

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

CLERK'S OFFICE  
U.S. DISTRICT COURT  
DISTRICT OF COLUMBIA

MAY 1 3 35 PM '03

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ELOUISE PEPION COBELL, et al., )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
GALE NORTON, Secretary of the Interior, et al., )  
 )  
Defendants. )  
\_\_\_\_\_ )

Case No. 1:96CV01285  
(Judge Lamberth)

RECEIVED

**NOTICE OF FILING OF INTERIOR'S THIRTEENTH STATUS REPORT**

Interior Defendants hereby give notice of the filing of their thirteenth report due in accordance with the Order of December 21, 1999.

A copy of the report is attached hereto.

Dated: May 1, 2003

Respectfully submitted,

ROBERT D. McCALLUM  
Assistant Attorney General  
STUART E. SCHIFFER  
Deputy Assistant Attorney General  
J. CHRISTOPHER KOHN  
Director

  
\_\_\_\_\_  
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CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on May 1, 2003 I served the foregoing *Notice of Filing of Interior's Thirteenth Status Report* by Hand upon:

Keith Harper, Esq.  
Native American Rights Fund  
1712 N Street, N.W.  
Washington, D.C. 20036-2976

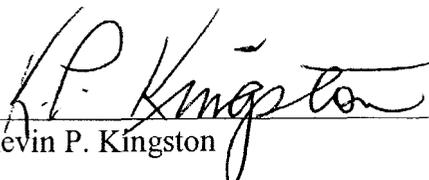
Dennis M Gingold, Esq.  
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By U.S. Mail upon:  
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By Hand upon:  
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Special Master  
1717 Pennsylvania Avenue, N.W.  
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Washington, D.C. 20006

Per the Court's Order of April 17, 2003,  
by U.S. Mail upon:

Earl Old Person (*Pro se*)  
Blackfeet Tribe  
P.O. Box 850  
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\_\_\_\_\_  
Kevin P. Kingston



THE SECRETARY OF THE INTERIOR  
WASHINGTON

May 1, 2003

Sandra P. Spooner  
U.S. Department of Justice  
Civil Division  
Commercial Litigation Branch  
P.O. Box 875  
Ben Franklin Station  
Washington, D.C. 20044-0875

Re: Cobell v. Norton – Status Report to the Court Number Thirteen

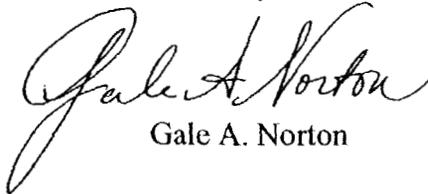
Dear Ms. Spooner:

Enclosed is the Department of the Interior's *Status Report to the Court Number Thirteen (For the Period January 1, 2003 through March 31, 2003)*, dated May 1, 2003. Please forward a copy to the Court.

This is the sixth report in the revised Report format. My signature on this Report reflects my belief that my personal observations are true and correct, and that the information provided to me by others for inclusion in my observations, as well as accompanying sections of the Report are correct to the best of my knowledge.

Thank you for your assistance.

Sincerely,



Gale A. Norton

Enclosure

# Status Report to the Court Number Thirteen

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For the Period  
January 1, 2003 through March 31, 2003



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May 1, 2003

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**STATUS REPORT TO THE COURT NUMBER THIRTEEN**

**May 1, 2003**

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**TABLE OF CONTENTS**

**I. INTRODUCTION..... 3**

**II. SECRETARY GALE NORTON'S OBSERVATIONS..... 5**

**A. INFORMATION TECHNOLOGY..... 9**

**B. CADASTRAL SURVEY ..... 19**

**C. MINERALS MANAGEMENT SERVICE..... 23**

**D. WORKFORCE PLANNING ..... 25**

**E. OFFICE OF HISTORICAL TRUST ACCOUNTING ..... 29**

**III. OFFICE OF INDIAN TRUST TRANSITION..... 35**

**A. TRUST BUSINESS MODELING ..... 39**

**B. COMPREHENSIVE TRUST MANAGEMENT PLAN ..... 43**

**C. PROBATE ..... 47**

**D. TRUST DATA QUALITY AND INTEGRITY..... 51**

**IV. OFFICE OF THE SPECIAL TRUSTEE ..... 55**

**A. CURRENT ACCOUNTING ACTIVITIES ..... 55**

**B. RECORDS MANAGEMENT..... 63**

**C. TRAINING ..... 67**

**D. RISK MANAGEMENT AND INTERNAL CONTROL..... 69**

**E. APPRAISAL..... 73**

**F. TRUST POLICIES AND PROCEDURES..... 75**

**V. BUREAU OF INDIAN AFFAIRS ..... 79**

**A. FRACTIONATION..... 79**

***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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# ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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## **I. INTRODUCTION**

This *Status Report to the Court Number Thirteen* (Report) represents the period of January 1, 2003, through March 31, 2003. The Report is filed in order to comply with the ruling of the Court directing the Department of the Interior (Interior) to keep the Court informed of the progress of Interior's trust reform activities and progress toward a historical accounting of individual Indian monies held in trust by the United States.<sup>1</sup>

During this reporting period, several significant advances in trust improvement activities were made. These include the development of a high-level trust training course presented to upper Interior management. The training course was designed by the Cannon Financial Institute, a leading commercial trust training organization. Other significant accomplishments include 1) completion of the Court-ordered Fiduciary Obligations Compliance Plan and Historical Accounting Plan for Individual Indian Money Accounts, 2) completion of the Comprehensive Trust Management Plan, 3) completion of the "As-Is" study, prepared in conjunction with a contractor, which details how trust business processes are now being performed at the twelve Bureau of Indian Affairs (BIA) Regions and 4) creation of a Trust Executive Steering Committee chaired by the Deputy Secretary consisting of the trust executive leadership of Interior, including Associate Deputy Secretary, Assistant Deputy Secretary, Acting Assistant Secretary-Indian Affairs, Acting Special Trustee for American Indians, Director, Congressional Affairs, and Chief Information Officer. Significant new funding was released with the FY2003 appropriations. The Special Trustee nominee, Ross Swimmer was voted out of the Senate Indian Affairs Committee and, during the preparation of this Report, was confirmed by the Senate.

A major milestone during this reporting period was the final work toward the reorganization of the BIA and the Office of the Special Trustee for American Indians (OST). The related changes to the Departmental Manual are expected to be completed during the next reporting period, and all steps necessary to complete the reorganization should well underway. The central theme of the reorganization, insofar as the trust operations are concerned, is the consolidation within the BIA and OST of the various trust functions each performs so that employees will know when they are working on fiduciary trust issues. The oversight by OST will be increased through the inclusion of fiduciary trust officers and trust administrators in OST to support efforts to provide beneficiary services and ensure that trust operations are being well-managed throughout Interior. Trust Officers will be of direct assistance to BIA Deputy Superintendents in meeting with trust beneficiaries, answering inquiries and helping to resolve beneficiary issues.

With the completion of the "As-Is" study, the work of reengineering the trust business processes will now begin. The "To-Be" reengineering of fiduciary trust business processes is anticipated to continue during the next two years. This effort should result in more streamlined business processes that will support improved delivery of fiduciary trust services to beneficiaries and more accountability. As the trust business processes are reengineered, policies, procedures,

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<sup>1</sup> 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.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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training, workforce planning and improved budgeting are expected to be some of the outcomes that will lead to improved services.

The "To-Be" process will enable the full implementation of the Comprehensive Trust Management Plan (Plan) that was completed during this reporting period. The Plan is the first comprehensive plan to be adopted since the 1994 Trust Reform Act was enacted. It will serve as Interior's guideline for further implementation of trust improvement activities. The Plan contains the goals and objectives that have to be accomplished to achieve effective and efficient trust management, defines the trust business lines and contains the organizational description of responsibilities for the various fiduciary trust management activities. The Plan is being sent to all Tribes and is available on the Internet. The Plan is dynamic, in that it can be adjusted to changes in law and policy and tribal and individual needs.

Each of the Status Reports in this document lists obstacles that are impeding progress toward trust management improvement. One of the most serious problems is the lack of access to real-time communication through the Internet. This problem is being resolved through close work between Interior and the Special Master as security measures are developed, tested and put into place. It is essential that access to the Internet be permitted as quickly as possible. Additional obstacles to effective trust management include fractionation of individually owned Indian land, lack of modern software application systems, whereabouts unknown of many owners of trust assets and maintenance of small-dollar trust accounts. These obstacles play a major role in the management of fiduciary trust assets and must be resolved or mitigated to achieve fully the optimum condition of the Indian Trust.

In this Report, the section in previous Reports entitled, Indian Trust Systems has been merged into the Information Technology Section.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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### **II. SECRETARY GALE NORTON'S OBSERVATIONS**

#### **Overview**

During this reporting period and during the preparation of this Report, Interior continued to design and implement long-term comprehensive trust improvement. The Administration submitted to Congress the largest trust reform budget ever requested, Ross Swimmer was confirmed by the Senate and sworn into office as the Special Trustee for American Indians, the Comprehensive Trust Management Plan was completed, and a major education effort in the principles of trust for Interior managers of trust activities was initiated.

#### **Administration's Budget Submission**

On February 3, 2003, the Administration's Budget was submitted to Congress. As I previously informed the Court, this is the second budget cycle dominated by concerns about terrorism, homeland security, and military preparedness. Accordingly, funding for most domestic programs was restrained. Despite these constraints, the Administration's Indian trust budget submission was the largest ever requested. The overall budget request for the Department of the Interior was approximately 3.3% over the FY 2003 request; our FY 2004 Indian trust budget request is 44% higher than that requested for FY 2003. Nearly one-half of the \$344 million increase for the entire Department of the Interior for FY 2004 is devoted to trust reform initiatives.

The FY 2004 budget provides an increase of \$15 million to support the new organization, which builds on the base funding available in the Bureau of Indian Affairs and the Office of Special Trustee for American Indians. Nearly all of this new money will be used to support additional trust staff at the local level.

The proposed FY 2004 budget increase of \$168.5 million for trust management reforms include funding to help rebuild Bureau of Indian Affairs information technology infrastructure to support trust and non-trust programs. It provides \$29.5 million for a ground-up rebuilding of the BIA IT infrastructure, and an additional \$2.5 million for IT security improvement is part of a \$13 million Interior-wide IT security effort. The BIA base IT budget is reduced by \$4.7 million associated with savings from department-wide consolidation of hardware and software purchasing and support functions like help desks. Again, the budget numbers reflect the Administration's emphasis on trust reform: exclusive of the increase for BIA, overall IT spending by the Department of the Interior is proposed for a 3.5 percent reduction in 2004.

While reform efforts to date will result in improved record management policies, procedures, practices, safety, retrieval and training, additional requirements have been identified. The 2004 budget proposes an increase of \$4.5 million for records management in order to meet these expanded calls on records management capacities, including search capabilities in support of the historical accounting, additional indexing, records training for compacted and contracted Tribes, and electronic imaging.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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Finally, an increase of \$112.5 million for the Office of Historical Trust Accounting is proposed in the FY 2004 budget to support the Department's plan to conduct a historical accounting for individual Indian money accounts and to account for funds in tribal accounts. The work described in the January 6, 2003, *Historical Accounting Plan* is expected to take five years to complete and is preliminarily estimated to cost \$335 million. Funds also will be used to provide for historical accounting activities related to tribal accounts. The budget submission includes a total of \$130 million toward both tribal and individual historical accounting activities.

Although Congressional appropriators appear to generally support trust reform, the Administration has encountered some Congressional skepticism about the historical accounting request. For example, Senator Burns, the Chairman of the Senate Interior Appropriations Committee, stated that "over the years this committee has been very responsive to the Department's budget request for trust reform. But this year's request, particularly in respect to the historical accounting, really forces this committee to ask some tough questions."<sup>2</sup> Senators Campbell and Inouye, the leaders of the Senate Indian Affairs Committee, cited litigation and historical accounting costs in suggesting mediation of the Cobell matter. We will continue working with Congressional members and staff to seek the funding proposed in the Administration budget.

### **Organizational Leadership**

The U.S. Senate confirmed Ross O. Swimmer to be the Special Trustee for American Indians. Mr. Swimmer will fully assume his new duties as Special Trustee during the next reporting period.

For the past year and a half, Mr. Swimmer has headed the Office of Indian Trust Transition (OITT). In that role, he has actively engaged in many facets of the Department's trust reform and trust administration initiatives. During the Reagan Administration he served as the Assistant Secretary for Indian Affairs. In that capacity, Ross was responsible for the trust functions currently managed by the Bureau of Indian Affairs and the Office of Special Trustee.

For the past few months, the Office of Special Trustee for American Indians was very capably managed by Donna Erwin, Acting Special Trustee, pending the nomination and Senate confirmation of a new Special Trustee. I have been impressed with her financial expertise, her knowledge of trust administration, and her managerial abilities. I value her advice on trust management issues and remain impressed with her tireless efforts and dedication. She will continue to provide leadership as the Principal Deputy Special Trustee.

Ross Swimmer and Aurene Martin, Acting Assistant Secretary - Indian Affairs, have already demonstrated a cooperative working relationship and a shared interest in bridging the gaps that

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<sup>2</sup> Page 3 of the transcript of the hearing on Department of the Interior and Related Agencies appropriations for fiscal year 2004 before the Senate Subcommittee on appropriations on April 10, 2003.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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have separated the Bureau of Indian Affairs and the Office of Special Trustee. I am confident that this team will continue to make progress on our trust reform efforts.

At the request of the Deputy Secretary, a Trust Executive Steering Committee was organized in February 2003 consisting of senior level executives who have fiduciary trust responsibilities. This committee, chaired by the Deputy Secretary, meets regularly to review trust issues and provide guidance for Interior's trust initiatives.

### **BIA and OST Reorganization**

The Department has taken the next administrative step in the reorganization process by changing the Departmental Manual to reflect new organizational charts and the delineation of new roles and responsibilities. Now that the details of the organizational structure have been officially adopted, the Department will begin to align its personnel resources consistent with the manual. OITT will gradually be phased out as its projects are completed.

### **Re-engineering Interior's Trust Business Processes**

The Comprehensive Trust Management Plan (CTM) was completed during this reporting period. It completes an effort begun by the Department of the Interior in January 2002. The CTM Plan sets forth a strategic framework including six goals and 32 objectives for the Department to meet to fulfill its obligations to its fiduciary trust beneficiaries. The CTM Plan identifies the primary business lines for Interior as beneficiary trust representation, trust financial management and stewardship, and management of land and natural resources. Each of the goals and objectives fits within these business lines, and these goals will effectively focus Interior's fiduciary trust activities.

### **Education and Training**

A major education and training effort in the principles of fiduciary trust was initiated during this reporting period. The course was designed by the Cannon Financial Institute, a well-known trust training organization, with the support of the BIA, OST and OITT. The purpose of the course is to provide Interior trust managers with a technical understanding of general trust law, and principles of investment and trust responsibility. It also compares and contrasts the operation of private sector trust organizations with the operation of Indian fiduciary trust. A number of top Interior officials attended the first offering of the class to provide a final critique before it is taught to broader audiences of employees and tribal leaders.

***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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**Conclusion**

In spite of the many obstacles to trust reform, I believe Interior has made good progress in improving the administration of the Indian trust. While this Report reviews only the last few months, the cumulative impact of trust improvement since the beginning of this Administration in records management, education and training, new funding and accurate accounting have been substantial.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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### **A. INFORMATION TECHNOLOGY**

#### **Introduction**

This section describes the status of efforts underway regarding Department of the Interior (Interior) information technology (IT) systems, particularly 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. These efforts include four principal areas: Interior's IT Security Program, Compliance Management, Computer and Business Systems Architecture, and Indian Trust Systems.

Interior's IT Security Program covers policies and guidance, performance measures, training and audits, as well as the certification and accreditation (C&A) process that IT systems must follow to comply with OMB Circular A-130, Appendix III.

Compliance Management relates to the December 17, 2001, Consent Order (Consent Order) and includes the processes used by Interior to track requests for Internet reconnection, Court-directed validation of IT security improvements and compliance with OMB Circular A-130, Appendix III.

Computer and Business Systems Architecture covers both the Interior Enterprise Architecture and the Trust Enterprise Architecture programs.

Indian Trust Systems addresses the most appropriate automated system requirements to support the reengineered trust business processes and fulfill beneficiary needs and fiduciary requirements. These systems will be incorporated into an integrated Trust Systems framework architecture which will fully comply with all requirements enumerated in Interior's Enterprise Architecture.

