFR 162 Subparts C & D – Residential Leases and Business Leases – The proposed rule has been completed and has been forwarded to the AS-IA for final approval and publication in the Federal Register. The target date for publication of the proposed rule in the Federal Register for public comment has been moved to the last quarter CY2003. The comment period is expected to run for 90 days, during which time tribal consultation is expected to be conducted on the proposed rule. The final rule publication is scheduled for the second quarter CY2004.

25 CFR 216 – Surface Exploration, Mining, and Reclamation of Lands – This project was delayed due to staffing changes and is expected to be reinitiated in January 2004.

25 CFR 243 - Reindeer in Alaska: Proposed rule - This rule is currently being reviewed by the Solicitor's Office. It was previously reported the rule would not be completed before the last quarter CY2003. It is now expected to be completed in CY2004.

Surface Leasing (25 CFR 162) Handbook – The final draft of the Handbook for Surface Leasing remains under legal review with the Solicitor's Office. The handbook addresses existing requirements of the regulations that are currently in place for agricultural, residential and business leases. Interior is in the process of developing new regulations for residential and business leases. The agricultural lease regulations are final. The distribution of the agricultural portion of the handbook is expected in the second quarter CY2004. Upon finalization of the regulations for residential and business leases, Subparts C and D of 25 CFR 162, the handbook is expected to be amended to reflect the changes and distributed at a later date.

Grazing Permits (25 CFR 166) Handbook - The draft Grazing Permits Handbook is currently being edited by a contractor. The contract called for a draft to be ready for field office review during the next reporting period. The final handbook is expected to be published during the first quarter FY2004.

National Environmental Policy Act Compliance Handbook – The draft handbook is expected to be distributed to all Tribes and Regional Offices during the first quarter FY2004.

Indian Affairs Manuals (IAM) Part 101, Individual Indian Money Accounts – As previously reported, final review is being completed to ensure this manual complies with regulations governing trust funds for Tribes and individual Indians (25 CFR 115) and is expected to be published by the end CY2003.

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The following IAM are in draft form and expected to be published in CY2004:

- IAM Part 1: Directives System
- IAM Part 2: Organization
- IAM Part 3: Delegations of Authority
- IAM Part 5: Management Accountability
- IAM Part 7: Correspondence Management
- IAM Part 53: Forestry

Bureau of Indian Affairs Manuals (BIAM) needing conversion to IAM – A priority list and schedule for conversion of remaining BIAM to IAM format is expected to be established during FY2004. This project includes making substantive changes along with establishing standardized formats.

Delays and Obstacles

Processes for issuing regulations, policy and procedures should be improved with adequate funding, staffing and field training support.

Assurance Statement

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

Date: October 30, 2003

Name: *Signature on File*
Theresa Rosier
For Principal Deputy AS-IA

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B. FRACTIONATION

Introduction

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

Accomplishments and Completions

- Acquired 4,420 fractional interests during this reporting period, for a combined total of 62,717 interests for pilot projects in the Midwest and Great Plains Regions through September 2003. Of the total interests acquired, 91% were interests of less than 2% ownership in the respective tracts of land.
- Received a consistent stream of applications to sell fractionated interests and continued to seek ways to increase the number of applications.
- Acquired the equivalent of 35,209 acres for the Pilot Project reservations.
- Dakota Plains Legal Services, Tribal Land Enterprise and BIA collaborated and held a public forum during this reporting period. The agenda featured issues related to land fractionation, including ILCA, land sales options, land exchange options, sale options, consolidation options, writing Indian wills, gift deeds and joint tenancy.

Current Status

The Indian Land Consolidation Program (ILCP) is presently operating in two BIA Regions. There are now six reservations under the Great Lakes Agency, Midwest Region, with the addition of the Fond du Lac Reservation in MN participating in ILCP. There is one reservation under the Rosebud Agency, Great Plains Region. The Land Titles and Records Office at the Great Plains Region provides title and recording services for the Rosebud and Great Lakes Agencies.

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Building upon the draft national ILCP strategic plan, ILCO continues to:

- Consider federal and tribal government benefits and costs of ILCP;
- Develop payment provisions for *Youpee* interests;
- Develop alternative approaches for targeting tracts and owners to maximize benefits;
- Draft proposals for legislative and administrative changes to enhance program effectiveness and efficiency;
- Process applications and purchase interests;
- Collaborate with the Rosebud Sioux Tribe and the Tribal Land Enterprise to identify target tracts;
- Maintain cooperative agreements with pilot reservations;
- Identify pilot program impacts on federal trust management.

