

Chairman Hanson, Ranking Member Rahall and honored Members of the House Resources Committee, my name is Fred Matt, and I am Chairman of the Confederated Salish and Kootenai Tribes (CSKT) of the Flathead Nation. On behalf of my Tribal Council, I am pleased to provide these comments regarding the Department of the Interior's proposed reorganization of the Bureau of Indian Affairs for the purposes of Trust Reform. My comments will focus on the potential impact the proposed reorganization may have on tribes like CSKT that have exercised the opportunities afforded them by P.L. 93-638 the Indian Self-Determination and Education Assistance Act. I will conclude my testimony with an alternate proposal for reorganization, which addresses the concerns I have identified.

CSKT joins with other Tribes in recognizing that Individual Indian Money (IIM) trust fund accounts have been historically mismanaged. For many years, we have called for a complete reconciliation of trust fund accounts and continue to make that request so that there may finally be justice for the over 300,000 IIM accountholders. We look to the Cobell v. Norton court case to ensure that accountholders' rights are protected, to the fullest extent of the law. However, the future management of Indian (including tribal and individual Indian) financial trust accounts and trust asset management must be determined through the thoughtful development of applicable business standards and consultation with Tribes, not as a response to an on-going court case. Many tribes, mine included, have for many years operated BIA programs and through this experience can provide meaningful input toward effective and long-standing trust management reform. The Department of the Interior's proposal to create the Bureau of Indian Trust Asset Management (BITAM) does not achieve this result. It is reform for the sake of reform and will create far more problems than it will solve.

Over a decade ago, my Tribal Council recognized that one of the primary responsibilities of tribal government was to ensure tribal self-sufficiency. Our Tribal Council has held a steadfast, commitment that it is the responsibility of our government to understand the needs of our people, and further, to ensure the needs of our Tribes and people are met. This approach is the realization of the principles of self-determination and self-governance, and results in programs that match my people's needs in a way that programs designed in Washington D.C. could never do. The CSKT commitment to Tribal self-sufficiency is also fulfilled through our efforts in self-governance. We have fulfilled this responsibility by exercising the opportunities provided in Public Law 93-638, the Indian Self-Determination and Education Assistance Act of 1975, as amended. CSKT is one of the original ten tribes selected to participate in the Self-Governance Demonstration Project of the DOI. Since that time, we assumed the management and operation of all of the services, programs and functions previously provided by the Bureau of Indian Affairs at the Flathead Agency except for the irrigation division of the Flathead Indian Irrigation Project (FIIP). We are extremely proud of our P.L. 93-638 contract for operation of Mission Valley Power, the power division of FIIP that provides electricity to over 22,000 Indian and non-Indian consumers throughout the reservation area. Under our administration, MVP has kept power rates low and has won numerous management awards.

CSKT has also assumed the management of the BIA Real Estate Services including appraisals. Although this is clearly a trust function, we have developed a streamlined approach for the Tribes to provide this function. Our Tribal appraiser produces appraisals for review and approval by the federal official for the Region. The Regional official reviews the appraisal to ensure that all federal standards and requirements are met. Once the official is confident the appraisal is correct, he then signs off on it.

There are many other examples of our quality management of federal programs. We operate the Land Titles and Records Office (and are one of the few tribes in the country to do so), the entire Indian Health Service health delivery system for nearly 10,000 beneficiaries and provide law enforcement within the exterior

boundaries of our 1.3 million acre reservation that includes portions of four Montana counties.

Unlike DOI accounts managed by the Federal Government, each year our Tribes' accounting management undergoes an intensive external financial audit according to standards developed by the Federal government. I am proud to report our Tribes' audits over the past years are clean with no material weaknesses identified. Furthermore, each year the Department of the Interior's Office of American Indian Trust conducts a trust evaluation on all BIA programs our Tribes have assumed. Again, I am proud to report our Tribes' operation meets or exceeds the standards set forth in their evaluation.

The proposed DOI BITAM reorganization of the trust functions, including the transfer of all trust programs such as natural resource and realty programs, is alarming because it poses a threat to our Tribes' ability to manage and operate programs. Our experience is that it is extremely difficult, if not impossible to access programs not located in the BIA (which will include programs in BITAM if transferred). It is critical to recognize that P.L. 93-638 applies to BIA programs differently than it applies to DOI programs located outside the BIA, which are referred to as "non-BIA programs." We have experienced that non-BIA programs are zealously guarded by the agencies operating them. The effect is that Tribes have been stymied in their endeavors to manage federal functions not located in the BIA. This is demonstrated by the few number of non-BIA Self-Governance agreements successfully negotiated by Tribes and DOI.

For example, CSKT has attempted to manage two programs located outside the BIA. The first is the National Bison Range. It is a refuge managed by DOI U.S. Fish and Wildlife Service. Under federal regulation, for a Tribe to assume operation of a non-BIA program, the tribe must demonstrate a geographic, historic and cultural connection. In our case, CSKT clearly exceeds the burden required by the federal regulation. First, the refuge is completely located in the heart of the Reservation, on land taken from the Tribes after the reservation was established. Second, history credits our late Chairman Michael T. Pablo's family with saving the buffalo from extinction as they raised the herd of buffalo eventually bought by the United States government as the foundation stock on the National Bison Range. And finally, there is clear cultural connection between bison and tribes. Yet our effort to manage the National Bison Range under a Self-Governance agreement, which began immediately after the Tribal Self-Governance Act of 1994 (Title IV of 93-638) was enacted, has been continually thwarted by DOI.