#### **Accomplishments and Completions**

##### **Interior's IT Security Program**

- **Policy and Guidance:** Guidance for contingency planning, risk assessments and system security plans have been developed and disseminated based on the NIST special publications series. The IT Security Office within Interior's Office of the Chief Information Officer (OCIO) issued formal guidance to agency and program officials at the bureau and office level, including "IRM – Management Control Review Guidance," "Guidelines for IT Enclaves," "Network Perimeter Security Standard," "IT Security Asset Valuation Guide – Version 2.0," and "Standardized IT Security Training for End-users."
- **Management Support and Performance Measures:** The IT Security Office issued formal guidance on "IRM Management Control Review Guidance for 2003" dated February 14, 2003. The Information Resources Management (IRM) management control review (MCR)

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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requirements for 2003 focus on the IT security aspects of high-risk general support and major application IT systems contained in Interior's IT system inventory. The new MCR process will utilize National Institute for Standards and Technology (NIST) Special Publication 800-26, "Security Self-Assessment Guide for Information Technology Systems" as the principal evaluation tool.

The IT Security Office developed and published guidance dated March 20, 2003, on determining and designating IT enclaves (i.e., groups of systems). The IT security team developed the enclave concept to define the boundaries of IT systems and to simplify the overall inventory of Interior IT systems. The enclave concept allows IT systems to be combined into logical groupings to obtain economies of scale, cost efficiency, and improved management oversight.

Interior evaluated all wide area networks (WAN) against an operational security profile based on the SysAdmin, Audit, Network and Security (SANS) /Federal Bureau of Investigation Top 20 vulnerabilities list. The IT Security Office conducted scans of all Interior Internet connection points and WAN using this standard. The scans detect potential vulnerabilities but do not attempt to verify or exploit any identified vulnerabilities. Scans were conducted in January, February and March 2003. The results were distributed to the Chief Information Officers (CIO) of each bureau, and the data shows that bureaus decreased the number of potential vulnerabilities by more than eighty percent during this quarter. The results were also provided to the Special Master.

The IT Security Office completed the IT Security Asset Valuation Guide, Version 2.0 dated March 4, 2003, which contains the approved Interior methodology, process, and criteria for clearly identifying, categorizing, and documenting IT assets. This process provides a means for allocating capital resources, establishing work priorities, and establishing and validating IT security requirements based upon an IT system's overall importance.

- **Training and Awareness:** An OCIO Memorandum dated February 14, 2003, requires Interior employees and contractors using Interior IT systems to complete IT security training before June 27, 2003. The IT Security Office has standardized the training for use throughout Interior. The training, "Federal Information Systems Security Awareness, Version 2," was developed by the Defense Information Systems Agency, and viewing it in its entirety fulfills the requirements of the Computer Security Act of 1987. The Department of the Interior University will host the training.
- Thirty IT security staff attended a program on computer security incident response from January 27 – 31, 2003. Professional instructors from Carnegie Mellon University's CERT center provided four days of training on creating and managing computer security incident response teams. The fifth day of the program was a facilitated session among the participants on streamlining responses to security incidents.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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IT security managers for Interior bureaus and offices are expected to obtain a standard certification by September 2003 – Certified Information Systems Security Professional (CISSP).

A one-day IT security training session for senior executives was held on February 19, 2003, in Reston, Virginia. International Information System Security Certification Consortium, the organization that grants the CISSP certification, provided the training to Interior CIO. Presentations included topics such as the Federal information security policy environment, an overview of FedCIRC and its initiatives and professionalizing the workforce through certification.

Several CIOs and their staff attended the SANS Institute, which hosted SANS Security Leadership Essentials Boot Camp for Managers training in San Diego, California on March 7 - 10, 2003. Many aspects of IT security were covered in the class, including policy, technical issues and information assurance aimed at all levels of management and leadership.

- Audit “Findings and Recommendations” Database: The “Findings and Recommendations” Database, which identifies 1,375 historical findings related to the protection of IT systems, was generated from studies and audits performed from 1988 - 2002. As part of a developing strategy to address and close these findings, the OCIO Project Management Office (PMO) and the IT Security Office provide findings reports to contractor teams performing C&A “initial assessments,” so that these historic findings can be verified, evaluated, and addressed. Remaining relevant findings become part of the work-off plan developed at the end of the initial assessment. The PMO and IT Security Office plan to track these findings until they are closed or considered no longer applicable in our current environment.
- Certification and Accreditation: On March 7, 2003, Interior’s CIO Security Office completed and delivered the first draft of Interior’s C&A guide, which outlines Interior’s C&A process based on NIST Special Publication 800-37. A draft Interior OCIO memorandum on C&A roles and responsibilities was also developed. A major goal of Interior’s IT security program is to achieve C&A of its IT systems in full compliance with OMB Circular A-130, Appendix III. Interior’s Indian trust IT systems, i.e., those systems identified as supporting trust business processes, are scheduled to achieve C&A compliance by December 31, 2005.

There are five phases in the C&A process, including initial assessment, pre-certification, certification, accreditation and post accreditation. The level of detail in the documents and tests for each phase depends on the risk level associated with the IT system. The risk level is determined during the IT asset valuation review.

- Initial Assessment - The initial assessment phase produces four documents for IT systems: the IT asset valuation, NIST 800-26 self-assessment system review, limited technical vulnerability assessment and system security plan. Once these documents are completed, the IT system can be granted an Interim Approval to Operate (IATO).

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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- Pre-Certification - The system security plan, contingency plan and full risk assessment are completed during the Pre-certification phase.
- Certification - A security test and evaluation (ST&E) are conducted during the certification phase. If the system is complicated and has a high risk level, the ST&E can require several months to complete.
- Accreditation - Once the risks are mitigated to a level acceptable to the designated accrediting authority (DAA), the system can be certified and accredited, which occurs during the accreditation phase.
- Post-Accreditation - Activities in the post-accreditation phase include maintaining the system security plan and risk assessment. IT systems must be re-certified every three years.

### **Compliance Management**

The PMO coordinates compliance activities within Interior and acts as the liaison between Interior, Department of Justice (DOJ) and the Court for trust system IT security issues. The following processes ensure that Interior achieves and maintains compliance with the Consent Order for Internet reconnection and with the standards of OMB Circular A-130, Appendix III:

- Internet Reconnection: The Consent Order outlines procedures for seeking approval for Internet reconnection and resumed operations of IT systems disconnected or shut down as a result of the December 5, 2001, Temporary Restraining Order. Generally, the process to request Internet reconnection or resumption of operations is as follows:
  - Bureaus and offices identify IT systems housing or providing access to individual Indian trust data.
  - Proposals for reconnection or resumption of operations are submitted to the Special Master.
  - A team consisting of Interior IT security consultants, IT security experts from the Special Master and a DOJ representative attend site visits at which the Special Master's IT security experts test Interior systems to identify IT security vulnerabilities and validate IT security remediation work completed by the Bureaus.
  - The Special Master provides site visit reports to Interior and identifies any remaining IT security vulnerabilities that must be addressed before reconnection.
  - The PMO works with the Special Master and his experts to respond to information requests, coordinate and compile bureau remediation summary reports which address remediation of security vulnerabilities identified in the site visit reports, and report Interior's IT security progress.
  - The Special Master provides Interior concurrence for Internet reconnection or system operation.
- OMB Circular A-130: As stated in the Consent Order, Interior intends to bring relevant individual Indian trust IT systems into compliance with the applicable requirements outlined

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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in OMB Circular A-130, Appendix III, "Security of Federal Automated Information Resources."

- Within Interior, compliance with OMB Circular A-130, Appendix III will be achieved using the five-phase C&A process for IT systems or enclaves.
- Trust bureaus and offices need to develop and manage project plans for each system or enclave using the five-phase project plan for C&A developed by the OCIO Security office.
- OCIO PMO plans to integrate trust project plans to track and report on overall progress across Interior.

### **Computer and Business Systems Architecture**

- Enterprise Architecture Plan:
  - Interior regularly briefs OMB on Interior Enterprise Architecture (IEA) accomplishments, including the High-Level Interior Architecture Plan, Version 1 and the Technical Reference Model, Version 2. Compliance with the Technical Reference Model is encouraged within Interior. IEA continues work on the Mid-Level and Detail Architecture Plans, as well as migration plans. IEA was integrated into the Interior's IT Capital Planning and Investment Control process to support OMB's requirements for IT funding.
- Trust Architecture:
  - On March 31, 2003, the Trust Enterprise Architecture (TEA) integrated product team (IPT) completed and published the second release of the Trust Information Resource Catalog (IRC), which is the characterization of the baseline systems and applications that support the Indian Trust Management business operations. Since June 2000, Interior has retired, migrated, and in a few cases, established new systems, reducing the Trust IRC from 70 systems to 58 systems.
  - TEA IPT continues the development of the Trust Technical Profile as part of the trust technical architecture segment. Trust Technical Profile identifies the alignment and migration forecast of the technologies used by the system and applications listed in the Trust IRC against the Interior enterprise architecture technical reference model, version 1.0, dated August 15, 2002.
  - The Trust Enterprise Architect has coordinated with the Interior Data Architect in establishing the trust data dictionary following the methodology and format of the Department data management manual.
  - The TEA IPT reviewed the Data Quality & Integrity (DQ&I) data warehouse component of the DQ&I project during this quarter. The IPT recommended that the DQ&I project proceed with the development of a statement-of-performance database and not a data warehouse system. (See Trust Data Quality and Integrity of this report for additional information.)

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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### **Indian Trust Systems**

Extensive discussions on deploying the Cognicase Current Land Title module software to the remaining BIA regions were conducted between the Office of the Special Trustee for American Indians (OST), Office of Indian Trust Transition (OITT), and Bureau of Indian Affairs (BIA). The impetus was to provide BIA with the capability to transition land title information from the legacy Land Records Information System (LRIS) to the Cognicase Current Land Title module and then retire LRIS, an obsolete system, from service. The discussions included the testing and implementation of version 1.49 of the software. If testing is successful, recommendations to deploy the current version of the Cognicase Current Land Title module and upgrade to version 1.49 will be forwarded to the Trust Executive Steering Committee. Decisions on the recommendations are expected during the next reporting period.

### **Current Status**

#### **Bureau of Indian Affairs – Security Efforts**

##### **IT Program Management:**

- **Asset Management:** The automated network discovery solution has mapped about ninety percent of network-attached devices on BIA's network. The project to implement a "desktop discovery" solution, that will provide detailed information on each desktop connected to the BIA network, is expected to be completed by the end of CY2003. The Reston facility is the first site to complete this phase. BIA conducted training for regional coordinators on the asset management tool during this reporting period.
- **Problem Management:** Work continues on implementing a problem management process utilizing the Peregrine problem management software for the IT help desk. BIA intends to consolidate the IT help desk services by the end of the next reporting period.
- **Configuration Management:** An automated process to track and manage changes to computer systems has been established. It will be centrally controlled in the OIRM Central Office facility.
- The system boundary definition final report has been delivered to the BIA Contract Officer Technical Representative, and is being reviewed and assessed.
- **Secure Network Communications:** Funding is now in place to continue the implementation of the network plan. MCI WorldCom will start to implement the WAN, beginning with installation of the six major nodes – Reston, Albuquerque, Denver, Portland, Minneapolis, and Phoenix into the private IP (PIP) environment. This is expected to be completed during the next two reporting periods, pending availability of local exchange carrier resources. Once the major nodes are completed, individual sites are expected to be connected into the PIP network.
- BIA is considering options for relocating its Reston, Virginia facility into another, larger facility in the same general area. More details should be available in the next reporting period.
- BIA hired an additional contractor to support security needs.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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### **Reconnection:**

- SeNet has delivered security plans and policies to BIA OCIO. Upon review, OCIO will require additional detail in these documents.
- Secure Communications Network. Secure E-mail and Web Proxies - MCI WorldCom and Veridian have re-constructed their prototype Internet interface in Albuquerque and are awaiting the Special Master's approval to begin testing.

### **Initial Assessment:**

- During this reporting period, a formal process to conduct C&A of IT systems has been established by Interior and adopted by the AS-IA. To this end, SAIC's site reviews, described in the last *Status Report to the Court*, provide initial information for IATO. These include risk assessments, initial technical vulnerability assessments using Nessus scans of local area networks, and work-off plans to correct any deficiencies found.
- NIST 800-26 self-assessments undertaken during this quarter include:
  - Eastern Oklahoma Regional Office (including the Osage system)
  - Southern Plains Regional Office (including the Real Estate Modules)
  - Office of Facilities Management (in Albuquerque)
  - Transportation Division (Office of Trust Responsibility in Albuquerque)
  - Office of Law Enforcement Services (New Mexico)
  - Southwest Regional Office (Albuquerque)
  - Mescalero Agency Wireless Project (New Mexico)
  - Pacific Regional Office (including Palm Springs LAN, PCLease and Key File systems)
  - Eastern Regional Office (Nashville, Tennessee)
  - Great Plains Regional Office and Land Title Records Office (including Document Management Program and DocStar applications)
- As work-off plans for vulnerabilities are resolved, full IATO packages will be prepared by contractor support staff (SeNet and AmerInd).

### **Office of the Special Trustee – Security Efforts**

#### **Reconnection:**

- In response to the IT security vulnerabilities identified in the Special Master's site visit report, OST evaluated and remediated vulnerabilities to support reconnection to the Internet.
- Tested and evaluated an additional intrusion prevention system with planned implementation on the OST Albuquerque network in April 2003.
- OST is waiting for concurrence from the Special Master to reconnect the Albuquerque, New Mexico office to the Internet.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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### **Office of Hearings and Appeals – Security Efforts**

#### Reconnection:

- The Office of Hearings and Appeals (OHA) made enhancements and completed all recommendations made during the site visit from the Special Master's technical representatives to support reconnection to the Internet.
- OHA is waiting for concurrence from the Special Master to operate the web server and connect to the Internet.

### **Office of the Solicitor – Security Efforts**

#### Program Management:

- Completed final draft of Solicitor's Office Security Program and Implementation Plan required by the Federal Information Security Management Act.

#### Network Progress:

- Connected additional regional/field offices to SOLNET, leaving only 2 of 17 remaining.
- Ordered final firewall and intrusion detection system hardware/software for SOLNET, to be implemented upon receipt of all components at all Solicitor's offices and the Bureau of Land Management DMZ.

### **Minerals Management Service – Security Efforts**

#### Reconnection:

- Of the 17 State and Tribal Audit Committee sites that were disconnected, 10 have been reconnected using the thin computing model approved by the Special Master.

#### Initial Assessment:

- Completed initial assessment (IA) of the networks (includes the major applications and the general support system). The WAN/LAN general support system is comprised of three primary locations – Denver, Colorado, Herndon, Virginia and New Orleans, Louisiana. To date, we have developed system descriptions, draft system security plans, self-assessments, technical vulnerability assessments, and a plan of actions and milestones for all primary locations.
- Developed draft continuity of operations plans for New Orleans and Denver. Based on results of the IA, MMS refined the quantity of systems on the system inventory list.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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### **Delays and Obstacles**

There are many challenges that must be addressed regarding the integration, performance, funding, security, and data integrity of IT systems. These challenges have been discussed in several prior reports and most remain as challenges.

### **Assurance Statement**

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

Date: May 1, 2003

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

***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

**May 1, 2003**

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### **B. CADASTRAL SURVEY**

#### **Introduction**

A cadastral survey is a land survey of sufficient scale to show the extent and measurement of property boundaries. A cadastral survey as performed by the Bureau of Land Management (BLM) is used to identify the location of land boundaries, to determine accurate acreage of tracts of land, and to maintain the related survey records for all public and Indian lands. Cadastral surveys and records are critical to the success of the trust. Ownership information, distribution of trust assets, and management of trust accounts are related to or are based upon information recorded in a cadastral survey. Under 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 the BLM, and as nearly as may be in conformity to the rules and regulations under which other public lands are surveyed."