ILCO has begun to identify alternative methods for program financing, including federal, tribal and private sources, based on economic trade-offs and long-term public benefits. Alternatives that received a preliminary examination during this reporting period include:

- Grants from private foundations and individuals. Initial indications reveal that private foundations and individuals are providing funding for various projects and programs to Indian land owners and tribes. ILCO intends to follow up to determine if private foundation funding is available to support ILCP.
- Federal loan programs to individual interest owners in order to consolidate ownership in a tract. Federal loan programs are available to Indian landowners and tribal entities, however, as reported by the General Accounting Office (GAO), this option may not be as useful as anticipated. The GAO report stated "...the complexity of the application process, the lack of program flexibility and the history of past failures have resulted in a lack of participation." (GAO Report 02-193). ILCO intends to follow up to determine the extent to which federal loan programs can be of assistance to the ILCP for program-wide financing.
- Tribal acquisition programs. An examination of tribal acquisition programs has revealed that, in addition to reducing fractionation, in certain environments these programs can produce significant income streams for Tribes. Tribal acquisition programs in the Midwest and Northwest Regions have been successful in acquiring significant land holdings on those reservations and the Tribes have taken the initiative to begin economic development on these properties.

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Actions being taken to facilitate and strengthen the ILCP pilot program include:

- Completion of the first phase in the Midwest Region, Great Lakes Agency, which is expected by December 2003, signifying that majority tribal ownership has been achieved on the original three reservations;
- On-going reconciliation of ownership data on the Rosebud Reservation to include applicant landowner interests affected by the *Youpee* decision;
- Continuing to coordinate with the Rosebud Sioux Tribe's land acquisition program to leverage federal funds with tribal funds and to prioritize purchases of land interests with the Tribe;
- Continuing to purchase all available interests including *Youpee* interests from willing sellers;
- Developing outreach sessions at urban and reservation locales to educate landowners of the Rosebud Indian Reservation on the ILCP;
- Continuing to provide home visits to the elderly, disabled and nursing home-bound landowners to explain the program, accept applications, deliver documents, obtain signatures and provide notary services.

Delays and Obstacles

- The need to reconcile ownership records causes delays in expansion of the ILCP. Reconciliation efforts are expected to be improved with the implementation of CGI Record Title System.
- There is a challenge in recruiting qualified staff at remote locations.
- Probate backlog and *Youpee* issues continue to impede the land purchase transaction process.
- In addition to their current workload, the Great Plains Regional Land Titles Records Office needs to record the subsequent deceased heirs resulting from *Youpee* re-distributions for the Rosebud Agency.
- In addition to their current workload, the Great Plains Regional Land Titles Records Office needs to record the pre-*Youpee* probates for the pilot reservations under the Midwest Region.

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Assurance Statement

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

Date: October 30, 2003

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

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C. PROBATE

Introduction

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

Interior's probate project team administers and manages the probate project. The establishment of this team requires logistical and practical considerations that must be coordinated between the probate project and other Interior offices. The primary goals of the probate project are effective probate management, resulting in the elimination of the backlog, and streamlining and improving the probate process.

Accomplishments and Completions

Probate Spreadsheet Reporting on Caseload

A spreadsheet report of the current caseload was developed and further refined during this reporting period. Through continued cooperative efforts of the probate team and the field offices, the spreadsheet was established to be used until an automated system can be developed and implemented. The spreadsheet provides probate data, such as numbers of cases in the various stages of the probate process, which are preparation, adjudication, and closure. In September 2003, instructions were given to the BIA agency, field and regional offices to submit a corrected/updated probate caseload spreadsheet on a monthly basis.

Cases Processed and Decided

For this reporting period, BIA reports that BIA deciding officials received 516 cases and issued decisions in 201 cases; OHA reports that the OHA deciding officials received 892 cases and issued decisions in 873 cases. OST distributed and closed 1,100 accounts representing 1,079 estates. The Trust Funds Accounting System, as of the end of September 2003, contained 26,559 open estate accounts, up from 25,282 open estate accounts at the end of the last reporting period. Most of the increase is attributable to the distribution of judgment funds during this reporting period to individual Indians who died before the distribution was made.

