

**STATEMENT  
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BEFORE THE  
COMMITTEE ON RESOURCES  
U. S. HOUSE OF REPRESENTATIVES  
ON THE  
TRUST INITIATIVES FOR THE 21<sup>ST</sup> CENTURY**

**May 12, 2004**

Mr. Chairman and Members of the Committee, we are pleased to be here today to discuss the trust initiatives for the 21<sup>st</sup> Century of the Office of the Assistant Secretary – Indian Affairs, the Bureau of Indian Affairs (BIA), and the Office of the Special Trustee for American Indians (OST). The roadmap that guides the Department's trust initiatives for the 21<sup>st</sup> Century is the Comprehensive Trust Management Plan. The Comprehensive Trust Management Plan is being used to guide the design and implementation of the trust reform efforts. The first component of this plan was the alignment of trust functions within the Department.

In January 2002, the Secretary of the Interior, through the Office of Indian Trust Transition (OITT), launched an effort to develop a comprehensive approach for improving Indian trust management. Working with the OST and BIA leadership, the OITT staff developed a set of goals, objectives, and tasks for reforming Indian trust management. This work was based upon statutes, regulations, guiding principles in the Departmental Manual, and reports prepared by an outside contractor.

In May 2002, this effort was expanded and a DOI-wide strategic planning team was created that included representatives from national and regional offices of the OST, BIA, Minerals Management Service (MMS), and Bureau of Land Management (BLM). From May 2002 through December 2002, the DOI strategic planning team met regularly to review and update the goals and objectives. It also presented them to the Joint DOI/Tribal Leaders Task Force for review. After several meetings, the task force's subcommittee on planning approved the goals and objectives.

The goals and objectives of the Comprehensive Trust Management Plan include:

- An organizational structure in the Office of the Assistant Secretary – Indian Affairs, the BIA, and the OST, to support a new service delivery model.
- The implementation of a new land title records system to keep ownership records accurate and current.
- The improvement of land and natural resource and trust fund asset management including a nation-wide plan for eliminating fractionated interests of land that are burdening the trust and taking resources away from profitable activities.
- The promoting of Self-Governance and Self-Determination.
- The review and improvement of our trust business processes (the As-Is/To-Be process).

Through the examination of the “big picture” of the fiduciary trust management, the Department created a coordinated and integrated system in which all pieces of the fiduciary trust management function as a coherent whole. We recognize that strategic plans are dynamic and therefore, we will regularly evaluate and update this plan to ensure its responsiveness to the ongoing needs of the Department’s trust operations and to adapt to changing environments. We are confident that the goals and objectives of the Comprehensive Trust Management Plan will enable the Department to provide important services to Indian country more efficiently and effectively than in the past. We are sure that our trust initiatives under the plan will result in a positive enhancement to the level of service our organizations currently provide.

The organizational realignment of the Office of the Assistant Secretary – Indian Affairs, BIA, and OST was one component of this plan. On April 21, 2003, Secretary Norton made effective an historic trust initiative by signing the Department of the Interior Manual establishing clear lines of responsibility by which BIA will provide trust services and OST will provide fiduciary trust oversight. In addition, the Secretary added OST staff at BIA agencies to support the work of BIA’s Deputy Agency Superintendents for Trust. We are pleased to announce that our efforts to align Interior’s staff to undertake our trust mission have largely been completed.

## **ORGANIZATIONAL REALIGNMENT**

In August 2001, during our formulation of the FY 2003 budget, various proposals and issues were identified concerning the trust asset management roles of BIA, OST, and other Departmental entities carrying out trust functions. By that time, the Department had heard from many sources – e.g., the Special Trustee, the Court Monitor in *Cobell v. Norton*, and through budget review – and all recommended a multi-bureau consolidation of trust functions throughout the Department. In short, the Department realized it had to provide an organizational structure that focused on its responsibilities to both individual Indians and tribal beneficiaries.

Tribal representatives agreed with the Department that the status quo was not acceptable, and that the Department's longstanding approach to trust management needed to change. Moreover, this change had to be reflected in a system that is accountable at every level with people trained in the principles of fiduciary trust management.