#### **Accomplishments and Completions**

##### **Inventory of Survey Needs/Cadastral Automated Request System (CARS)**

BLM, with the recommendations from the Bureau of Indian Affairs (BIA), continues to refine the CARS database. The urgency of a nationwide inventory of cadastral survey requests was a major focus of BLM this reporting period. Working as a team, BIA and BLM were able to overcome delays and complete the preliminary inventory in early March 2003, two months ahead of the original target date. This preliminary inventory was built upon the pilot CARS software which was developed by BIA and BLM in the Northwest Region. CARS software will be used to develop a nationwide inventory with information necessary to identify and prioritize cadastral surveys in Indian Country. BLM and BIA are fine-tuning the process for prioritizing survey needs and anticipate that a fully automated system will be in place for BIA regional offices before FY2004. A meeting has been scheduled with key BLM and BIA personnel in April 2003 to finalize this automated system and address additional issues concerning the efficiency of the prioritization process.

Each BIA regional office submitted its priorities for FY2003, along with the "priority drivers." Priority drivers include such things as type of survey, economic return, statutory requirements, and administrative needs, each of which is assigned a numerical value. Approximately 1,000 survey requests were received from BIA and then entered into the database by BLM to create a nationwide survey priority list.

BLM and BIA used this nationwide preliminary survey priority list to aid in the distribution of the second allocation of FY2003 funds from BIA. Of the top 200 priority surveys, 89 percent have been scheduled to start this fiscal year. The remaining 11 percent will be addressed next in FY2004.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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The Northwest Region was questioned on how much interest there was from other Tribes for a Cadastral Geographic Information System (CGIS) such as the "Yakama Model." Approximately 60 percent of the Tribes queried in this inventory were interested in some part, or all, of the CGIS capabilities developed under this model.

### **Cadastral Indian Program Manager**

The Cadastral Indian Program Manager has reported to Washington, D.C., and is performing the duties associated with the position. The Cadastral Indian Program Manager assisted with the survey prioritization process and with the distribution of the second allocation of FY2003 funds from BIA. The Cadastral Indian Program Manager will continue to oversee the development of ongoing and future high-priority survey needs for individual Indian trust and Tribal lands, to develop long-term strategic plans to meet critical, high-priority survey needs, and to coordinate with key Tribal, BIA, Office of the Special Trustee for American Indians (OST), BLM and other stakeholders.

### **Request for Assistance in Department of the Interior's Reengineering Efforts**

With the completion of the "As-Is" Trust business process models, OST is in the process of putting together the "To-Be" reengineering phase. Since cadastral survey is one of the eight core trust business processes, BLM will be assisting in the "To-Be" reengineering efforts along with other agencies and constituents. This assistance ensures that the reengineered trust business process for cadastral surveys is in the best interest of the beneficiaries and in accordance with Interior's fiduciary responsibilities and with laws and regulations governing cadastral surveys. This information will then be communicated to stakeholders and participants.

### **OST Training Course, "*Trust Foundations: An Introduction to Trust Reform and Change*"**

In the preliminary request to determine who had fiduciary trust responsibilities, 223 BLM employees were determined to have cadastral survey trust responsibilities. Of these employees, 74 percent have completed the class, "*Trust Foundations: An Introduction to Trust Reform and Change*," or are scheduled to complete the class during the next reporting period. The surveyors who still need to complete this requirement have been notified to register and complete this course.

### **Individual Development Plans**

Those BLM surveyors who spend more than 25 percent of their time on trust activities are expected to complete an Individual Development Plan identifying short-term and long-term developmental plans. These plans are expected to be completed by May 30, 2003. This responsibility is being reemphasized to ensure that compliance is achieved by cadastral surveyors prior to May 30, 2003.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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### **Current Status**

#### **Interior Indian Trust Lands Boundary Standards**

Although the standards were expected to be referred to the Office of the Solicitor for review in this reporting period, the referral was delayed and should occur in the next reporting period.

#### **Pilot Study of Risk Assessment for Cadastral Services**

The Office of Trust Risk Management (OTRM) and the BLM Cadastral Survey Program have moved forward with a pilot study focused on risks associated with funding, process and priority setting of cadastral services in Indian country. In January, OTRM and BLM met at the Idaho State BLM office to pilot a risk management program as it relates to Indian trust assets. The projected automated system is not finished and thus was not used as part of this initial pilot study. OTRM's interim report is expected to be released in the next reporting period at which time BLM can review and provide comments.

#### **BLM, BIA Tribal Training Course, "Land Tenure in Indian Country"**

The initial "Land Tenure in Indian Country" course will be offered this summer in the Pacific Region. This course was piloted in September 2002 at Pendleton, Oregon. This training course is designed to educate realty specialists, cadastral surveyors, appraisers, attorneys and other land tenure specialists about land issues facing BLM, BIA and Tribal governments and provides solutions on resolving these issues by working together. Some of the topics and issues presented include Indian land law, land status issues, cadastral survey, land information systems and land transactions. BLM has been working with the OST training coordinator to schedule future classes. The outcome expected is to have BIA and Tribal officials more knowledgeable about survey needs and the unique issues surrounding Indian land titles and ownership.

#### **The Western Governors' Association (WGA) Forum, "Putting Land Records to Work"**

The WGA, with BLM support, is sponsoring a two day forum on land records on May 6 -7, 2003, and Tribal governments have been invited as presenters and participants. The vision of the forum is to accelerate implementation and to promote wide-spread use of a comprehensive geographic system of land records information across the West. Local, state, federal and Tribal governments, as well as the private sector, such as banking, real estate, and insurance industries, use this foundation of land ownership to meet day-to-day business needs.

### **Delays and Obstacles**

None.

***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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**Assurance Statement**

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

Date: April 24, 2003

Name: *Signature on File*  
Donald A. Buhler

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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### **C. MINERALS MANAGEMENT SERVICE**

#### **Introduction**

The Minerals Management Service (MMS), Minerals Revenue Management (MRM) is responsible for collecting, accounting for, and distributing mineral revenues from both Federal and Indian mineral leases and for evaluating industry compliance with laws, regulations, and lease terms. The MRM conducts its business processes, maintains reported information, and distributes revenues at the lease level. The Bureau of Indian Affairs (BIA) uses its ownership records to allocate revenues to individual Indians. The MRM does not maintain information on individual Indian mineral beneficiaries.

#### **Accomplishments and Completions**

With the February 2003 implementation of Exception Processing, MMS's reengineering project is now complete. Faced with changing energy markets, new legislative mandates, and aging computer systems, MRM made the decision in 1998 to reengineer its core business processes and support systems. This initiative was necessary in order for MRM to remain cost-effective and responsive to customer needs and to fulfill its trust responsibility to American Indians. This multi-year initiative included the following major components and features:

- Realigned MMS functions into two fundamental business processes: financial management and compliance. Compliance functions were realigned to provide end-to-end responsibility on a property/region basis.
- Replaced aging, mainframe-based financial system with commercial off-the-shelf financial system which is compliant with government accounting standards including standard general ledger.
- Implemented modern, central data warehouse to provide greater analytical utility for MRM accountants and compliance analysts and also to enable states, Tribes, industry, and federal bureaus to access historical MMS royalty and production data.
- Implemented array of compliance system tools to enable MRM plus state and Tribal auditors and analysts to more effectively assess industry compliance on a timely basis.
- Implemented exception processing tools to detect and bill for over-recoupment on Indian properties and non-compliance with lease financial terms.
- Implemented interest exception processing module to comply with Royalty Simplification and Fairness Act which requires MRM not to only collect interest from industry on underpayments but also to pay interest to industry on overpayments.

In addition to the reengineering project, three recommendations were added to this activity as a result of the Electronic Data Systems (EDS) Report on Trust Reform. Implementing these recommendations will help provide appropriate documentation of procedures and agreements, but none represent problems that are adversely affecting the fulfillment of the Department of the Interior's (Interior) Indian trust responsibilities. Recommendation 1 is now complete. Timely completion of the other two recommendations will depend not only on MMS but also on the

## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

**May 1, 2003**

---

amount of time and attention that MMS's business partners—BIA, Bureau of Land Management (BLM), and Office of the Special Trustee for American Indians (OST)—are able to devote to this collaborative effort during the remainder of the year.

**Establish Ongoing Application Change Control Procedures.** The procedures documenting how software enhancements and modifications are approved and implemented in the steady state environment were completed March 31, 2003.

**Coordinate Information Exchanges between MMS and all systems.** EDS made this general recommendation to help address future information exchange issues that may arise. In coordination with other Interior bureaus, MMS will help establish a policy and process for documenting information exchanges with its business partners: BLM, OST, and BIA. National Institute of Standards and Technology security guidelines, as adopted by Interior, recommends memoranda of understanding and interconnection security agreements to document information exchanges and security requirements. MMS plans to work with the other bureaus to execute agreements as appropriate. (December 31, 2003)

**Document Procedures Regarding Royalties Disbursement.** When completed, this should document royalty disbursement procedures and should contain agreed-upon performance expectations between MMS and BIA. (December 31, 2003)

### **Delays and Obstacles**

None.

### **Assurance Statement**

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

Date: April 29, 2003

Name: *Signature on File*

Phil Sykora

Chief, Financial Management

Minerals Revenue Management

Minerals Management Service.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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### **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 underway in the Department of the Interior (Interior) and involves a comprehensive process of assessing current workload, current program efficiencies and gaps and 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 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**

**Interior completed and published the Comprehensive Trust Management (CTM) Plan on March 28, 2003.**

The CTM defines "fiduciary trust" management reform and outlines the high-level steps to be taken to reengineer and reform fiduciary trust work. It defines the term fiduciary trust as "the trust created by virtue of the United States holding title or control over assets belonging to an American Indian individual or tribe." The definition will assist in focusing specifically on fiduciary trust management work. This document serves to guide transformational activities of fiduciary trust reform to include process reengineering, reorganization, workforce planning and policy, and process change.

**Four workforce planning training workshops were completed during this period.**

Supervisors and managers of the Office of the Special Trustee for American Indians (OST) attended a one-day overview session for managers (31 attendees). They were provided an outline of the Interior workforce planning model and discussed the latest tools and methods for workforce planning. The training session was also designed to encourage the OST leaders to determine the membership, time and place for the follow-on three-day Workforce Planning Workshop. This three-day workshop is scheduled to occur April 8-10, 2003.

During this reporting period, the management team of three Bureau of Indian Affairs (BIA) Regions, Eastern (20 attendees), Alaska (27 attendees), and Eastern Oklahoma (27 attendees) attended the Interior three-day Workforce Planning Workshop. During these workshops, the BIA participants learned how to apply the Interior workforce planning model and how to use workforce planning tools. They accomplished their stated purpose of determining how most effectively to allocate resources, and they left the workshop with the basic components of a first workforce plan. By memorandum dated March 14, 2003, all BIA central office directors were

## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

**May 1, 2003**

---

reminded of the requirement to attend workforce planning training. All BIA regions have either completed or have scheduled workforce planning workshops. Workshops will continue to be delivered throughout FY2003.

### **Interior provided a common workforce planning “template” for the development of bureau-level workforce plans.**

The decision to use a template enhances Interior’s ability to assess bureaus’ and offices’ workforce plan including those specifically related to fiduciary trust activities, and focus on critical strategic workforce needs during budget formulation and execution. The Interior Management Initiatives Team approved the template, and it has been shared with all trust organizations.

### **Current Status**

#### **Interior bureaus are to develop Workforce Plans by September 30, 2003, for FY2004-2008 and update annually.**

The first workforce plans will focus on the fiduciary trust management organizations as they operate today. The results of reorganization efforts and the business process reengineering (also known as the “To-Be” initiative) under the CTM Plan will require additional workforce planning skills analysis and strategies.

#### **Interior requires an Individual Development Plan (IDP) for each employee with fiduciary trust process responsibility.**

The IDP identifies planned, future and mandatory training and development to sustain and/or enhance successful performance. Trust organizations are completing their reviews of IDP and have provided the following feedback:

The Minerals Management Service (MMS) reviewed completed IDP, interviewed selected line managers and provided observations. They reported that their IDP are reviewed by first-line supervisors and then by line managers for a global review. MMS noted that most courses listed in the IDP provide this required professional development. They also noted that various on-the-job training by supervisors, team leaders and experienced peers will continue. Due to the variety and depth of knowledge of the differing MMS positions, MMS found that the review of their IDP is best performed by officials with significant technical skill.

During this reporting period the Bureau of Land Management (BLM) prioritized its review process of trust employee IDP with a special focus on employees who “spend more than 25 percent of their time on trust activities.” By Instruction Memorandum No. 2003-121, dated March 20, 2003, BLM instructed that these employees’ IDP are to contain mandatory trust training to ensure that this training priority is understood. They established an updated oil and gas inspector certification program involving six to eight weeks of formal training interspersed

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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with on-the-job training. BLM also initiated a link between the IDP and the semi-annual staffing plan update reports that will assist bureau-level officials to determine staffing needs.

The BIA also provided additional direction on the review of BIA trust employee IDP. They collected and expect to assess ten percent of all BIA IDP. On March 3, 2003, the Deputy Commissioner of Indian Affairs directed that each region respond by providing a copy of the IDP (during the month of March) of certain named employees.

The OST had previously required that a copy of all IDP be provided to its central office. Copies are maintained in groups by organization structure. In establishing the record system, it was learned that while IDP were reviewed by at least one level of supervision, the second review varied by division. In some cases the second level of review was done by the Administrative Officer, the Human Resources Specialist, or a higher-level supervisor. These results were reported to senior managers along with suggestions for further review in order to allocate employee development opportunities and money.

### **Workload analysis and skill assessment options.**

During discussions about the reengineering initiative of the CTM Plan, agreement was reached that Interior must integrate a continuing capacity for conducting periodic workload and skill assessment. The requirement for workload analysis is planned to be addressed as a critical component of the reengineering initiative. The goal is to identify an affordable and maintainable provider and a viable methodology for use during business process reengineering, as appropriate, and after processes are reengineered to periodically collect and assess required competencies, staffing and training in the workforce planning process.

### **Delays and Obstacles**

The restriction on the use of the Internet in many trust organizations has continued. Due to the lack of the Internet, valuable resources must be expended on every communication in order to continue operations. There is a critical unmet need to provide easy access to real-time information to every trust management employee during the necessary change process.

The reengineering of business processes described above is expected to be complete at the end of March 2004; and therefore, current staffing is expected to undergo review and change. The individual responsibilities of the employees and managers may change. Therefore, the completion of workforce plans during CY2003, will, in many cases, focus on work as it is known today. As the work is reorganized, workforce plans are expected to be updated.

***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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**Assurance Statement**

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

Date: April 24, 2003

Name: *Signature on File*

Kathryn A. Bown

Indian Trust Human Resource Advisor

## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

**May 1, 2003**

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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).

#### **Accomplishments and Completions**

##### **Trust Training**

During this reporting period, over 35 representatives of OHTA's staff and contractor firms have attended three three-day training sessions on *Trust Foundations: An Introduction to Trust Reform and Change*, presented by Office of the Special Trustee for American Indians (OST) through its contractor.

##### **Resolution of Differences with Treasury**

On March 28, 2003, Department of the Interior (Interior) and Department of the Treasury (Treasury) officials met to resolve accounting differences reflected in Treasury's records with balances reported in the Interior's Tribal and IIM Trust Fund financial statements. The resolution of these differences should take effect during the next reporting period.

##### **Land Title Project**

An OHTA contractor completed the Land Title Project (a sampling of 100 tracts) and delivered final reports regarding work accomplished for this project. There were two facets to this Project (1) checking the completeness of the physical land records -- *i.e.*, whether all Indian Trust tracts/allotments are in the Land Record Information System (LRIS) data base, and (2) testing the accuracy of the ownership data using probate records for the selected tracts -- *i.e.*, whether all individual owners are recorded in LRIS with their proper fractional shares of undivided interest. The reports describing the comparison of the probate information to the tract history information are now finished and have been transmitted to each Land Title Record Office (LTRO), concluding this project. Based on the sample of selected tracts, the contractor determined that the LRIS data examined adequately reflected the land ownership reported by the Bureau of Indian Affairs' (BIA) LTROs. As a result of the project, Interior is confident in the information held within the LTRO's for use in the historical accounting.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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### **Historical Accounting for Named Plaintiffs**

OHTA engaged a CPA contractor to complete historical accountings for four of the named plaintiffs in the *Cobell* litigation. As part of a separate contract with Department of Justice, the contractor had previously reconciled documents that were collected as part of the "Paragraph 19" effort to reconcile the account transaction histories of the four named plaintiffs. One of the five named plaintiffs is not believed to have had an IIM account as of December 31, 2000, the concluding date for the historical accounting. The contractor performed work on selecting outstanding items for the accounts of the named plaintiffs and their agreed-upon predecessors. This included requesting additional documents from Interior and analyzing certain transactions in light of additional information received. On February 28, 2003, the contractor presented an Expert Report to the Court regarding transactions involving the named plaintiffs and predecessors.