Of the 26,559 open estate accounts, 12,931 are classified as official deaths, as evidenced by a death certificate. Another 9,381 of these accounts are classified as unofficial deaths, where OST has received some indication of death that has not yet been confirmed by receipt of a death certificate. The rest of these accounts are classified as in the probate process or as pending final distribution of the assets.

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Case Preparation by Contractors

Case preparation is the initial stage of the probate process. During this stage of the process, information is researched and gathered regarding the identity and whereabouts of presumptive heirs, and an inventory of the trust assets of an estate is prepared. The contractor does case preparation in seven regions, which include 23 agencies and field offices. The contractor prepared 402 cases during the reporting period. This figure is a slight increase over the last reporting figure (382 cases completed). Approximately 85% (342 cases) of the cases have been reviewed and accepted by BIA for forwarding to a deciding official for case adjudication. The rest of the cases are expected to be reviewed in the next reporting period.

Posting and Recording by Contractors

Posting and recording of ownership occurs after the probate case has been adjudicated by a deciding official. The records which require posting and recording are varied, ranging from automated systems to cards and tract books. The posting and recording is broken into three primary categories:

- Posting and Recording of Agency ownership records. The contractor is at two agencies, Rosebud (Great Plains Region) and Anadarko (Southern Plains Region).
- Posting and Recording of Land Titles and Records Office (LTRO) records which result from probate decisions. The contractor is at one LTRO, Southern Plains. Activities include identification verification, such as birth and death date verifications, certificates of degree of Indian blood, and correct spelling of names.
- Posting and Recording of LTRO records as a result of the *Youpee* re-vestiture effort. The contractor is at the Great Plains LTRO, which contains records for the Midwest and Great Plains Regional Offices.

Current Status

Probate Handbook

Interior's Handbook of Indian Probate Procedures (Handbook), dated September 30, 2003, was circulated in final draft form. Comments were solicited from the field and taken into consideration for the final draft. Additional changes may be required before the Handbook can be published. Recent procedural changes and proposed amendments being considered by Congress may impact several sections of the Handbook. It is expected to be published in CY2004.

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Probate Process – Priorities

A draft memorandum of instruction has been developed, which would institute a policy regarding priority processing for probate cases. The lack of a consistent, policy-directed case processing for probates is an Interior-wide concern. It impacts agencies having responsibilities in the probate program, including BIA, OHA, and OST. Currently, each region, agency, and Tribe determines which probate cases to process, based upon on-going national or local initiatives, inquiries from potential heirs, pending real estate (leasing/land sale) transactions.

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

Probate Process – Small Estates

As discussed in the *Status Report to the Court Number Fourteen*, there is an ongoing effort to streamline the probate process for small estates. Currently, the process to prepare a probate package is the same for a land and cash estate, as for a cash only estate. The investment of resources, where no trust land is involved, could be reduced as the result of a streamlined process. Several proposals have been written and circulated which would dramatically change and improve the process used for targeted small estates.

Probate Case Management and Tracking System

In August 2003 Interior's Trust Architect conducted a program requirements meeting, including individuals from various levels of probate involvement. A request for proposal was issued that generated several responses from contractors with Commercial Off-The-Shelf (COTS) packages. Once a system is implemented, it will replace the temporary spreadsheet discussed in the Accomplishments and Completions section.

Contract Review

The current contract is being extended until the end of CY2003. The contract includes probate case preparation activities and posting and recording activities. A review and assessment of the future of the contract is being made to determine whether the contract should be expanded or modified to meet the needs of the BIA probate project.

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

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

Delays and Obstacles

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

- Lack of consistent staffing in program management;
- Lack of adequate staffing for probate processing in the field;
- Lack of a comprehensive case management and tracking system;
- Lack of access to the Internet;
- Lack of electronic mail communications between OHA and BIA;
- Fractionation of ownership of Indian lands;
- Numerous title initiatives (*Youpee* re-vestitures, *Cobell* initiatives);
- Cultural diversities regarding the subject of death;
- Non-availability of documentation of program responsibility.

Assurance Statement

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

Date: November 3, 2003

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