After intensive review of five organizational proposals from tribes, the Secretary chose to realign the organization capturing as much as possible from the extensive consultation process. The resulting organizational alignment complied with the concepts developed during the consultation process that were determined to be critical to improving the delivery of fiduciary trust services, including:

- **Keeping specific management decisions about trust assets at the agency level.** This allows greater decision making at the agency level where expertise and knowledge of a Tribe's or an individual's need is greatest.
- **Creating a Trust Center and staffing it with trust officers.** The realignment created an opportunity for increasing support at the local agencies by adding trust officers and expertise from the Office of the Special Trustee and deputy superintendents from BIA to the agencies dedicated to fiduciary trust management.
- **Promoting the idea of Self-Governance and Self-Determination.** We created a new Deputy Assistant Secretary for Policy and Economic Development reporting to the Assistant Secretary Indian Affairs. We moved the Office of Self-Governance under this Deputy Assistant Secretary and expanded the office's role to include policy development and coordination for all self-determination programs.
- **Creating a new Office of Trust Accountability.** Within OST, the position of Deputy Special Trustee for Trust Accountability has been created to be responsible for trust training, trust regulations, policies and procedures, and a Trust Program Management Center. In addition, a new division of Review and Audit was created. This division reports directly to the Special Trustee and performs trust related reviews of fiduciary trust administration to ensure the Secretary's trust principles are followed.

In addition to ten months of meetings of the Joint Tribal Leader/ Department of the Interior Task Force on Trust Reform, there were over 45 meetings held with Tribal leaders in which senior level officials from the Department were in attendance.

### **Initiatives of the Office of the Assistant Secretary – Indian Affairs and the Bureau of Indian Affairs**

The Principal Deputy Assistant Secretary for Indian Affairs, who, subordinate to the Assistant Secretary, has line authority over the Deputy Assistant Secretary for Management, the Director of the Office of Indian Education Programs, the Director of

the Bureau of Indian Affairs, a new Deputy Assistant Secretary for Economic Development Policy and a new Deputy Assistant Secretary for Information Resources Management. This structure elevates economic development and the federal acknowledgement process to the Assistant Secretary level. It separates the IT functions of BIA allowing for greater oversight and overarching management in these areas. In addition, consistent with the President's management agenda, administrative functions previously performed in a decentralized fashion at the central, regional and agency levels, have been consolidated under the management structure.

Within the DOI structure, BIA retains all natural resource trust asset management. The management of the trust functions at the BIA regional and agency levels has been separated by creating the positions of Deputy Regional Director for trust services and Deputy Regional Director for tribal services. The Deputies report to their Regional Director who, in turn, report to the Director, Bureau of Indian Affairs (formerly the Deputy Commissioner). A similar structure has been created at the agency level. Seven of our Regions have Deputy Regional Directors for trust services on board, and we are in the process of adding the additional five positions. Six of the twelve Deputy Regional Directors for tribal services have been named, and we are in the process of adding the six additional positions.

At the Agency level, most Agencies will have a Deputy Agency Superintendent for trust, who will manage the trust functions. We have hired four Deputy Agency Superintendents, at Concho, Anadarko, Pima, and Pine Ridge Agencies, and have advertised for several more. The BIA is working in concert with the OST on this effort, so that we hire Deputy Agency Superintendents and Trust Officers at the same locations and at the same time. We expect to hire approximately 33 Deputy Agency Superintendents.

### **Initiatives of the Office of the Special Trustee for American Indians**

OST continues to be responsible for the management of financial assets and certain reform projects, and maintains its statutory oversight responsibilities. The Secretary has delegated operating authority, including line authority over regional fiduciary trust administrators and fiduciary trust officers to OST. These new positions are intended to be filled by skilled trust administrators and staff trained for these responsibilities. A staff of six trust administrators will oversee a staff of trust officers and trust account managers in or near BIA field office locations.

We are pleased to report that the first recruitment efforts for these positions have been successful. Recruitment activity for the trust officer positions also began during FY 2003, and two were hired last year. We expect to have 50 Trust Officers and support positions on board by the end of FY 2004. A recent advertisement provided a certification list of several candidates. However, due to the difficulty of finding highly qualified candidates, OST plans to engage the services of an executive search firm to support the effort of recruiting fiduciary trust officers. A listing indicating where Trust Officers will be hired and where they will be located is attached as an exhibit to this

statement. They will be co-located with BIA agency personnel, or in close proximity to these offices. Trust officers also will be located in urban centers that have large beneficiary populations. Trust officers will work together with BIA agency superintendents and staff and will eventually become the first line of contact for tribal and individual Indian beneficiaries for issues related to ownership of trust assets, account balances, and trust transactions. Trust Officers and associated support staff will serve as a resource to agency personnel in the performance of fiduciary trust related duties. They also will serve as a primary point of contact for local collections, and ensure that proper documentation for trust transactions and internal controls are followed. The majority of a Trust Officer's time is expected to be spent with beneficiaries, locating beneficiaries (particularly those whose whereabouts are unknown) supporting the BIA probate effort, distributing funds put into special deposit accounts, and offering counseling and advice on managing assets and answering inquiries.