### **Current Activities**

#### **Judgment and Per Capita IIM Accounts**

As reported in previous *Status Reports to the Court*, an OHTA CPA contractor is tasked to reconcile a number of Judgment and Per Capita IIM accounts. The contractor continues to perform historical accounting procedures on these IIM accounts. The contractor delivered three reports regarding the results of Judgment IIM accounting work to OHTA dated January 3, 2003, February 3, 2003, and March 7, 2003, which reconciled a total 1,573 Judgment IIM accounts with an associated total dollar value of \$6,333,193. As reported in previous *Status Reports to the Court*, a CPA contractor firm has been engaged to perform a quality control check of the contractor's work. On March 3 and 24, 2003, a quality control report was issued on 909 Judgment IIM accounts transmitted to OHTA by a separate contractor on October 2, 2002, and on 257 Judgment IIM accounts transmitted to OHTA on January 3, 2003, respectively. To date, the cumulative number of Judgment IIM accounts reconciled is 15,808 with a dollar value of \$47,543,038. The reviewing contractor's report indicated satisfaction with the accounting done by the CPA contractor.

The CPA contractor also transmitted to OHTA three monthly reports on its work on Per Capita IIM transactions for the reporting period, reconciling 15,849 Per Capita IIM transactions with an associated dollar value of \$9,593,199. The CPA contractor transmitted the foregoing in reports dated January 3, 2003, for 3,282 transactions, February 3, 2003, for 3,448 transactions and March 7, 2003, for 9,119 transactions. The reviewing contractor expects to issue its quality control reports on these submissions together with earlier groups of Per Capita IIM submissions by June 30, 2003. To date, the cumulative total of Per Capita IIM transactions reconciled is 111,213 with a dollar value of \$89,664,597. The amount of Per Capita IIM dollar values reconciled is greater than the aggregate December 31, 2000 Per Capita IIM account balances because the throughput dollars are reconciled which include collections, disbursements and other activities, not just the balances.

## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

**May 1, 2003**

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### **Eastern Region**

The Eastern Region has 48 land-based IIM accounts. An OHTA CPA firm contractor began receiving transactional documentation from Trust Funds Accounting System (TFAS) to reconcile transaction balances associated with these IIM accounts. The contractor expects to complete this project by August 31, 2003. At the request of OHTA, the completion date was changed to August 31, 2003, from June 30, 2003, owing to new construction work at Office of Trust Records (OTR) Albuquerque Records Center that will affect records collection.

### **New Accounts Opened 1998 and Later**

A contractor prepared a work plan to perform the accounting for the new TFAS accounts in the Southwest Region. The Southwest Region was selected since land records are in the Albuquerque LTRO and financial records are in OTR Albuquerque Records Center. This plan was reviewed and approved by OHTA and the quality control contractor. Analysis has begun of the transaction histories (collections and disbursements) for these IIM accounts, including the review of selected supporting financial documents from OST's Office of Trust Funds Management (OTFM).

The historical accounting for the new TFAS accounts in the Southwest Region was originally scheduled for completion during the quarter ending September 30, 2002. However, delays were experienced on obtaining LRIS data due to the December 5, 2001, TRO and the December 17, 2001, Consent Order. This project is expected to be completed during CY2003.

### **Collection of Missing Information from Outside Sources**

On February 5 and 6, 2003, OHTA's Chief of Staff and legal advisor completed a review of documents in the Anaconda Collection held by the American Heritage Center at the University of Wyoming in Laramie, Wyoming. This collection was identified as a possible source of third-party records that may assist in completing the historical accounting effort. OHTA obtained a membership to the Heritage Center and initiated the reconnaissance to learn more about the types of documents in the collection and their content. Based on this visit, the Anaconda Collection appears to contain some documents that may relate to IIM and/or Tribal historical accounting issues. The collection is not likely to be a primary source of documents for the historical accounting effort since only a small percentage of the records appears to be directly applicable. Additional visits to the American Heritage Center will depend on the prospect of locating specific documents needed to reconcile sampled transactions.

OHTA has prepared a draft of policy and procedures for collection of missing trust-related information. This draft is in the Interior's Office of the Solicitor for review. Once the document is approved, OHTA expects that it will be incorporated into the *Departmental Manual* and disseminated as appropriate. The policy will identify

## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

**May 1, 2003**

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procedures for collecting missing trust-related information from outside parties. It is expected to have the policy issued during the next reporting period.

### **Accounting Standards Manual**

Several contractors and OHTA staff, continued work to revise and update the draft of the *Accounting Standards Manual (Manual)*. OHTA initially issued the *Manual* on July 2, 2002, and will issue a revised draft *Manual* in the next reporting period.

### **Historical Accounting Software**

OHTA finalized the software accounting requirements as agreed to by OHTA's accounting contractor firms, and began developing the accounting reconciliation tool (ART) system. This project was reported in the *Status Reports to the Court Numbers Eleven and Twelve*.

On April 1, 2003, OHTA completed a draft business case analysis and capital plan for the ART. OHTA, with assistance from its integrator-contractor, will create an OMB-mandated Exhibit 300 from the business case. Anticipated delivery for the final business case/capital plan and Exhibit 300 is late April 2003.

As stated in the *Status Reports to the Court Numbers Eleven and Twelve*, the ART will standardize the historical accountings conducted by each of OHTA's accounting firm contractors, and will facilitate use of imaged and indexed electronic and hardcopy transaction documents. In addition, the overall ART system security is being analyzed and is under development.

### **Outreach**

On February 26, 2003, the OHTA Deputy Director, together with Interior's Assistant Deputy Secretary, presented a briefing to the House Interior Appropriations Subcommittee Staff Director, concerning the *January 6, 2003, Plan to the Court*.

### **New Projects**

#### **Special Deposit Account (SDA) Cleanup Project**

Administrative accounts, referred to as SDA, are established as suspense accounts to temporarily hold funds until they can be properly allocated to recipients. Historically, there has been no uniform practice for the use of SDA within BIA. Funds held in SDA have not always been distributed in a timely fashion, nor have funds always been distributed with the interest earned while on deposit in the SDA. OHTA will perform the work necessary to distribute about \$47 million held in approximately 19,000 SDA opened before January 1, 2001. This work will address identifying SDA trust and non-

## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

**May 1, 2003**

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trust account balances, distributing monies to proper IIM accounts, tribes or private entities, and identifying funds that were improperly held in SDAs.

Beginning January 2003, OTFM transferred the pre-January 1, 2001, portion of the SDA Cleanup Pilot Project to OHTA. On February 5, 2003, representatives of OHTA, OTFM, and BIA reached agreement on resolving specific aspects of work associated with the SDA Cleanup Project. OHTA appointed an SDA Project Manager, an experienced SDA field coordinator and contractor to begin working on SDA. A contractor has been engaged to continue the SDA Cleanup efforts begun under the OST pilot project. A plan has been developed by an OHTA contractor that incorporates the use of an automated tracking system for monitoring and reporting progress.

The SDA Cleanup Team (Team) selected accounts in the Alaska Region as the first Region for SDA cleanup work. The Team traveled to the Alaska Region during March 24 to 28, 2003, and completed the initial project steps for Alaska. The Alaska Regional staff provided required documentation necessary to close additional SDA that resulted in 36 remaining SDA (as compared to 70 as of December 31, 2000). OHTA is proceeding on schedule towards the target for total cleanup of these Alaska Region SDA by June 30, 2003. The target date for all SDA cleanup is CY2007.

### **Prototype for Alaska Sample**

As a pilot test of the sampling and record collection process, OHTA and a contractor selected a random sample of approximately 100 Alaska transactions, covering receipts and disbursements of different types. The sample includes the selection of transactions from the electronic database and the selection of realty documents reflecting income from land, such as leases and sales contracts. While not large enough to be representative, the sample taken will be used to test and refine, as needed, record location and collection procedures, develop and test training materials, and learn how long the document collection part of the historical accounting is likely to take.

Begun in the last half of March 2003, this project is in its early stages. OHTA concurred with its contractor in developing the required samples for this pilot. The record collection has begun, with the emphasis, so far, on developing methods to facilitate the record search and related control efforts. From March 24 to 28, 2003, several representatives from OHTA staff and contractor firms for OHTA, visited the Lee's Summit, Missouri, Federal Records Center to begin the search for records associated with Alaska prototype sample.

### **Delays and Obstacles**

- (1) *December 5, 2001, Temporary Restraining Order/Computer Shutdown* – As discussed in previous *Status Reports to the Court* and in the section titled, "New Accounts in the Trust Fund Accounting System (TFAS)" of this Report, OHTA continues to be affected by the computer shutdown and has delayed the completion of some of its accounting work.

***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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- (2) OHTA's staff and contractor personnel worked on various document and discovery requests during this reporting period, delaying some of its on going accounting work.

**Assurance Statement**

I concur with the contents of the above information on OHTA's section contained in the *Status Report to the Court Number Thirteen*. The information provided in this section is accurate to the best of my knowledge.

Date: April 28, 2003

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

## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

May 1, 2003

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### **III. OFFICE OF INDIAN TRUST TRANSITION**

#### **Introduction**

The Office of Indian Trust Transition (OITT) was organized in November 2001 for the purpose of assisting the Department of the Interior's (Interior) effort to reorganize the fiduciary Indian trust functions within Interior into a more efficient, effective and reliable organization. Since its creation, OITT has met regularly with all Interior bureaus that manage parts of the trust as well as with Tribes during the consultation process in 2002, to better define the needs of the Tribes as well as the individual Indian beneficiaries of the trust.

#### **Status Report to the Court Number Thirteen (Report)**

This Report has been prepared in the same way as the previous five Reports. Each trust process or activity has a manager who is required to inform the Court of the progress or lack of progress in his or her particular area and any obstacles that might hinder their performance. The reports are prepared and the managers are interviewed about the reports to ensure that the reports are understandable and fully describe the previous three month's efforts toward trust management improvement or specific project status. Each manager then appends his or her assurance statement agreeing that the report reflects those activities and achievements.

#### **Reorganization**

The reorganization of the fiduciary trust functions within Interior continued to be put into place during this reporting period. The *Departmental Manual* (DM) changes were drafted and have been circulated for approval and signature of the respective agencies affected. Once approved, the Secretary will review the DM changes and make a final decision on approval. This effort is expected to be completed during the next reporting period. At that time, the Bureau of Indian Affairs (BIA) and the Office of the Special Trustee for American Indians (OST) will commence briefings and training for all regions and agencies affected by the reorganization. Additionally, briefings will be provided for Tribes.

Two major changes resulting from the reorganization are consolidation of fiduciary trust functions under a single authority within the BIA and the addition of new oversight authority for OST in the form of agency trust officers and regional administrators who will work closely with BIA officials to ensure, among other things, better financial management and beneficiary services.

#### **Comprehensive Trust Management Plan**

The Comprehensive Trust Management (CTM) Plan was completed during this reporting period. The CTM Plan is both strategic and operational. It completes an effort begun by Interior in January 2002. The CTM Plan sets forth a strategic framework, a set of six goals and 32 objectives that are required to be met in order to fulfill Interior's obligations to its fiduciary trust

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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beneficiaries. The CTM Plan identifies the primary business lines for Interior as: beneficiary trust representation, trust financial management and stewardship and management of land and natural resources. Each of the goals and objectives fits within these business lines and meeting these goals will ensure that the fiduciary trust duties of Interior are being managed effectively. The CTM Plan was submitted to the Special Master-Monitor.

In addition to identification of the goals and objectives, it is necessary to identify the business processes that support them. The fiduciary trust business processes were mapped during 2002 and the complete "As-Is" study of existing business processes was finished during this reporting period. The next step toward implementation of the CTM Plan is to reengineer the business processes. This is known as developing the "To-Be" model business processes. Reengineering of the fiduciary trust business processes will allow Interior to develop consistent processes throughout its field locations, streamline the delivery of services, incorporate best practices from the commercial and government sectors and permit greater use of technology for managing the processes. The reengineering will be assisted by a contractor. The project is expected to be active during the next two years and should be completed with steps in place to implement the reengineering by late 2004. In the meantime, several "quick hits" have been identified by the "As-Is" work team that may be able to be incorporated much sooner. These quick hits will be analyzed by the Trust Executive Steering Committee and implemented when appropriate. A Federal Register notice has been prepared and is expected to be published during the next reporting period seeking Tribal leader participation in the "To-Be" process.

### **Training**

A major training effort in the principles of fiduciary trust was begun during this reporting period. A course was designed by the Cannon Financial Institute a well-known trust training organization, with the support of BIA, OST and OITT. The course was first offered to high-level employees of Interior. The purpose of the course is to provide managers a technical understanding of general trust law, investments, and principles of trust and to compare and contrast private sector trust organizations with the Indian fiduciary trust. The course was well received and will be presented to all senior managers within the trust environment at Interior during the next two reporting periods. In addition, Upper Mohawk, Inc. is completing its work of presenting a general trust information course to all employees of Interior who manage or work in the trust environment. The Director of OITT attended the three-day trust training presented by Upper Mohawk, Inc. as well as the training provided by Cannon Financial Institute.

### **Accounting Reconciliation**

As reported in "Current Accounting Activities," historical differences between the Department of the Treasury (Treasury) and Interior regarding several account balances affecting both IIM and Tribal trust funds were cleaned effective March 31, 2003. The Treasury processed adjustments to reflect the audited balances of Interior. This process should be completed during the next reporting period. An additional accounting issue with OTFM is a shortage in the individual Indian account fund of approximately \$6 million. Although the impact is very small as to the

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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total fund, the shortage must be resolved so that the fund can earn interest on the full amount due to the beneficiaries. The shortage likely resulted from a period of time when estimated rather than actual interest payments may have been made to individual beneficiaries. This shortage must be made up from appropriated funds. A request has been included in prior budgets but has not been funded. Additional requests to Congress will be made, and alternatives will also be explored such as reprogramming of existing appropriated funds. If Congress acts, a resolution of this matter should be forthcoming by the end of this fiscal year. Also, there remain two other material weaknesses regarding beginning and current balances of the Individual Indian Money account holders that are part of the *Cobell* legal action, and reliance on the processing of trust transactions. These matters should be resolved through the completion of the historical trust accounting plan and assurances that trust transactions are fully validated.

### **Indian Land Consolidation**

As reported elsewhere in this Report, Interior has designated an internal working group from the BIA to develop a plan for managing the work of acquiring more fractionated interests of land through the efforts of private contractors. It is believed that the pilot projects were productive, and, as a result, additional money was proposed in the FY2004 budget for more land purchases. A working committee of tribal leaders is being developed through a Federal Register notice that should be published during the next reporting period requesting interested Tribal officials to be nominated for the committee.

### **Special Trustee Advisory Board**

As a result of recent language included in the FY2003 Interior Appropriations Act (Act), Congress required that a new Special Trustee Advisory Board be appointed within 90 days from the date of enactment of the Act. A Federal Register notice has been drafted and is expected to be published in the next reporting period seeking nominations to the Advisory Board. It is expected that the new Board can be named during the next reporting period.

### **Delays and Obstacles**

Embracing the concept of change management, moving an organization in a different direction, is a challenge for Interior. In particular, to make beneficiaries the focus of the trust and improve delivery of services by embracing traditional trust processes requires a major commitment of the BIA, OST and other trust-related bureaus within Interior. Throughout this Report, it is evident that a team approach is needed to solve many of the problems of the trust. These include areas such as probate, policies, training and, particularly, acquisition of highly fractionated interests of land through the Indian land consolidation process. Work has already begun to establish a closer working relationship within Interior agencies and bureaus by creating the Trust Executive Steering Committee and making the reengineering ("To-Be") team inclusive to represent all of Interior. This work will continue through the next several years to improve the trust.

***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

---

The on going litigation continues to exact a high price in terms of efficiency and effectiveness at all levels of Interior. In response to document production requests, hundreds of hours are being spent at agency regional and central offices to produce thousands of pages of documents, and requests for testimony and declarations of Interior employees are common place. The court-ordered shutdown of Internet access by certain Interior agencies, now into its 16<sup>th</sup> month, has resulted in large backlogs of work at title plants and in the probate process as well as general day-to-day work at the BIA, OST and Office of the Solicitor. At the same time, Interior recognizes that it must have a secure system, and the managers continue to work with court officials to resolve this particular problem. It is expected that Internet access can be reestablished within these bureaus and agencies before the end of CY2003.

