U.S. DISTRICT COURT
DISTRICT OF COLUMBIA
FEB -3 PM 7:51
NANCY M.
MAYER-WHITTINGTON
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 1:96CV01285
	)	(Judge Lamberth)
GALE NORTON, Secretary of the Interior, et al.,	)	
	)	
Defendants.	)	
	)	

NOTICE OF FILING OF INTERIOR'S TWELFTH STATUS REPORT

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

A copy of the report is attached hereto.

Dated: February 3, 2003

Respectfully submitted,

ROBERT D. McCALLUM, JR.
Assistant Attorney General
STUART E. SCHIFFER
Deputy Assistant Attorney General
J. CHRISTOPHER KOHN
Director
SANDRA P. SPOONER
D.C. Bar No. 261495
Deputy Director

JOHN T. STEMPLEWICZ
Senior Trial Counsel
Commercial Litigation Branch
Civil Division
P.O. Box 875
Ben Franklin Station
Washington, D.C. 20044-0875
(202) 514-7194

CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on February 3, 2003 I served the foregoing *Notice of Filing of Interior's Twelfth Status Report* by facsimile in accordance with their written request of October 31, 2001.

Keith Harper, Esq.
Native American Rights Fund
1712 N Street, N.W.
Washington, D.C. 20036-2976
(202) 822-0068

Dennis M Gingold, Esq.
Mark Kester Brown, Esq.
1275 Pennsylvania Avenue, N.W.
Ninth Floor
Washington, D.C. 20004
(202) 318-2372

By U.S. Mail upon:

Elliott Levitas, Esq.
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309-4530

First 25 pages by facsimile; complete copy to be delivered by hand February 4, 2003.

Alan L. Balaran, Esq.
Special Master
1717 Pennsylvania Avenue, N.W.
12th Floor
Washington, D.C. 20006
(202) 986-8477

By Hand upon:

Joseph S. Kieffer, III
Special Master Monitor
420 7th Street, N.W.
Apartment 705
Washington, D.C. 20004
(202) 478-1958

Jay St. John

THE SECRETARY OF THE INTERIOR

WASHINGTON

February 3, 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 – Twelfth Report to the Court

Dear Ms. Spooner:

Enclosed is the Department of the Interior's *Report to the Court Number Twelve (For the Period October 1, 2002 through December 31, 2002),* dated February 3, 2003. Please forward a copy to the Court.

This is the fifth 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, to the best of my knowledge, accurate.

Thank you for your assistance.

Sincerely,

Gale A. Norton

Enclosure

Status Report to the Court
Number Twelve

For the Period
October 1, 2002 through December 31, 2002

February 3, 2003

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 37
A. TRUST BUSINESS PROCESS MODELING 43
B. COMPREHENSIVE TRUST MANAGEMENT PLAN 47
C. PROBATE 49
D. INDIAN TRUST SYSTEMS 53
E. TRUST DATA QUALITY AND INTEGRITY 55
IV. OFFICE OF THE SPECIAL TRUSTEE 59
A. CURRENT ACCOUNTING ACTIVITIES 61
B. RECORDS MANAGEMENT 67
C. TRAINING AND TRUST MANAGEMENT STAFFING 73
D. RISK MANAGEMENT AND INTERNAL CONTROLS 77
E. APPRAISAL 81
F. TRUST POLICIES AND PROCEDURES 85
V. BUREAU OF INDIAN AFFAIRS 89
A. FRACTIONATION 89
VI. ACRONYMS 93

THIS PAGE INTENTIONALLY BLANK

I. INTRODUCTION

This *12th Report to the Court* (Report) represents the period from October 1, 2002, through December 31, 2002. The purpose of the Report is to comply with the Court order to file reports quarterly and keep the Court informed on the progress of trust reform, trust related activity and progress toward a historical accounting. [1]

Significant events that happened during this reporting period include preparing of the Fiduciary Obligation Compliance Plan with the Court; preparing of the Historical Accounting Plan for Individual Indian Money Accounts; continued work on a Comprehensive Trust Management Plan; considered results of the consultation process with the Tribal/Interior Task Force; introduction of the reorganization of fiduciary trust duties within the Department of the Interior (Interior); announcement of the President's intent to nominate a person to be the Special Trustee for American Indians; development of a technical trust course to be presented to all senior managers for trust within Interior; hiring of experienced trust staff for trust policy and procedure work; commencement of the "To-Be" probate process reengineering; and the resignation of Assistant Secretary-Indian Affairs, Neal McCaleb. As the individual status reports will reflect, progress was also made to improve the management of fiduciary trust assets in many other ways.