We now place additional emphasis on the implementation of a comprehensive and coordinated audit and risk management function to improve overall fiduciary trust accountability. The Office of Trust Review and Audit is working with agencies to develop a rating system that indicates the level of compliance with fiduciary trust activities and measures our success in meeting the fiduciary responsibilities of the Secretary. It also will indicate those areas where additional oversight is required.

### **Coordination and Outreach**

Once a decision was made on reorganization, Indian Affairs and OST created Trust Initiative Implementation Teams consisting of staff from both organizations. The teams met regularly in 2003 to discuss the status of their respective reorganizations. These meetings allowed for the coordination and communication of internal organizational activities, which greatly aided our reorganization efforts. The strong working relationship that was created through these teams is ongoing. Indian Affairs and OST continue to closely coordinate ongoing trust initiatives. Tribal representatives selected by the 2002 Joint Tribal/DOI Task Force on Trust Reform met with these teams and provided information to Tribes.

In June 2003, Indian Affairs and OST jointly held presentations to explain the trust initiatives to BIA and OST staff and to Tribal leaders. A total of 45 presentations were held throughout the United States, particularly in the cities where Regional offices are located and in other cities where there are large concentrations of staff. In fact, three to four regional or agency offices received the presentation each week.

Three different types of outreach presentations were conducted. Some presentations were held just with Superintendents. Those meetings were designed to present the Superintendents with written information regarding the reorganization, so that they could in turn educate their Agency staff. Presentations were held for BIA and OST employees to answer their questions about the reorganization. In addition, presentations were held for Tribal Leaders and individuals in each Region. The regional offices distributed information and a schedule for those briefings to employees as well as to tribes.

Unfortunately, in some Regions, Tribal Leaders chose not to participate and walked out of the presentations we had scheduled.

Based on the questions we received during our presentations in June 2003, we drafted a Frequently Asked Questions document, which was made available to all Indian Affairs and OST employees and to Tribal Leaders in October 2003.

In addition to the presentations, Indian Affairs and OST held change management meetings to help their affected staff plan for and deal with the changes in the organization. Both Indian Affairs and OST have also sent periodic emails to all employees, informing them of the status of the reorganization throughout the reorganization process.

### **Regional Consultations**

Prior to implementing the organizational changes at the Regions and Agencies, we wanted to have further discussions with Tribal Leaders about the specific changes that would be occurring in their Regions. We therefore, held consultation meetings with the Tribal Leaders from each Region in September and October of 2003 regarding the new structure for their respective Region. We held the sessions for the Eastern, Eastern Oklahoma, Southern Plains, and Midwest Regions on September 24 and 25, 2003, in Tulsa, Oklahoma. We held the sessions for the remaining eight Regions the week of October 27, 2003, in Las Vegas, Nevada. We also took written comments from Tribes in each Region for several weeks following the Las Vegas meetings. Following these meetings, we made some changes to the proposed Regional and Agency charts to reflect comments we received at, or after, the meetings.

### **Pilot Agencies**

To begin implementing the trust initiatives, BIA and OST identified two “Pilot Agencies” during 2003. The two pilot agencies were at Concho and Anadarko. In FY 2003, both the Concho and Anadarko agencies realigned staff and added fiduciary Trust Officers as well as Deputy Agency Superintendents. These locations were chosen based on a number of criteria including: the number of beneficiaries served; the high volume of recurring trust income generated; and local workload indicators. The success is already apparent. A close working relationship is present between the OST and BIA staff. Outreach meetings are now being held by the Trust Officers to become better connected with beneficiaries and more decisions are being made at the agency level. A major challenge is getting reconnected to the Internet and having the information technology systems fully operational so that information can be readily available to all personnel at the agency to solve problems, answer beneficiary questions, and assure correct ownership of assets.

## **Remaining Tasks**

Although most of the organizational realignment has been completed, some tasks still remain. The Indian Affairs Federal Financial System (FFS) is being modified to reflect the changes made to the organization and staffing. FFS will be fully converted on October 1, 2004, but this project will continue until December 2004 to ensure that FFS is functioning properly.

As we mentioned above, several positions are still in the process of being filled. BIA and OST need to complete the hiring of Indian Affairs Deputy Regional Directors, the sixth OST Regional Fiduciary Trust Administrator, Indian Affairs Deputy Agency Superintendents for Trust Services, and OST Fiduciary Trust Officers. We anticipate hiring approximately 45 Trust Officers and 33 Deputy Agency Superintendents during the remainder of FY 2004 (including those currently advertised, as discussed above), with the rest to be hired in FY 2005.