**Assurance Statement**

I concur with the content of the information contained in the Office of Indian Trust Transition Section of the *Status Report to the Court Number Thirteen*. The information provided in this section is accurate to the best of my knowledge.

Date: April 29, 2003

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

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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### **A. TRUST BUSINESS MODELING**

#### **Introduction**

The goal of the Department of the Interior (Interior) trust reform effort is to build a highly effective fiduciary trust services delivery organization. The first critical step toward achieving this goal was completed on March 21, 2003, when the eight core "As-Is" trust business process models were finalized and distributed. The eight core "As-Is" trust processes are:

- Beneficiary Services
- Probate
- Title
- Appraisal
- Cadastral Survey
- Surface Asset Management
- Subsurface Asset Management
- Accounting Management (Individual Indian monies, Tribal and Investments)

Prior to completing the "As-Is" Trust Business Model Report, the final baseline models for each of the eight core trust business processes were assembled and referenced as "As-Is" Baseline Version 6. In addition, the regional variations to the "As-Is" baseline models were consolidated into tables that identify the area or region affected by the variance, the reason for the variance, the impact of the variance and the degree of difficulty associated with changing the variance.

Finalizing the "As-Is" Trust Business Model is a significant step because the contents of the report, and associated appendices and tables, will serve as the foundation for the analysis and reengineering required to produce a beneficiary-centered trust business model. The "As-Is" Trust Business Model Report:

- Established a comprehensive understanding of how the current trust business processes are being performed
- Documented regional variances
- Identified opportunities for improvement

Beginning with this reporting period the trust business process modeling team has started planning for the "To-Be" reengineering phase. The "To-Be" reengineering phase expects to transform the eight existing core trust business processes into more efficient, consistent, integrated and fiscally responsible processes that should meet the needs and priorities of the beneficiaries. The "To-Be" reengineering effort should help determine which parts of the "As-Is" processes should remain and which should be reengineered. The processes identified for improvement, change or elimination are expected to proceed through the reengineering steps, integrating the Universal Support Functions, for the purpose of establishing cohesive and consistent trust business processes across all of Interior.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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Development of the "To-Be" model is targeted for completion during the next two years. Thus, the subject matter of this report, as well the remaining *Status Reports to the Court*, will concentrate on the "To-Be" reengineering effort.

### **Accomplishments and Completions**

The Office of the Special Trustee for American Indians (OST) extended finalization of the "As-Is" Trust Business Model to March 21, 2003, in order to allow additional time for comments. During this time, OST and contract staff reviewed and integrated comments from Interior offices, as well as tribes, into the final deliverable report.

The "As-Is" Trust Business Model Report was delivered to Interior on March 21, 2003, and then disseminated in hardcopy and on compact disk (CD) throughout Interior. In addition, copies of the report on CD are being sent to every tribe and the report is being placed on the Internet. A copy will be submitted to the Court.

During this reporting period, a statement of work for the "To-Be" reengineering phase was prepared by the trust business process modeling team, and a contract was awarded to provide Interior with technical service and guidance to support the reengineering effort. As outlined in the statement of work and agreed to under the contract, the "To-Be" reengineering phase consists of seven complicated tasks. The strategy of the reengineering approach is to have a collaborative effort between the contractor and Interior staff to complete the following tasks:

- Conduct a reengineering workshop
- Develop a concept of operations
- Develop initial "To-Be" models
- Conduct model redesign and refinement (Gap and Cost-benefit analysis)
- Visit "To-Be" regional sites
- Finalize the "To-Be" model
- Develop an implementation strategy

During March 11-14, 2003, a probate "To-Be" workshop was held in Tucson, Arizona. The workshop resulted in further development of a draft probate "To-Be" model, which is expected to be evaluated and considered for integration with the other business processes during the overall reengineering effort.

### **Current Status**

Interior and the contractor are working together to develop the project plan for reengineering. The project plan is expected to include the scope, approach, schedule, human resources and change control required to conduct a reengineering project to achieve Interior's comprehensive trust management goals. The project plan also includes a change management plan and a

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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communications plan. Next, Interior and the contractor expect collaboratively to develop a concept of operations to set the design and operational parameters for the "To-Be" business process models.

As explained in earlier *Status Reports to the Court*, the business solutions identified in the "To-Be" models are expected to be developed to support Interior's ongoing trust improvement efforts including:

- Data Quality and Integrity
- Indian Trust Systems
- The Comprehensive Trust Management Plan and
- The reorganization of Indian Affairs and OST that was announced by the Secretary in December 2002

Interior and the contractor are also planning a reengineering workshop that is intended to train the trust business process modeling team and select the Interior and Tribal staff experts on reengineering concepts and methods. The assistance and participation of Interior and Tribal staff experts is considered critical to the identification of trust business process alternatives and opportunities for improvement during the reengineering phase.

### **Delays and Obstacles**

Major obstacles affecting the ability of the Interior to build a highly effective trust services delivery organization include:

- The lack of Internet access
- The sheer complexity of reengineering the existing trust business processes to achieve integrated and consistent business processes
- The massive enterprise-wide change required to transform the existing trust business processes into a beneficiary centered operation
- Ensuring a cooperative attitude among all Interior bureaus

### **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 Thirteen*. The information provided in this section is accurate to the best of my knowledge.

Date: April 25, 2003

Name: *Signature on File*  
Jeff Lords  
Trust Reform Officer

***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

**May 1, 2003**

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### **B. COMPREHENSIVE TRUST MANAGEMENT PLAN**

#### **Accomplishments and Completions**

A Department of the Interior (Interior) strategic planning team under the guidance of the Office of Indian Trust Transition has, with the assistance of a management-consulting firm, completed a Comprehensive Trust Management (CTM) Plan. The CTM Plan was completed and published on March 28, 2003. A copy will be submitted to the Court.

The completion of the CTM Plan represents a significant milestone in Interior's efforts to effectively and efficiently fulfill its trust responsibilities and to enhance service to beneficiaries. The CTM Plan contains goals and objectives that outline the high-level goals that Interior must achieve in performing its trust responsibilities. The CTM Plan articulates Interior's strategy for managing and reforming its trust responsibilities and is expected to guide Interior's implementation of this strategy.

#### **Current Status**

An outreach plan is under development to inform Interior's employees who perform trust activities about the CTM Plan. The CTM Plan is important to employees because it provides a context for their activities. Understanding Interior's strategy for achieving trust management success is an integral step in assisting employees in comprehending how their jobs and activities support trust processes and contribute to the overall success of the trust programs.

The CTM Plan will be regularly evaluated and updated to ensure its responsiveness to the on going needs of Interior's fiduciary trust operations. It is a dynamic plan that can adapt to changing environments.

#### **CTM Plan**

The CTM Plan defines and describes the vision, goals and objectives of trust reform and of operating the trust program. It begins by establishing a strategic framework that focuses Interior's strategic planning on the following key areas: (1) beneficiaries, (2) business processes, (3) organization and (4) technology and data. The major goals that are encompassed within the plan and support the strategic framework are:

1. Beneficiary services that are trusted, accurate and responsive
2. Tribal self-governance and self-determination that increases participation in managing assets
3. Ownership information that is accurate, timely and reliable

## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

**May 1, 2003**

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4. Land and natural resource management that maximizes return while meeting desires of beneficiaries
5. Trust fund assets management that meets fiduciary principles
6. Administrative services that:
  - a. enable and empower the organization and workforce to be an effective fiduciary trustee, and
  - b. provide modern, appropriate systems and tools to manage the fiduciary trust

Underlying these goals are 34 objectives and sub-objectives that define the broad ways in which the goals may be accomplished. Each objective needs to be achieved in order to reach the goals. The strategic framework, goals and objectives of the CTM Plan are based on statutes, regulations, and the guiding principles contained in the Departmental Manual. Accomplishment of the objectives, in part depend upon completion of the "To-Be" model for trust business processes. This project is planned for completion over the next fourteen months.

The CTM Plan describes Interior's strategy for managing and improving its fiduciary trust operations and should act as a roadmap to guide implementation of trust business processes. The CTM Plan is expected to be regularly evaluated to ensure its responsiveness to beneficiaries and to Interior's fiduciary trust operations. The CTM Plan may be updated and revised as required by the development of reengineered business processes and organizational requirements. As the CTM Plan is executed, it is planned to monitor performance of managers and staff in meeting the goals. Performance measurements are also expected to include continuing feedback from beneficiaries. This information may be used to refine business processes and to refine the CTM Plan, when appropriate.

An integral part of the CTM Plan is the development of standardized trust business processes. Interior is reviewing current business processes to determine those that need to be reengineered and/or integrated with other processes. The results, when integrated into the CTM Plan, should help achieve meaningful trust reform and improve the overall management of the fiduciary trust program. Building on the work of its consultant, Electronic Data Systems (EDS), an "As-Is" business process model was finalized in March 2003.

The next step is to construct a "To-Be" model, which is targeted for development during calendar years 2003-2004. This model is expected to take into consideration private trust business practices as well as the earlier EDS Roadmap recommendations and lessons learned during the "As-Is" studies.

**STATUS REPORT TO THE COURT NUMBER THIRTEEN**

**May 1, 2003**

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**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 Thirteen*. The information provided in this section is accurate to the best of my knowledge.

Date: April 28, 2003

Name: *Signature on File*  
Victor J. Christiansen  
Office of Indian Trust Transition

***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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### **C. PROBATE**

#### **Introduction**

Conducting and completing the probate of individual Indian trust assets requires the cooperative efforts of the Bureau of Indian Affairs (BIA), the Office of Hearings and Appeals (OHA) and the Office of Trust Funds Management (OTFM). In addition to bringing the probate caseload current so that the overall management of trust assets is based on correct ownership information, the focus of the probate project is on creating a prompt, efficient, beneficiary-oriented and seamless process. During this reporting period an immediate overall priority was established to complete those probate cases necessary to enable the Office of Historical Trust Accounting (OHTA) to reach its objectives.

#### **Accomplishments and Completions**

##### **Certified Death Certificates**

Regulations require the Department of the Interior (Interior) to obtain certified death certificates as part of the probate case preparation. Normally, the agency preparing a probate is able to obtain a certified death certificate. In cases where the agency has been unable to obtain a certificate, the services of a company that specializes in obtaining certified vital records for third parties and which have contractual relations with all the states except Louisiana is used to obtain death certificates. Of the 366 death certificates requested, the company has obtained 150 certificates. In another 49 cases, the company reported that there is no record of death in the jurisdictions where BIA believes the death occurred.

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

NAPHSIS is a professional organization consisting of representatives from all of the vital records offices in the United States. Among its current initiatives is a project to enable electronic reporting of deaths. A proposal in memorandum form was submitted to NAPHSIS to develop a process by which Interior would be notified by the States when Indian deaths are reported in their jurisdictions and Interior would be allowed to obtain death certificates from States in a more timely and direct way. This information should help Interior to have a more timely notification and verification of death and make the probate process more efficient.

##### **Probate Process Reengineering**

A reengineering of the probate trust process business model began in September 2002. Three draft candidates for a "straw man" or preliminary model of the probate "To-Be" trust business model were reviewed at a forum held in January 2003. Following the comments and decisions made at that forum, a small group of subject matter experts met in March 2003 and prepared a draft of the probate "To-Be" straw man. The probate "To-Be" process is now being integrated with the reengineering of the other seven trust business "To-Be" models under the Trust

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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Business Modeling project in order to establish a cohesive and consistent trust business process throughout Interior.

### **Current Status**

#### **Case Location and Status (CLS) Database**

In order to obtain accurate information about probate caseloads, a stand alone database not requiring Internet access was being developed to compile accurate on-site case counts and information across all probate processes so that appropriate resources can be provided to meet localized peaks in workload. The CLS Database template was submitted to the Assistant Secretary – Indian Affairs Chief Information Officer for review in October 2002. In March 2003, the Trust Enterprise Architecture integrated product team determined that certain technological features incorporated into the database would not be supported in Interior's IT architecture. Consequently, other methods of collecting probate workload data are being explored.

#### **Probate Handbook**

A contractor delivered a completed first draft of the revised Probate Handbook for the current probate process on December 31, 2002. The draft incorporates procedures that previously were fragmented among several separate manuals. The new draft covers the process from death to distribution. Editorial review of the draft was begun during the current reporting period. The revised draft will be circulated for review and comment during the next reporting period.

#### **Number of Cases Processed and Decided**

During this reporting period, BIA deciding officials received 295 cases and issued decisions in 285 cases; OHA deciding officials received 614 cases and issued decisions in 462 cases. OTFM distributed and closed 1,084 accounts representing 1,013 estates. The Trust Funds Accounting System (TFAS), as of the end of March 2003, contains 25,339 open estate accounts. Of these, 13,141 are classified as official deaths, as evidenced by a certified death certificate. Another 8,003 of these accounts are classified as unofficial deaths, where OTFM 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. The TFAS estate accounts classified as "unofficial death" are planned to be sent to BIA during the next reporting period in order to reconcile discrepancies and change the account status to "official death" where the deaths can be confirmed.

#### **Case Preparation**

Case preparation is the gathering of information and documents to enable the submission of a probate package to a deciding official. During this reporting period, the contractor continued to

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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expand its efforts to prepare probate cases in the Midwest, Great Plains, Southern Plains, Rocky Mountain, Northwest, Pacific, Western and Navajo Regions.

During this reporting period the contractor completed the preparation of 190 probate cases. An additional 30 cases prepared by the contractor were pending review by BIA. BIA reviewed and accepted 136 of these cases during this period. At the end of the reporting period, 84 probate cases prepared by the contractor were pending BIA review for acceptance.

### **Case Preparation – Priorities**

In order for OHTA to provide an accurate accounting, current ownership information is needed. The probate project is coordinating with BIA and OHTA to give first priority to those probate cases that must be completed in order for OHTA to reach its objectives. A lead person has been identified in BIA to identify estates where the decedent died prior to 2001, and contractors are planned to be made available to support BIA in preparing these cases.

In addition, priority continues to be given to closing the largest 501 open estate accounts identified in May 2002. These accounts represented only 3.4% of the estate accounts, but totaled \$31 million or 65% of the estate funds. By the end of this reporting period, 127 of these cases had been closed (fourteen during this reporting period), totaling more than \$7 million in assets distributed.

### **Posting and Recording**

The contractor's Youpee posting and recording efforts during this reporting period were devoted primarily to bringing records current at the Aberdeen Land Title and Records Office in support of the pilot Indian Land Consolidation Program (ILCP) project to purchase small fractionated interests at the Rosebud Agency and in the Midwest Region. Phase I of the contractor's ILCP task for the Rosebud Agency was completed in February, with all affected tracts (813) reversed and approved by BIA. Phase II of the ILCP task for Rosebud was nearly completed with all probate distributions posted (826), only two of which still needed BIA review and approval. Phase I of the contractor's ILCP task for the Midwest Region began in February 2003 with 742 tracts reversed in this reporting period, all of which are pending BIA review and approval.

### **Delays and Obstacles**

The lack of access to the Internet and the lack of electronic mail communications between OHA and BIA continue to impede the ability to process and complete probate backlogs. Consequently, critical processes that used to be automated, such as the preparation of OHA-7 forms, the assignment of probate docket numbers, case counting and reporting, must be done manually. Interior's regulations requiring certified copies of death certificates and other documents (instituted two years ago in order to enable Attorney Decision Makers to decide probate cases) has had the unintended consequence of making case preparation more difficult,

***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

---

more costly, and more time consuming. BIA has brought this to the attention of Interior's senior management and is seeking relief from this requirement.

Another obstacle to bringing the probate caseload current is the high number of low-dollar estates, each of which currently requires as much work to prepare and probate as a high-value estate. As of December 31, 2002, there were 1,522 open estate accounts where the funds derive only from per capita or judgment payments (and not income from land interests), with a total value for all 1,522 cases of \$7,193.86. A memorandum was sent to the Office of Trust Risk Management requesting that it conduct a risk management analysis to determine the feasibility and propriety of streamlining the determination of heirs and distribution of the assets in such cases. A response is anticipated during the next reporting period. Following this assessment, a determination of the most appropriate procedure will be made and necessary changes in legislation or regulation will be sought.