The results of the consultation with the Tribal Leaders/Interior Task Force that was concluded in 2002 was useful in guiding the reorganization of trust functions within Interior. For instance, tribal leaders on the Task Force were particularly interested in having natural resource management remain in the BIA. This was done. The reorganization also puts renewed emphasis on trust accountability by having trust officers and administrators as part of the trust management team. The self-determination and self-governance program was repositioned to give it more visibility and ensure that contracting would remain a high priority within the Bureau of Indian Affairs (BIA) for those tribes that desire to assume more responsibility for the expenditure of federal funds on their behalf.

In addition to the reorganization, substantial new funding for FY 2003 trust-related management needs is anticipated as Congress moves toward completing its work on the FY 2003 Interior appropriations bill.

The year-long effort to document all trust business processes neared completion in this reporting period. The results of that effort are due to be published during the next reporting period. This "As-Is" business process documentation effort is the most intensive and thorough assessment conducted by Interior. By knowing what the trust business practices are and how Interior manages its fiduciary trust responsibilities, it is now possible to begin the reengineering of those business processes to create a more effective and efficient system of trust management. The reorganization is designed to

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

take advantage of this effort and ensure that managers and staff are appropriately located to implement the revised processes.

The Comprehensive Trust Management Plan has been under development for the past year. The Comprehensive Plan also reflects the new organizational structure within Interior to provide more effective management of the trust.

As reflected in the individual reports, there are still obstacles to trust reform and trust management. The computer/Internet shut down of December 2001 continues to be a burden as the BIA, Office of Hearings and Appeals and the Solicitor have not been reconnected to the Internet. As a result of the computer disconnect, some work has been substantially delayed which impacts on the entire trust management system.

II. SECRETARY GALE NORTON'S OBSERVATIONS

Organization

Interior continues to carry out its comprehensive and systematic plan to reform the management of its trust responsibilities. As the Court has been informed, the primary elements of this ongoing effort are: (1) the reorganization of Interior trust offices, and (2) the re-engineering of Interior's business processes. There have been noteworthy developments in these two areas during the quarter covered by this report.

Throughout 2002, Interior consulted with tribes about reorganization of Interior's trust programs. High-level Interior officials participated in numerous open consultation sessions with Indians, and met frequently with a task force of tribal leaders from across the country. The extensive nature of these consultations is reflected in thousands of pages of transcripts. The understanding gained from these consultations guided design of a major reorganization announced in November.

I believe this reorganization will provide the trust-focused organization we sought with the previously proposed Bureau of Indian Trust Asset Management, while addressing concerns and criticisms raised in Indian Country. The most striking feature of the reorganization is the creation of an Office of Special Trustee Trust Program Management Center, overseeing trust officers stationed in regional and field offices. These individuals will have a dedicated focus on trust compliance and beneficiary service. We plan to hire seasoned trust experts wherever possible. In addition, the Bureau of Indian Affairs organization will have its trust functions segregated from other duties, in order to concentrate fully on its trust obligations to Indian and tribal beneficiaries. Simply put, our reorganization dedicates more trained personnel to provide trust services and provides direct trust accountability. This reorganization is described in more detail in section IV.

Our work with the tribes also yielded Congressional consent for the budget reprogramming necessary to implement our reorganization. A year ago, Congress withheld approval of BITAM, asking Interior to consult more fully with the tribes. In contrast, letters on the new reorganization from the chairmen and ranking members of both the House and Senate Interior Appropriations Subcommittees noted Interior's extensive consultations. Because no further Congressional action is needed to proceed with reorganization, our plans will now move forward. (The reorganization proposal that received the most support during discussions with the tribal leaders task force, i.e., creation of a new Undersecretary position to oversee trust management department-wide, would have required legislation. We remain open to this proposal, and can readily adjust our reorganization to accommodate this change if Congress acts. However, we felt it was important to proceed with strengthening our trust organization without waiting for potential new legislation.)

An unfortunate organizational development in the past quarter was the resignation of Neal McCaleb as Assistant Secretary for Indian Affairs. Neal was a dedicated and valuable member of Interior's team. He gained respect in Indian Country, and played a pivotal role in our consultation and Task Force processes. Neal's departure was due, in significant part, to the current litigation. As he noted in his statement announcing his departure, "[T]he constraints imposed by ever-present litigation have taken their toll. Unfortunately, the litigation has taken first priority in too many activities, thus distracting attention from the other important goals that could provide more long-term benefits for Indian Country."