Finally, although the Secretary signed the revisions to the Department Manual on April 21, 2003 making the changes effective, we are currently preparing a further revision to some non-fiduciary trust operations. The revision will formalize the structure of Indian Affairs' law enforcement program, create a separate Central Office Division for Tribal Courts as requested by Tribes, create a separate Central Office Probate and Estate Services Division to focus on reducing our probate backlog, clarify the reporting structure for our environmental programs, and make other technical changes.

Organizational realignment, coupled with our other trust initiatives is enabling the Department to provide reliable beneficiary focused services. We are continuing to implement the Comprehensive Trust Management Plan. We are nearing the completion of the review and improvement of our business processes ("As-Is" "To-Be") with implementation to follow; implementing a new land title records system; and improving our land, natural resource, and trust fund asset management through the reduction of fractional interests.

## **OTHER TRUST INITIATIVES**

### **"As-Is" – "To-Be"**

As part of the comprehensive trust reform, the Department undertook a project to determine exactly how fiduciary trust business processes were being performed. Through this effort, various business processes were identified that were required to be performed to meet our fiduciary duties, including determining ownership of trust assets, accounting for the income from trust assets, putting trust assets to work such as leasing of land and harvesting timber, supporting the self-determination and self-governance goals of the Department, and providing direct beneficiary services. We met with representatives from every BIA region and many Tribes to determine how they conducted these processes at their locations. BIA agency employees, regional employees, and representatives from the BLM and the MMS were interviewed to collect this information. After a year's work,

over a thousand pages were written that documented the “As-Is” business fiduciary trust processes.

The next step was to develop a “To-Be” Model. The concept was to have many of the same people who provided information for the “As-Is” meet and offer suggestions on how the current process could be improved. Again, meetings were held during all of 2003 to glean information from BIA regions, agencies, and tribes to develop a model of best practices that could replace the “As-Is” way of doing business.

The draft “To-Be” Model was completed on September 30, 2003. Since that time, it has been presented throughout Indian country for review and comment. Although comments were due by January 31, 2004, at the request of tribal leaders, the comment period was extended to March 31, 2004. This model, now considered the Trust Initiatives for the 21<sup>st</sup> Century, will be a major improvement in the way fiduciary trust business is performed in the Department. Not only is it expected to improve the communications with beneficiaries, but also to streamline the management of fiduciary trust assets and result in a more efficient and effective trust organization. The final model is expected to be completed by May 31, 2004.

### **Title System**

The Department is currently working on establishing new technology to maintain a system of land title records using new software that should enable beneficiaries to obtain information regarding their Indian land trust assets in a timely manner. We also are working on ways to invest tribal and individual Indian trust funds to make the trust account productive for the beneficial owner consistent with market conditions existing at the time the investment is made. Through improvements to our record systems, we hope to be able to communicate better with beneficiaries regarding the management and administration of their trust assets.

### **Reducing Land Fractionation**

Addressing the rapidly increasing fractionation on Indian land is critical to improving management of trust assets. Purchase of fractional interests increases the likelihood of more productive economic use of the land, reduces recordkeeping and large numbers of small dollar financial transactions, and decreases the number of interests subject to probate. The BIA has conducted a pilot fractionated interest purchase program in the Midwest Region since 1999. As of March 31, 2004 the Department has purchased 78,321 individual interests equal to approximately 49,155 acres. The Department is in the process of expanding this successful program nationwide. We also plan, where appropriate and to the extent feasible, to enter into agreements with Tribes or tribal organizations and private entities to carry out aspects of the land acquisition program. The 2005 budget request includes an unprecedented amount of money for this program.



## **CONCLUSION**

These trust initiatives are a major undertaking, and we expect the benefits to be widespread. The Department realized it needed an organization that focused on its fiduciary duties as trustee to both individual Indians and tribal beneficiaries. The completion of the organizational alignment effort provides a major step forward in our ability to provide an efficient and successful trust management system within the Department of the Interior for our individual and tribal beneficiaries. The completion of the “To-Be” business model will be a major improvement in the way fiduciary trust business is done in the Department. Improving our title systems and reducing fractionated interests will lead to better record keeping, an improved probate system, and a more productive and economic use of Indian land. We are confident that all these efforts, which are part of the Department’s Comprehensive Trust Management Plan, will improve the performance and accountability of our management of the trust.

This concludes our opening statement. We look forward to answering any questions the Committee may have.