**Assurance Statement**

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

Date: April 24, 2003

Name: *Signature on File*  
Marinus Heymering Jr.  
Supervisory Trust Reform Specialist

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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### **D. 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 and implement quality controls, which will ensure trust data is accurate, current, and secure.

#### **Accomplishments and Completions**

During this reporting period, the following major accomplishments were completed by the Trust Systems and Projects (TS&P) office: (1) an initial list of Critical Data Elements (CDE) were reviewed and adopted by the Office of the Special Trustee for American Indians (OST) after comments from functional CDE owners were analyzed, (2) CDE validation/correction Proof of Concept testing was completed and (3) CDE that are necessary to perform trust fund distributions and real property asset reporting were identified.

The initial OST CDE list was sent to the Deputy Commissioner of Indian Affairs and the Director, Office of Trust Funds Management (OTFM). This CDE list was adopted by OST after comments, received from the Bureau of Indian Affairs (BIA) and OTFM, were reviewed and analyzed. CDE are defined as those trust data elements which 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.

Proof of concept testing was conducted at the Southern Plains Region (SPR) in order to test the CDE validation/correction procedures, which were developed by a contractor. The proof of concept test was successful as it affirmed the viability of the CDE validation/correction procedures and the test identified issues which need to be resolved prior to finalizing the procedures.

CDE necessary for trust fund distributions and real property asset reporting were identified. Once these CDE have been validated/corrected, the Department of the Interior (Interior) should be in a position to produce and provide a consolidated statement of performance that includes Trust Real Property Asset Statements to Concho and Anadarko Agency trust land beneficiaries. The trust fund distribution and real property asset reporting CDE, along with a draft Trust Real Property Asset Statement format, were provided to a contractor for analysis and feasibility. The analysis and feasibility results are scheduled to be completed in the next reporting period.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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### **Current Status**

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

The Concho and Anadarko Agencies were selected as DQ&I Pilot Agency Project sites. Last reporting period, the Eastern Navajo Agency (ENA) was also listed as a Pilot agency project site, but has been subsequently removed from this list for fiscal year 2003, because: (1) the Integrated Resources Management System is not being fully utilized in their trust processes, (2) the Southwest Region Land Titles and Records Office (LTRO) has a processing backlog for ENA and (3) Southwest Region LTRO has not yet converted to the Cognicase land title product.

#### **Data Warehousing**

The Trust Enterprise Architecture (TEA) Integrated Product Team (IPT) reviewed the Data warehouse component of the DQ&I Project. The TEA-IPT recommended that the DQ&I Project proceed with development of a statement-of-performance database (not a Data warehouse) for temporary CDE data storage that is used in the comparison, analysis and variance reporting in support of the statement of performance production.

The DQ&I Project implementation approach has been modified to reflect the development of a statement-of-performance database to hold the extraction of CDE from the various operational trust systems. The DQ&I Project is currently focused on accomplishing two initiatives: 1) implementing a quality assurance (QA) process at the Anadarko Agency, Concho Agency and SPR-Land Titles and Records Office (LTRO) and 2) developing variance reports from information contained in certain BIA and OTFM systems, utilized by these locations, in order to validate/correct current CDE. Both initiatives are targeted to be accomplished and in place during the next reporting period. The TEA-IPT is continuing the analysis and planning for an Interior trust data warehouse.

#### **QA Process**

The Pilot QA process is expected to review 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, the QA Process proposes to compare transactions entered into certain BIA legacy systems to their source input documents, with the intent of ensuring CDE transaction accuracy. The QA process expects to be performed by a contractor at the Anadarko Agency, Concho Agency and SPR-LTRO.

#### **CDE Variance Reporting**

Variance reports are expected to come from trust information contained in BIA and OTFM systems. These variance reports are expected to be developed "in-house" and should identify by trust land tract: (1) their respective CDE, (2) CDE variances between BIA and OTFM systems,

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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where CDE are common among systems and (3) CDE updates, to facilitate QA process efficiency.

Variance reports are planned to be used to identify CDE variances across systems and as a tool in the validation/correction process. CDE are expected to be validated to their source input document, with errors to be delivered to the CDE owner for resolution.

These variance reports can also be utilized by the Anadarko Agency, Concho Agency, SPR-LTRO, and OTFM, as these reports are expected to show CDE discrepancies between the respective trust systems. By knowing where these discrepancies are, these offices should be able to manage better the trust data they utilize in their day-to-day operations. These reports could also be used for root cause analyses to determine why CDE discrepancies occur across the CDE related trust systems.

### **Contractor Efforts**

During this reporting period, contractor resources were redeployed to perform DQ&I Pilot Agency Project Tasks and to encode Alaska Region land title documents. The DQ&I Pilot Agency Project Tasks were performed at the Anadarko Agency, Concho Agency, Southern Plains Regional Office and the Southwest Regional Office. The Alaska Region land title encoding was performed at the contractor's Albuquerque, New Mexico, office.

Specifically the contractor's efforts in support of the Pilot agency projects were:

- Oil and Gas Lease Assignment Validation and Recordation Preparation at the Anadarko Agency.
- Preparation of Right-of-Way (ROW) records for recordation at SPR-LTRO.
- Organization of Surface Lease File at the Anadarko Agency.
- Organization of ROW File at the Concho Agency.
- Land Tract and Source Document Identification for the Concho Agency.

In addition contractor's efforts supported:

- Land Records Information System (LRIS) Encumbrance Encoding Backlog for ENA.
- Drafting and Encoding Administrative Probate Modifications for ENA.
- Encoding land title documents (i.e. trust patents, conveyances, encumbrance documents, etc.) into the Cognicase land title product for the Alaska Region.

### **Delays and Obstacles**

During this reporting period, the contractor's data cleanup efforts were impacted by the following:

- Delays in getting contractor user IDs and security profiles from the BIA.

***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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- System errors which resulted in re-encoding encumbrance documents previously entered into LRIS.

**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 Thirteen*. The information provided in this section is accurate to the best of my knowledge.

Date: April 30, 2003

Name: *Signature on File*  
John E. White  
Supervisory Trust Reform Specialist

## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

May 1, 2003

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### **IV. OFFICE OF THE SPECIAL TRUSTEE**

#### **A. CURRENT ACCOUNTING ACTIVITIES**

##### **1. Locate missing mandatory documents**

#### **Introduction**

Current accounting activities include the following activities: 1) Locate Missing Mandatory Documents, 2) Trust Funds Accounting System (TFAS), 3) Whereabouts Unknown Accounts, 4) Special Deposit Accounts, 5) Small Dollar Accounts and 6) Accounting Discrepancies.

#### **Accomplishments and Completions**

For accounts that were established prior to conversion to TFAS, certain documents are required to support automated disbursements. These documents include disbursement authorizations and W-9 forms or copies of Social Security cards.

Phase I of the data collection task began prior to TFAS conversion. Phase I included updating unrestricted accounts having cumulative disbursements exceeding \$5,000 over a 12-month period. There were 472 accounts identified and letters and forms were sent to the account holders asking them to complete and return the forms. Documentation has been received for all 472 accounts.

Phase II included data collection for all remaining unrestricted accounts regardless of their disbursement totals, excluding accounts that already contained mandatory documents. A total of 39,528<sup>3</sup> initial letters were mailed to account holders requesting mandatory documents. A minimum of three requests are expected to be sent to these unrestricted account holders. Documentation was received for 2,873 accounts this reporting period. Of the 39,528 total accounts, documentation has been received for 14,145 accounts leaving 25,383 accounts still awaiting documentation. As of March 31, 2003, 3,365 accounts were placed in restrictive status due to various reasons, i.e., account became a whereabouts unknown, etc., thus further reducing the number of accounts awaiting documentation to 22,018, since this project only involves the unrestricted accounts.

Throughout this effort, the cost and logistics of having documents notarized or witnessed has been an obstacle to the success of this project. In our efforts to eliminate this obstacle, a request was submitted to the Office of Trust Risk Management that a risk assessment be conducted on notarization/witnessing of disbursement authorizations and change of address forms. The current requirement of either notarization or Interior witnessing should be able to be eliminated with low risk or some other mitigation.

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<sup>3</sup> Due to a transposition error, prior reports stated 39,258. The correct number is 39,528.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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### **Current Status**

Phase I – completed, received documentation for all 472 accounts.

Phase II – 22,018 accounts are awaiting documentation. This reporting period, second requests were sent to 9,771 account holders who are missing both a disbursement authorization and a W-9 form.

### **Delays and Obstacles**

Obstacles include notarization/witnessing requirements, lack of account holder response, mobility of account holders, the December 5, 2001, Temporary Restraining Order, and the December 17, 2001, Consent Order blocking Internet activity.

Lack of imaging has also been identified as an issue by Office of Historical Trust Accounting (OHTA) and Office of Trust Records (OTR). Meetings to discuss this issue are being planned during this year.

Electronic imaging is necessary for immediate access to Individual Indian Money (IIM) jacket folder contents including disbursement authorization forms, W-9's, copies of Social Security cards, birth certificates, etc. Imaged documents would be accessible by central office and field staff. Often times, mandatory documents are received by field staff and not shared with central office staff and vice versa.

## **2. TFAS**

### **Introduction**

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

Office of the Special Trustee for American Indians (OST) is exploring ways in which it can store additional information in TFAS to provide performance statements to account holders which should be able to identify the source of income and a listing of all assets owned.

### **Accomplishments and Completions**

A one-year base contract with four option years was awarded to SEI Investments, Inc. during this reporting period for the period April 1, 2003, through March 31, 2008.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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The SEI Investments, Inc., contract includes possible implementation of real estate modules as alternatives to the legacy systems currently in place.

### **Delays and Obstacles**

None.

### **3. Whereabouts Unknown**

#### **Introduction**

As reported in previous status reports to the Court, multiple methods are being utilized to locate account holders whose whereabouts are unknown.

#### **Accomplishments and Completions**

The most recent effort was initiated in November 2002, through an interagency agreement with the Internal Revenue Service (IRS) for a letter forwarding service. As of March 31, 2003, 1,894 account holder addresses were updated as a result of the IRS letter forwarding process.

#### **Current Status**

The WATCH effort, as described in earlier status reports to the Court, continues with Trans Union, a contractor that notifies OST of possible address changes. This reporting period, 1,897 WATCH notifications were received from Trans Union. Letters and change of address forms were then sent to these account holders.

OST is working with both the Social Security Administration and Veteran's Administration in the effort to locate Whereabouts Unknown (WAU) account holders. OST is waiting for Agreements Covering Reimbursable Services from both organizations to be signed. Approval and appropriate signatures from both organizations are expected during the next reporting period.

As of March 31, 2003, there were 67,024 WAU accounts totaling \$88.5 million. The following table illustrates the number of accounts stratified by account balance and WAU category:

## STATUS REPORT TO THE COURT NUMBER THIRTEEN

May 1, 2003

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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	27	14	4	0	45
Under \$100,000 and equal to or over \$5,000	2,908	639	525	2	4,074
Under \$5,000 and equal to or over \$1,000	6,572	1,727	1,134	7	9,440
Under \$1,000 and equal to or over \$100	11,754	3,292	2,028	23	17,097
Under \$100 and equal to or over \$1	17,577	5,336	4,006	63	26,982
Under \$1	6,163	2,144	1,063	16	9,386
<b>Total</b>	<b>45,001</b>	<b>13,152</b>	<b>8,760</b>	<b>111</b>	<b>67,024</b>

### Delays and Obstacles

OST has been unable to access Trans Union's address database due to the Temporary Restraining Order issued in December 2001, which prevents progress on locating addresses for returned mail. As a workaround, OST and Datacom continue to request social security number traces via telephone, and Trans Union continues to provide notification of address changes via the WATCH program.

#### 4. Special Deposit Accounts

As of March 31, 2003, there were 21,124 special deposit accounts (SDA) with a fund balance of \$67 million in the TFAS. Funds in these accounts will be distributed to IIM account holders, tribes or other third-party interests. As reported in the *Status Report to the Court Number Twelve*, the Department of the Interior (Interior) split the SDA Project between OST and the OHTA as follows:

- OHTA will be working with OST and BIA to distribute funds in inactive SDA that were opened on or before December 31, 2000
- OST will address SDA opened after that date

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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### **Accomplishments and Completions**

At the end of this reporting period, the following items were accomplished:

- OST completed the mass mailing of the Bureau of Indian Affairs' (BIA) SDA policy and procedures and the SDA Document Preparation and Encoding Procedures in February 2003 to all BIA Regional, Agency or Field Offices and OST Field Operations.
- The prospective database (SDA Pro) began tracking all receipts and distributions from SDA on January 2, 2003.
- SDA Pro generates various reports that reflect the status of new funds in SDA. The BIA SDA policy and procedures, finalized and signed by the Deputy Commissioner of Indian Affairs on January 30, 2003, require funds to be distributed within 30 days of receipt. Compliance is being reviewed monthly by OST and BIA to assist in management of the accounts.
- Training was conducted for BIA, OST, Central Office, and Field Operations staff on the SDA Document Preparation and Encoding Training Procedures. The following Regions were provided training:

Navajo	Eastern Oklahoma
Rocky Mountain	Great Plains
Southwest	Northwest
- On February 5, 2003, a meeting was held between the OST, OHTA, OTR, OTRM, and BIA representatives from the Southwest, Great Plains, and Western Regions, and the Contractor to provide an overview of the pilot project work that was completed on December 31, 2002. The purpose of the meeting was to define the roles and responsibilities of the parties involved for future work on SDA.

### **Current Status**

OST continues to provide training in coordination with the OST/BIA Interagency Handbook. It is expected that training of OST and BIA staff should be completed by June 2003.

Transition of the division of responsibilities between OST and OHTA for the SDA Project is in process and is expected to be completed in the next reporting period.

OST's focus is on the daily operation and maintenance of SDA Pro to track transactional activity and generate reports that both BIA and OST management can use as a tool to prevent the recurrence of problems historically associated with SDA.

In the next reporting period, OST plans to issue a request for proposal for OST's portion of the SDA project.

## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

**May 1, 2003**

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### **Delays and Obstacles**

Six BIA Regions remain to be trained on the SDA Document Preparation and Encoding procedures. Compliance is expected to increase once training is completed at the end of June 2003.

Until all agencies in the Great Plains Region install the revised programmed changes of the lease distribution module in the Management Accounting and Distribution System (MADS), there will be discrepancies in the funds distributed to beneficiaries. The programming changes will allow MADS to generate a detailed breakout of lease and allotment information, as required by the SDA Document Preparation and Encoding Procedures, which can then be given to OTFM staff for coding into TFAS. It is anticipated that the programming changes will be implemented prior to CY2004.

Additionally, six of the agencies at the Great Plains Region do not use the interest calculation module in MADS, thereby leaving undistributed interest in SDA. Because only principal collections are paid out, manual adjustments to accounts will be required. Great Plains expects to have the interest program installed across the region by the end of June 2003.

### **5. Small Balance Accounts**

As of March 31, 2003, there were 19,531 accounts that have a \$.01 - \$1.00 balance with no activity for the previous 18 months. The total sum included in those accounts is \$5,725.54. TFAS currently holds these small dollar accounts, for which OST is exploring options to find a more cost-effective remedy to maintain these accounts relative to the account balance. At current interest rates, it is approximated these accounts, on average, will earn less than one cent/year.

OST is working with the Office of the Solicitor (SOL) to reconcile the statutory obligation to earn interest with the technical inability at present to allocate interest earnings of less than \$0.01 to the respective accounts. In the next reporting period, OST and SOL expects to develop an options paper identifying potential legislative and/or administrative resolutions of this matter.

### **6. Accounting Discrepancies**

The historical differences between the Department of the Treasury (Treasury) and Interior regarding several account balances affecting both IIM and Tribal trust funds were cleared effective March 31, 2003. After reviewing issue papers regarding the nature of the historical differences, Treasury processed adjustments to the account balances maintained in their systems to conform to audited asset balances for IIM and Tribal trust funds maintained by OST. This adjustment should be confirmed during the next reporting period.

OST has an extensive daily and monthly reconciliation process in place to make certain that all transactional reporting to Treasury is accurate and that any differences are researched and

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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corrected by the next accounting period. There have been no known uncorrected differences between Treasury and OST since at least June 30, 1998. The current process ensures, on a continuing basis, that all differences are corrected in a timely manner.