Another CSKT experience in assuming operation of a non-BIA program was the Financial Trust Services (FTS) including the Individual Indian Monies Program (IIM) from the Office of Trust Fund Management (OTFM). Although the FTS program is clearly for the benefit of Indian people and formerly administered in the BIA, it is now considered a non-BIA program and guided under the federal regulations for non-BIA programs. Unlike Title IV regulations for the BIA, the Title IV non-BIA regulations allow the bureaucracy to determine if and how a program will transfer to a Tribe. Unfortunately when the decision arises to transfer a federal program to the Tribes, it is the federal government that retains final authority, not the Tribes. Faced with the non-BIA regulations in negotiating, CSKT decided to set aside important principles of Self-Governance in order to reach an agreement to operate the FTS program locally when it became clear that OTFM would not otherwise agree.

Since the first agreement was signed between CSKT and OTFM to operate the IIM program, there has been a continual erosion of tribal opportunity to manage the program. During the first years of operation, our IIM program was able to make changes, such as address changes to the accounts. Now, all changes, including simple address changes, must be forwarded to Albuquerque, NM for processing at a central location. Changes to accounts that require the signature of a federal official that formerly were signed off by the Agency superintendent must now be sent to Portland, OR and then to Albuquerque, NM. CSKT has become

a paper-processing program and any meaningful work has been transferred to the OTFM Central Office. CSKT has every reason to believe the same thing or worse will occur should BITAM be implemented. In the name of trust reform, programs will be centralized instead of being delegated to the local level we have expertise in implementation. This would be devastating to our Tribes and the effective tribal operation we have put in place.

Nowhere in Secretary Norton's proposal to create BITAM are these concerns addressed. Representatives from my Tribal Council have attended four of the consultation meetings the DOI has conducted on this proposal. Each time the tribes in attendance have asked DOI to explain the impact this proposal will have on tribal contracting or compacting of BIA programs, but to no avail.

There is no answer because when the proposal was made this critically important question, among so many important issues, was not considered. This is not acceptable. Assurance must be made that federal regulations governing BIA programs for contracting and compacting purposes will remain the same. Tribes have not created this problem and should not be punished for DOI's mismanagement. The Cobell case should not be used by either the plaintiffs or the Department to gut the great legacy left by President Richard Nixon to the Indian people: the Indian Self-Determination Act. There are going to be major problems between the BITAM and the BIA and Indian tribes if this reorganization is allowed to proceed. There will be finger pointing between the BITAM and the BIA unless the BITAM is given almost all jurisdiction now retained by the BIA. If that is the plan, why not simply clean up the BIA? Merely transferring programs from one box to another will not lead to substantive change.

I have explained our Tribes' self-governance experience to demonstrate the capability of tribes to manage trust programs to a high standard and this must be allowed to continue.

As the Committee has requested, the Tribes have developed an alternate proposal to BITAM even if it might be somewhat premature since BITAM has generated more questions than answers. CSKT submits the following as one option available to meet the objectives set forth in the EDS Report commissioned by the DOI including the primary objective to consolidate trust functions under a single individual for accountability purposes. Our proposal uses the final Report of the Joint Tribal / DOI / BIA Advisory Task Force on Bureau of Indian Affairs (BIA) Reorganization, which was chartered by Mr. Manual Lujan, Jr., Secretary of the Interior on December 20, 1990. The final Report of the Advisory Council was submitted in August 1994. The Task Force included three tribal representatives from the 12 BIA areas, two representatives from the Department of the Interior and five BIA employees. The Task Force met 22 times over a four-year period and throughout the United States. At each meeting, they made an effort at to incorporate the views of the tribes the local area into their final recommendations. All meetings were open to any tribal representative, regardless of whether they were officially on the Task Force.

We propose, as the Task Force's final Report recommended, the creation of three separate tiers in the BIA. The first tier is the Office of the Assistant Secretary including a number of administrative support offices. It is in this tier that uniform standards would be developed for all trust functions. The second tier would combine the current Central Office functions and the regional offices that would be restructured to provide integrated operational and technical services. To meet the objectives of trust reform, CSKT recommends this tier have three Branches, each headed by a Commissioner who would be nominated by the President and approved by the United States Senate to ensure continued Congressional involvement in this issue. The Branches would have the following responsibilities. The first Branch would be responsible for the Financial Trust Accounting. The second Branch would be responsible for the management of tangible trust assets that generate revenue for the Tribes and individual allottees, such as natural resources. The third Branch would

manage all remaining programs within the BIA. Most importantly, this approach consolidates the financial accountability under a single high level individual, the Assistant Secretary of Indian Affairs. It is in this tier that the monitoring and evaluation of implementation of uniform standards would occur. The third tier would be the agency / field office level where the operations according to the uniform standards would be delivered, with proper delegations of authority to fulfill the trust responsibilities of United States government.

The foundation of our proposed organization is the development of uniform standards for the delivery of trust standards. The tribes and DOI would mutually develop these standards but in accordance with trust law principles while taking into account the uniqueness of tribal trust law and cultural concerns. All BIA services would be provided according to these standards regardless of whether they were provided by the BIA or contracted or compacted by tribes. Monitoring and financial auditing will be essential components of the new delivery system. I have attached an organizational proposal for your consideration.

Thank you for allowing me to testify and for understanding the perspective of the Confederated Salish and Kootenai Tribes of the Flathead Nation.

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