Efforts continue to resolve the nearly \$6 million difference between the subsidiary account ledger and the IIM investment pool. The solution will likely require an appropriation from Congress. Senior Interior management is investigating any additional possibilities for resolution.

Prior to conversion to TFAS, and as previously identified in the High Level Implementation Plan, a number of accounting discrepancies existed and need to be researched. Some of these discrepancies may impact individual accounts. These discrepancies will be prioritized during the next reporting period.

### **Assurance Statement**

I believe that the information provided by me in the Current Accounting Activities section of the *Status Report to the Court Number Thirteen* is an objective and informative analysis of that project as of March 31, 2003. My belief is based on my knowledge and review of credible evidence.

Date: April 25, 2003

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

Date: April 25, 2003

Name: *Signature on File*  
Helen Riggs  
Project Manager

I believe that the information provided by me in the Accounting Discrepancies section of the *Status Report to the Court Number Thirteen* is an objective and informative analysis of that project as of March 31, 2003. My belief is based on my knowledge and review of credible evidence.

Date: April 25, 2003

Name: *Signature on File*  
Michael Fansler  
Program Analysis Officer

***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

**May 1, 2003**

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### **B. RECORDS MANAGEMENT**

#### **Introduction**

A records management program has been developed and implemented to ensure that Indian records are created and maintained, that records retention needs are met through authorized schedules, and that the records are safeguarded throughout their life-cycle. 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 their implementing regulations. The line authority for supervision and management of OTR remains with the Assistant Deputy Secretary.

#### **Accomplishments and Completions**

This report continues to use the strategic goals identified in the *Status Report to the Court Number Eleven* as the format for reporting OTR activities.

#### **Records Retention Schedules**

On January 2, 2003, OTR transmitted the draft revision of the Indian Trust Land and Natural Resources Record Schedules (formerly identified as the 4000 series of the 16 Bureau of Indian Affairs Manual (BIAM)) to the Bureau of Indian Affairs (BIA) for review and comment. OTR also transmitted a copy to the Archivist of the National Archives and Records Administration (NARA) and requested a courtesy review. Comments were received in March from both BIA and NARA. OTR began review and evaluation of the comments received from NARA. OTR should be able to respond and consult with NARA in the next reporting period.

On January 31, 2003, OTR received six approved Requests for Disposition Authority (Standard Form 115) from the BIA Acting Deputy Commissioner. The approvals were for the BIA electronic systems of record forwarded in December 2002. On February 12, 2003, OTR submitted five of the BIA electronic systems of records schedules to NARA for approval (Integrated Records Management System (IRMS) - Lease/Lease Distribute/ Owner/Range; People/Per Capita System; Royalty Distribution and Reporting System (RDRS); Osage/Lake Fund/1099 System; and the Land Records Information System (LRIS)). The Integrated Resource Management Systems – Individual Indian Money (IRMS/IIM) electronic system was not submitted. The IRMS/IIM electronic schedule was forwarded to the Office of Trust Funds Management (OTFM) for review. Comments were received on March 4, 2003, from OTFM and on March 17, 2003, from NARA and are being considered by OTR, and are expected to be submitted to NARA in the next reporting period.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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### **Record Keeping Requirements**

The policies and procedures for research in OTR facilities were finalized on January 31, 2003. A revised Research Agreement was incorporated into the policies and procedures. All researchers are briefed by an OTR records management specialist and are required to sign the Research Agreement before being allowed to begin research.

### **Safeguard Records**

As reported in the *Status Report to the Court Number Twelve*, the Deputy Secretary issued a memorandum entitled "Clarification on Indian Trust Records Management and Records Freeze." As also reported, OTR submitted a draft form to request movement of records to the Assistant Deputy Secretary. The Department of the Interior (Interior) utilized the draft form and modified the form for usage by Interior agencies. The Assistant Deputy Secretary issued "Additional Guidance and Procedures to Follow When Requesting Approval to Move Records" on January 29, 2003, which incorporated the modified form and procedures.

On January 31, 2003, the OTR Director issued a memorandum to Office of the Special Trustee for American Indians (OST) and BIA which provided the January 29<sup>th</sup> memorandum from the Assistant Deputy Secretary and the records move request procedures and approval form for use by BIA and OST to request movement of records directly to OTR. In the memorandum, the Director reiterated the Assistant Deputy Secretary's decision that only copies of federal records may be turned over to a Tribe or Tribal organization pursuant to a P.L. 93-638 contract.

On March 31, 2003, the Assistant Deputy Secretary issued "Additional Guidance Regarding Requesting Approval to Move Records" to Interior agencies to provide revised guidance and procedures to follow when requesting approval from the Associate Deputy Secretary for the physical movement of records within Interior, to a Federal Records Center, to NARA Archives or to a commercial records storage center. The memorandum superseded the guidance in the January 29<sup>th</sup> memorandum in light of the numerous constructive comments and suggestions received from Interior agencies on how the process could be improved.

### **Trust Records Definition**

OTR continued to work with the Assistant Deputy Secretary to utilize the current 16 BIAM to create a matrix that depicts record series that generally contain trust records. OTR also assisted in the development of a decision tree for the BIA, OST, the Bureau of Land Management, the Minerals Management Service, and other Interior agencies/offices to assist in the identification of a trust record. The matrices and decision trees were shared with the agencies and the Special Master in February 2003 and comments were requested. Comments were received in March 2003 and have been incorporated in the drafts. It is anticipated that the matrices and decision trees can become final in the next reporting period.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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### **Current Status**

#### **Training**

As reported in the *Status Report to the Court Number Twelve*, new training materials that incorporate the draft trust matrix and decision tree for BIA and the OST have been developed. The revised training program, which specifically includes training on trust records, will resume in the next reporting period. This revised program will utilize the existing 16 BIAM and the draft trust matrix and decision trees discussed above.

#### **Evaluation of Records Program**

OTR completed drafts of the policies and procedures for conducting records site assessments. However, the latest drafts were not ready to submit to OST and BIA for review and comment this reporting period. The drafts are expected to be distributed for comment in the next reporting period.

#### **Record Retrieval**

A contractor continued indexing Indian records (trust and non-trust) under OTR control located in Albuquerque, New Mexico, and at the Lee's Summit Federal Records Center. The index will provide one central electronic index of all boxes under OTR control. The priority for indexing has been those boxes deemed potentially responsive to Tribal requests for production of documents. This will continue to be the priority in the next reporting period. Development of user-friendly search and retrieval capabilities for the database began this reporting period. The work on the retrieval capabilities is planned to continue in the next reporting period.

#### **Reporting**

OTR has provided monthly activity reports to Interior management on its progress. Interior has shared these monthly reports with the Department of Justice (DOJ). The DOJ has provided the monthly activity reports to the Special Master.

### **Delays and Obstacles**

- The time frame projected for the data entry work of the indexing project is not on target. Data entry is taking longer than projected. The contractor was not fully staffed this reporting period but is hiring additional employees to get the project back on target. Delays associated with security clearances also impact the project. The contractor has been made aware of the concerns of OTR and the contractor is taking steps to address the concerns.
- The Continuing Resolution for FY2003 continued to impede the hiring of OTR management liaisons for the BIA and OST offices. With the passage of the

**STATUS REPORT TO THE COURT NUMBER THIRTEEN**

**May 1, 2003**

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appropriations bill, once the appropriations have been disbursed within OST, OTR will advertise the positions during the next reporting period.

- The varying qualities of existing inventories/indexes of boxes of records in OTR's possession continues to delay responses to requests for production of documents and impact research requests from Tribes and federal agencies to conduct onsite research. On going litigation requests for research of records located at OTR facilities do not routinely take into consideration the amount of preparation necessary to make boxes of records available. This diverts staff from on going records management projects. Once the contractor has completed the indexing project, OTR will have an electronic database to search for boxes containing responsive documents, which should mitigate this concern.

**Assurance Statement**

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

Date: April 24, 2003

Name: *Signature on File*  
Ethel J. Abeita  
Director, Office of Trust Records

## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

**May 1, 2003**

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### **C. TRAINING**

#### **Introduction**

The Department of the Interior (Interior) has a continuing responsibility to provide adequate staffing, supervision, and training for trust fund management and accounting (25 USC § 162 a(d)(7)). Coupled with accountable supervision and productive experience, training is essential to the successful management of any operation.

#### **Accomplishments and Completions**

The initial offering of the Cannon Financial Institute "Trust" course for Interior managers was held in Washington, D.C., March 25 through March 27. Cannon instructors developed the course with considerable input from an Interior team consisting of top management and trust experts. To assemble a highly specialized Indian trust course, Cannon's basic "fiduciary" course was modified to include the unique features of Indian trust. The course emphasized a "Compare and Contrast" approach to demonstrate the differences and similarities between commercial trust business and fiduciary Indian trust business. The initial course offering, attended by 25 top Interior officials, was used to convey knowledge and also to provide a final critique and screening of the course prior to its being presented to the field leadership in the Bureau of Indian Affairs (BIA), Office of the Special Trustee for American Indians (OST), Minerals Management Service, Bureau of Land Management (BLM), Office of Surface Mining and Interior field offices. Leaders from all of these Interior organizations participated in the initial class.

The course is currently scheduled for Billings, Montana, Albuquerque, New Mexico, Tulsa, Oklahoma, and Portland, Oregon. Tribal officials whose reservations contain significant trust assets or individual allotments of land may also be invited to attend the course.

#### **Current Status**

Progress is being made within OST, the Office of Indian Trust Transition and BIA to develop a centralized trust management training program to supply the trust organization training and education needs in the future. The trust training coordinator is assembling a curriculum committee with representatives of all Bureaus within Interior having trust activities. This committee will aid in the prioritization of classes developed to respond to the work-force changes flowing from development of the Comprehensive Trust Management (CTM) Plan and the efforts that support the CTM Plan. The committee members should be selected during the next reporting period and have an outline of a training plan.

There are discussions among the various Interior training centers, such as the Fish and Wildlife center in Shepherdstown, West Virginia and BLM center in Phoenix, Arizona regarding the feasibility of operating all Interior registrar functions on a single platform. The possibility that Interior will have one registrar program across all Agencies, Bureaus and Offices has been added to the options in the OST registrar development.

## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

**May 1, 2003**

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### **Trust Foundations: An Introduction to Trust Reform and Change**

During the period of January 1, 2003, through March 31, 2003, Upper Mohawk Inc., the training contractor that has been providing general trust awareness training to Interior Tribal trust asset managers and contractors, provided the course, *Trust Foundations: An Introduction to Trust Reform and Change*, to 699 employees. This brings the number of employees who have completed the training to 2,348, out of a population originally estimated to be 3,000. As has been mentioned previously, this is a non-technical course designed to provide trust employees at every level with an increased understanding of the Government's and Interior's fiduciary responsibilities with respect to the Indian assets held in trust.

Bureau and office management are providing the appropriate leadership direction and support to ensure that employees attend the Upper Mohawk, Inc. training courses. The Director of BLM issued an instruction memorandum which has caused a large increase in attendance from that agency. Additional efforts are underway by leadership in OST and BIA to further improve attendance. All scheduled classes are full and consideration is being given to extending the Upper Mohawk training for several more classes.

### **Delays and Obstacles**

The registrar program is delayed while the decision whether or not to have a single Interior registrar platform is being studied. In the interim, records of current courses are being kept by both the contractors and the Trust Training Office.

### **Assurance Statement**

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

Date: April 27, 2003

Name: *Signature on File*  
Lynn Engdahl  
Trust Training Officer

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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### **D. RISK MANAGEMENT AND INTERNAL CONTROL**

#### **Introduction**

The Office of Trust Risk Management (OTRM) 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's (Interior) Indian trust asset management program. This program is being coordinated with the trust reform business process reengineering efforts.

#### **Accomplishments and Completions**

##### **Pilot Risk Management Programs**

The Management Control Plan Database (MCPD) application, a tool developed to aid trust managers in performing and monitoring their internal control programs, was not completed in time to schedule the certification and accreditation assessments this period. The database includes key business processes directly related to fiduciary trust management. The application identifies program objectives, risks, internal controls for mitigating those risks and review and assessment processes for determining whether controls are appropriately functioning. Where controls need to be modified or improved, the tool will record a corrective action plan to be monitored in the follow-on assessment process. It also includes reporting features that managers at all levels can use to monitor progress and provide support for the annual assurance statements required by the Federal Managers Financial Integrity Act of 1982.

The contractor will deliver a final draft of the MCPD early in the next reporting period for the certification and accreditation review. The MCPD working model continues to operate to support the pilot programs in the Northwest and Southern Plains Bureau of Indian Affairs (BIA) Regions.

The Northwest Region Colville and Umatilla agencies were visited to train appropriate staff and managers, to evaluate the programs contained within the MCPD, and to begin the development phase for including additional trust business processes.

A risk management pilot development program for the Bureau of Land Management (BLM) cadastral survey program was initiated in its Idaho State Office in January 2003. A training workshop for developing a similar program for solid minerals was held in Phoenix, Arizona, in February 2003. The subsurface minerals pilot development is also scheduled to begin next period.

The development approach with BLM differs from the BIA approach. OTRM staff, along with BLM subject matter experts, developed a core risk management program that BLM plans to

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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implement in selected pilot sites. BLM plans to implement all three pilot programs early in FY2004.

### **Project Coordination and Training**

OTRM management and its contractor provided Risk Management and Control instruction as part of the newly developed Cannon Financial Institute fiduciary trust training program to be delivered to trust managers and employees over the next several months. This period, the initial course material was assembled and presented jointly with Cannon Financial Institute to Interior senior staff in Washington, D.C., the week of March 24, 2003. Approximately twenty-five officials from the Office of the Secretary, BLM, Minerals Management Service (MMS), BIA, Office of the Special Trustee for American Indians (OST) and Office of Surface Mining attended.

### **Annual Department of the Interior (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. The annual audit is contracted by OTRM and is monitored for conformance to standards by the Office of the Inspector General (OIG). The FY2002 audit report was issued February 19, 2003.

As in prior years, the auditor reported material weaknesses for (1) Reliance on Processing of Trust Transactions at the Bureau of Indian Affairs and (2) Financial Reporting – Unresolved Matters from Prior Periods. The report also included a reportable condition that information technology (IT) controls needed improving. The FY2002 report included eight other findings. Seven of these dealt with IT issues, cash management, and missing disbursement authorizations. Most findings were repeats from the prior year and were again reported because corrective actions were implemented near year-end and were not in place long enough for the auditor to fully analyze their impact.

This period OST and OIG finalized plans for OIG to assume complete management of the financial statement audit in the coming year. Also, OIG and OST, along with MMS, BLM and BIA, established a working group for the planning and preparation of a statement of work to expand the scope of the independent audit to include operational trust asset management functions. It is anticipated that the FY2004 audit scope will be expanded to include cash collection, deposit and related accounting processes.

### **Special Projects**

In the ordinary course of business, OTRM receives inquiries from beneficiaries or other interested groups that question the status of their accounts or actions taken by Interior relating to

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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trust assets. OTRM assigns the matters to internal audit staff to investigate and recommend any appropriate corrective action necessary.

During this reporting period, thirty-two cases are in inventory, of which twenty-one are in process, seven are unassigned or suspended, one was cancelled and three were closed with no findings. During the next reporting period, all cases will be reviewed to identify those involving critical issues that need to be briefed to the Trust Executive Steering Committee.

### **Current Status**

#### **Annual Audit Corrective Actions Plan**

Work is on going to resolve the two material weaknesses in the FY2002 audit. The cooperative effort to resolve the Department of the Treasury (Treasury) and OST fund imbalances was completed this reporting period, and OST forwarded adjusting entries to Treasury for posting. The Data Quality Improvement project is addressing the clean-up of the data elements necessary to ensure correct distribution of trust funds.

The corrective action plan for the remaining findings is in final draft form and being reviewed by the responsible managers in OST, Office of Trust Funds Management. Actions in process and completed will be reviewed and monitored through monthly status meetings starting next reporting period.

#### **Trust Systems and Projects Support**

On going support of the reengineering effort will expand in future reporting periods. Risk assessments of probate functions and the witnessing of signature for disbursement authorizations and change of address forms for Individual Indian Money account holders are underway.

#### **Indian Trust Rating System**

OTRM began developmental work on the Indian Trust Rating System for assessing operational effectiveness of trust asset management activities Interior wide. The rating system will identify those activities that are being performed satisfactorily or better. It may also identify those activities and related operations that require special attention/assistance by Interior leadership under the proposed reorganization.

OTRM staff visited the Office of the Comptroller of the Currency (OCC) to obtain history and background information on a rating system it and other regulatory financial agencies use to rate and monitor the performance of fiduciary financial institutions. OCC provided various handbooks, circulars and training materials used in its program for fiduciary examinations. OCC and other regulators use a Uniform Interagency Trust Rating System for examination priorities for fiduciary financial institutions. Where these standards and practices are applicable to the

***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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Indian trust business processes, the Interior plans to review and may incorporate them into the Indian Trust Rating System.

In addition to OCC visits, OTRM initiated processes and forwarded requests to BIA to develop characteristic data (land tracts and acreage, surface revenue types and amounts, etc.) believed necessary for baseline data in support of the rating system.

**Assurance Statement**

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

Date: April 24, 2003

Name: *Signature on File*  
Kenneth M. Moyers

## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

May 1, 2003

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### **E. APPRAISAL**

#### **Introduction**

The Indian land valuation program is 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 transactions require the Secretary of the Interior to obtain valuations. To meet this requirement, an appraisal or other valuation is used to ensure that fair and just compensation is received on Indian land transactions. The types of transactions are varied. Major types include commercial, industrial, recreational, agricultural and other types of leases; rights-of-way; land sales and land exchanges; grazing and range permits; and trespass.

#### **Accomplishments and Completions**

1. A primary impetus of appraisal reform has been to ensure the integrity of the valuation process by establishing an appraisal program that promotes objectivity, independence, professionalism, leadership and accountability.

The Deputy Regional Director, Northwest Regional Office Bureau of Indian Affairs (BIA), has been detailed to the Office of the Special Trustee for American Indians (OST) for 90 days to supervise the Office of Appraisal Services (OAS) due to the retirement of the Assistant Special Trustee. OST has started the process to fill the position permanently.

OST previously reported that it intended to contract with an outside professional organization to evaluate the appraisal program. On March 21, 2003, a contract was awarded to the Appraisal Foundation to conduct an independent and objective review of the OAS appraisal program. Specifically, the evaluation will include an analysis and evaluation of the appraisal program's organizational efficiency, staff credentials and expertise. The Appraisal Foundation report is expected to be complete by the end of August 2003.

Final plans for structuring OAS and implementing of new appraisal information systems have been deferred pending the Appraisal Foundation review, reorganization efforts, and the business process modeling.

The OAS Yakima Field Office, Yakima, Washington, has been consolidated to the Northwest Regional Appraisal office located at Portland, Oregon.

2. Additional objectives in the reform of Indian land appraisal include ensuring timely, comprehensive valuations through staffing, training and the introduction of new methods; developing a tracking and monitoring system for appraisal requests; developing nationwide comprehensive valuation practices in accordance with *Uniform Standards of Professional Appraisal Practice*; and updating or generating pertinent provisions in trust

## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

**May 1, 2003**

---

program manuals that outline options and administrative procedures for ensuring the timely completion of appraisals.

Progress was made on two key position vacancies. The Navajo Regional Appraiser position has been filled. A Certificate of Eligible Applicants was issued for the Eastern Regional Appraiser. This position is currently under review and is expected to be filled in the next reporting period. Position descriptions have been standardized for all Appraisal Support Specialists, the primary support positions in all regions.

The move of appraisal personnel from BIA to OST required OAS regional and field appraisers to adopt OST administrative procedures. As a result, the Appraisers participated in acquisition training sponsored by OST-Trust Acquisition Support Services Office. Planning is underway to delegate budget and financial responsibility to the regional appraisers. This is expected to be completed during the next reporting period. The delegation should make it easier to avoid delays in contract awards and travel in order to process appraisals.

The Great Plains Region initiated the contract process for two grazing rate studies during this reporting period, and the Northwest Region plans to initiate a minimum of two new contracts for grazing rate studies in the next reporting period.

### **Delays and Obstacles**

Although the Memorandum of Agreement (MOA) between OST and the Assistant Secretary-Indian Affairs was signed December 19, 2002, problems continue to exist at the regional and field levels regarding fleet vehicle charge cards, and other administrative support services. Management continues to work with BIA, where the funding is located, to resolve these issues. The MOA is effective through September 30, 2003.

### **Assurance Statement**

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

Date: April 30, 2003

Name: *Signature on File*  
Gabriel Sneezy

## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

May 1, 2003

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### **F. TRUST POLICIES AND PROCEDURES**

#### **Introduction**

The Office of the Special Trustee for American Indians (OST) Trust Regulations Policies and Procedures office is responsible for (1) cataloging existing trust policies and procedures, (2) determining conflicts of policies and procedures, (3) coordinating needed revisions, (4) coordinating, planning and writing of new policies and procedures and (5) serving as the coordination center for the management, indexing and publishing of trust policies and procedures. Previously, a trust policies and procedures office was present in the Bureau of Indian Affairs (BIA), but it has not been staffed since the middle of CY2002. Development of policies and procedures, handbooks and manuals has continued under the leadership of trust-specific managers in the BIA and OST.

#### **Accomplishments and Completions**

A director will be designated within the reorganization of OST and a plan will be developed during the next reporting period to establish the Office of Trust Regulations, Policies and Procedures and to determine how to accomplish this major task effectively and efficiently.

#### **Current Status**

##### **Bureau of Indian Affairs**

**25 CFR 161 – Navajo Partitioned Lands Grazing Permits** – The Navajo Nation completed its internal review of the draft regulations and requested the BIA Navajo Region to coordinate a follow-up meeting with BIA's Central Office. The BIA Office of Trust Responsibilities (BIA-OTR) assumed responsibility for this effort. BIA-OTR staff met with Tribal and BIA regional office representatives in November and December 2002 to continue the review and development of the revisions to the regulation. Legal issues associated with the regulation are being identified and researched by the Office of the Solicitor (SOL) during the drafting and review process. It is anticipated that the regulation can be published in the latter part of CY2003.

**25 CFR 124 – Deposits of Proceeds of Lands Withdrawn for Native Selection under the Alaska Native Claims Settlement Act** – Office of Trust Funds Management and the SOL completed their review and comment on the draft revision of this regulation. The draft rule was not published during this reporting period. A status of the rule is expected to be provided during the next report to the Court.

**25 CFR 162 Subparts C & D – Residential Leases and Business Leases** – The staff of the OTR and BIA regional staff met in December 2002 to review and discuss comments on the initial draft that were received from BIA field offices, NCAI, the Inter-Tribal Monitoring Association and Indian tribes during tribal consultations conducted in September 2002. The target date for publication of the proposed regulation in the Federal Register for public comment

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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has been moved to the third quarter of 2003 in order to satisfy administrative regulatory requirements, e.g. information collection, federalism, paperwork reduction. Additional clarification was required to be submitted to Interior's Office of Policy Management and Budget for justification to collect information. The comment period is planned to run for 90 days, during which time tribal consultations will be conducted on the proposed rule. The publication of the final rule should be early CY2004.

**25 CFR 216 – Surface Exploration, Mining, and Reclamation of Lands** – Due to unexpected priorities associated with the Administration's energy initiatives, work on the regulation by staff BIA-OTR to update and revise the regulation did not proceed as expected. Due to the setback, it is not expected that the rule will be revised and published until the latter part of CY2003.

### **Minerals Management Service**

During March 2003, Minerals Management Service (MMS) held public workshops on the existing Federal valuation regulations. Knowledge gained by MMS' experience in applying the Federal oil rule may also be applicable to Indian oil valuation. On February 12, 2003, MMS reopened the comment period on the proposed rule for valuing crude oil produced from Indian leases. MMS is currently evaluating the comments received on the proposed Indian oil rule.

### **Internal Program Guidance**

**Grazing Permits (25 CFR 166) Handbook** – BIA-OTR staff and Tribal representatives met in December 2002 to continue writing the handbook. The target date for completion of the initial draft for distribution to BIA field offices for internal review and comment is March 2003. After completion of the internal review, appropriate comments will be incorporated; this is expected to occur during the second quarter of CY2003. The revised final draft will be furnished to the SOL for legal review and appropriate changes will be made to arrive at the final document. The proposed printing and distribution of the handbook is expected during the last quarter of CY2003.

**National Environmental Policy Act (NEPA) Compliance Handbook** – BIA internal comments, including those of the Office of the Solicitor, resulted in changes to the draft NEPA handbook and in modifications to the appendices. The target date for distribution of the BIA final NEPA handbook for review and comment by Indian Tribes and Alaska Natives remains July 2003.

**Financial Conflicts of Interest** – The 1994 amendments to the Ethics in Government Act amended Title 18 U.S.C. (Crimes and Criminal Procedures) in Chapter 11 (Bribery, Graft, and Conflicts of Interest) and added a limited exemption from the basic prohibition against "acts affecting a personal financial interest" for financial interests that result solely from the interest of the employee or the employee's spouse or minor children in birthrights in a tribe or in an allotment or claims fund held in trust by the United States. 18 U.S.C. 208(b)(4). The language of this exemption has caused confusion in the administration of 18 U.S.C. 208 with regard to

## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

**May 1, 2003**

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Native American employees, especially those involved in trust management and reform. Officials from the Interior's Office of Ethics and representatives of the BIA and SOL met with representatives Office of Government Ethics (OGE) to discuss possible options for legislative or regulatory changes to clarify the language in 18 U.S.C. 208(b)(4). OGE explained their interpretation of the original intent of the language and declined to commit to any statutory revision at this time. The Ethics Office will continue to work with the BIA and OST to assure that the statutory language is generally understood and consistently administered to avoid conflicts of interest among employees involved in trust management and trust reform.

**Forestry Program, Indian Affairs Manual (IAM) Chapter** – The BIA Forestry draft chapter of the IAM remains with the Office of Audit and Evaluation, Office of the Assistant Secretary - Indian Affairs, for review, distribution for comment, approval and distribution for incorporation into BIA's IAM. Due to the pending reorganization, the new office of Policy, Planning and Analysis will assume responsibility for completing this manual chapter for review. An estimated completed date should be available by the next reporting period.

**IAM, Part 101, Individual Indian Money Accounts** - BIA's former Trust Policies and Procedures Office and the SOL staff worked on revisions to Part 101 of the Indian Affairs Manual, Individual Indian Money Accounts. The current manual was issued in August 2000 prior to issuance of final regulations governing Trust Funds for Tribes and Individual Indians (25 CFR 115). The revisions are designed to reflect the changes made by the new regulations. The proposed revisions were distributed to the field on August 30, 2002, with a deadline of September 30, 2002, for comments. During this reporting period, the deadline for comments was extended until January 30, 2003.

**Surface Leasing (25 CFR 162) Handbook** – The final draft of the handbook remains under legal review. Upon finalization of the regulation for Subparts C and D of 25 CFR 162, the handbook will be amended to reflect the changes brought about by the publication of the final rule regarding these two subparts. Subparts C and D pertain to residential and business leases. The handbook presently addresses the requirements of the regulation that is currently in place. The expected distribution of the handbook is the fall of CY2003.

### **Delays and Obstacles**

Continuity of this project has awaited approval of the planned reorganization of OST and BIA. With that event, staff can be designated and projects can be assigned.

***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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**Assurance Statement**

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

Date: April 30, 2003

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

## **STATUS REPORT TO THE COURT NUMBER THIRTEEN**

**May 1, 2003**

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### **V. BUREAU OF INDIAN AFFAIRS**

#### **A. FRACTIONATION**

##### **Introduction**

Fractionation of Indian land occurs when land passes from one generation to the next, and more and more heirs or devisees acquire an undivided interest in the land.

Fractionation of Indian trust and restricted lands has a long history stemming from the federal Indian policy of the 19<sup>th</sup> Century. Fractionation is a complex and potentially emotionally charged issue due primarily to cultural, historical and family association 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. 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.

The continued goal during this reporting period of the Indian Land Consolidation Program (ILCP) is to acquire small fractional interests in trust and restricted lands owned by individual Indians and consolidate the interests among individual Indians or the Indian tribes on whose reservation the interest is situated in order to lessen the number of owners.

The ILCP is presently operated in two Bureau of Indian Affairs (BIA) Regions. There are five reservations under the Great Lakes Agency, Midwest Region, and one reservation under the Rosebud Agency, Great Plains Region, participating in ILCP. The Land Titles and Records Office at the Great Plains Region, provides title and recording services for the Rosebud and Great Lakes Agencies. The Regional Director for each Region is the implementing official.

Midwest Region, Great Lakes Agency, is winding up phase one – the first full three fiscal years (1999-2002) of the ILCP pilot project first authorized by Congress in 1999. The Great Plains Region, Rosebud Agency, completed its initial implementation plan and began acquiring interests during this reporting period. Extending the ILCP to other reservations will reduce the amount of record keeping, accounting and probates required by eliminating the number of persons owning small multiple interests on multiple reservations. Thus, Midwest Region was able to acquire interests from sellers who owned interests on the initial three reservations as well as the two added reservations and eliminated Interior responsibility for the administration of those sellers' interests and any future probates otherwise resulting from those owners/sellers.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

---

### **Accomplishments and Completions**

- Established a national ILCP office and detailed an office director to direct and manage all activities of the ILCP.
- Transferred ILCP funding to the Office of the Deputy Commissioner of Indian Affairs to prevent delays in program operations and provide start-up costs associated with the establishment of a national ILCP office within the BIA.
- Drafted notice for publication in the Federal Register seeking nominations from Indian Tribes for Tribal officials to participate in a working group to examine methodology to address fractionation of Indian lands.
- Secured the services of a contractor to assist with the development of a draft national ILCP plan using the "Indian Land Consolidation Pilot Project Report" dated April 2002.
- Acquired 2,203 interests a total of 53,203 interests through March 2003 and represents a combined total for Midwest and Great Plains.
- Purchased between 750 and 1,000 interests per month (based on a three-year average).
- Maintained a consistent stream of applications to sell interests and sought ways to increase the number of applications.
- Completed 42 certified Title Status Reports (TSR) for tracts identified purchase for the Rosebud Reservation.
- Received 247 requests for TSR for tracts containing interests targeted for purchase on the Rosebud Reservation.
- Advertised three positions to facilitate ILCP for the Rosebud reservation.
- Processed 820 pre-Youpee probates for the Rosebud Reservation.
- Recorded 134 "Satisfaction of Purchase Lien" documents.
- Designated three Legal Instruments Examiners to process certified TSR for ILCP and two to process deeds.
- Obtained FY2003 appropriations to operate ILCP.

### **Current Status**

Actions under consideration to promote the effective implementation, streamlining and utilization of a national ILCP to address fractionation:

- Assessing federal and tribal government benefits and costs of program.
- Examining alternative approaches for targeting tracts and owners to maximize benefit.
- Identifying legislative and administrative changes to enhance program effectiveness and efficiency.
- Identifying alternative methods for program financing, including federal, tribal, and private sources, based on economic trade-offs and long-term public benefits.
- Developing options for an aggressive acquisition program.
- Developing a strategy for aggressive marketing to interest holders.
- Identifying pilot program impacts on federal trust management.

## ***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

---

Actions being taken to facilitate and strengthen the ILCP Pilot sites:

- Continuing reconciliation of owner data on the Minnesota Chippewa Bands' reservations.
- Continuing to process applications and purchase interests.
- Continuing to collaborate with the Rosebud Sioux Tribe and the Tribal Land Enterprise to identify target tracts.
- Continuing the reconciliation of additional owners identified and affected by the Youpee decision.
- Continuing managerial monitoring of ILCP activities.

### **Delays and Obstacles**

- Continue to resolve operational gaps inherent in new program activities, e.g., identifying potential sellers, targeting tracts and encoding probates and Youpee data into an automated system.
- Lack of sufficient funding to fully utilize ILCP to address the fractionation of Indian lands.
- Address subsequent deceased heirs resulting from Youpee re-distributions.
- Need to fully address the pre-Youpee probates for the five reservations under Midwest Region.

### **Assurance Statement**

The content of the information supplied by the Regions and contained in the Fractionation section of the *Status Report to the Court Number Thirteen* is accurate to the best of my knowledge.

Date: April 30, 2003

Name: *Signature on File*

Larry Scrivner

Acting Director Office of Trust Responsibilities

***STATUS REPORT TO THE COURT NUMBER THIRTEEN***

**May 1, 2003**

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