On the brighter side, we welcomed the President's January 3, 2003, nomination of Ross Swimmer as Special Trustee for American Indians. Ross is currently director of the Office of Indian Trust Transition and served as Assistant Secretary for Indian Affairs during the Reagan Administration. He also served as principal chief of the Cherokee Nation of Oklahoma beginning in 1975, where he was elected to three successive terms. During his tenure, the Cherokee Nation was recognized as innovative and progressive. His accomplishments as principal chief include improving economic development, health care, rural housing, and education. In addition to an understanding of tribal administration, Ross brings both a legal and a financial background. A graduate of the University of Oklahoma Law School, Ross practiced Indian law with an Oklahoma firm, and more recently served as president of a consulting firm. He has over 13 years of banking experience as president or chief executive officer and chairman of the board of two banks in Oklahoma and on the board of Directors of a Texas bank. During his banking experience, he was chairman of the Board and part owner of one of the earliest American Indian owned banks in the United States. Until the Senate confirms Ross, Donna Erwin will continue as Acting Special Trustee, where her managerial abilities and financial expertise are proving extremely valuable.

Re-engineering Interior's Business Processes

As described in previous quarterly reports and the January 6, 2003, *Fiduciary Obligations Compliance Plan*, the re-engineering of Interior's trust business consists of two basic phases: an "As-Is" documentation of those processes and the development of a "To-Be" process model that will be implemented in accordance with Interior's Strategic plan for trust reform.

At the end of the quarter, we received the preliminary draft of the "As-Is" business report. It is a huge document (about 1200 pages as currently paginated), and it painstakingly catalogs all of our current trust practices. It describes the many unique practices that have evolved from reservation to reservation over the past century of decentralization. Some of these practices respond to particular treaties or tribal situations. Others simply reflect individual preferences of employees, or techniques created to handle work given the skill or training level of an office's workforce.

Based upon extensive input from hundreds of employees and tribal representatives across the country, the "As-Is" report provides Interior's national management team with an unusual insight into how tasks are actually accomplished in the field. We appreciate the time invested by tribal representatives in helping us understand and evaluate our existing processes from a beneficiary perspective.

One example, described in the probate section of this Report to the Court, illustrates the type of correctable inefficiency revealed by the "As-Is" inquiry. The probate docket includes some cases to distribute judgment or per capita accounts that have no associated allotments, so the only probate asset is the account balance. During this quarter, we quantified these cases. As of December 31, 2002, there were 1522 of these probate cases where the total asset value for all 1522 cases was only $7193. Yet, even for these cases averaging under $5 in value, often the existing procedure is to undergo the same full probate process as for estates worth a thousand times as much. On one hand, these historic inefficiencies are disturbing. But on the other hand, they illustrate the benefits that we can derive from a thorough review of existing processes and an aggressive reengineering effort, possibly assisted by legislative changes.

During the past quarter, the Department of the Interior leadership devoted extensive efforts to preparation of the plans ordered by this Court for historical accounting and for improving the management of trust operations. I was once again impressed by the diligence and dedication of the very talented program specialists, managers and attorneys involved in this task. Work began last September, and continued throughout the holiday season. Interior submitted these reports to the Court on January 6, 2003. To devote the necessary time to court documents, other projects had to be delayed, including continued development of the trust reform plans. Accordingly, we have extended the anticipated completion dates for the "As-Is" business report, the "To-Be" plan, and the comprehensive trust management plan. Nevertheless, we remain committed to moving forward with these documents, which will set the blueprint for meaningful and enduring reform.

Appropriations

Improving Interior's trust management organization and infrastructure requires substantial new resources. Accordingly, we have made trust reform a priority in the budget process. In the reporting period, Congress debated but did not finalize the budget for Fiscal Year 2003. Early in 2002, the Administration proposed record BIA and OST budget increases for FY 2003 as part of our effort to fully meet applicable fiduciary standards in the delivery of Indian trust services. Trust reform was one of the few major increases in an otherwise tight Interior budget. We had anticipated that these increases would be available at the start of the fiscal year, i.e., in October 2002. However, Congress only passed continuing resolutions, meaning that Interior's trust programs remained at the lower FY 2002 levels throughout the reporting period.

It now appears that Congress will finalize the FY 2003 Interior appropriations bill during February 2003, and that Congress will honor the Administration's request for significant trust program increases. The pending FY 2003 budget request for the Office of the Special Trustee will increase funding for OST trust operations and trust improvement projects by 34 percent over FY 2001 funding levels and 52% over FY 2002 funding levels. Increases will fund improvements in basic operations, including records management, probate, asset management, accounting, and computer security. The request doubles funding for historical accounting. The FY 2003 budget for BIA also includes significant increases in core BIA trust services programs to enhance service delivery. The appropriations bills passed by the House and Senate provide most of the increases requested in the Administration's budget, although these are still subject to change in conference committee. In each House, the unified trust budget total was approximately $370 million, in comparison to the Administration's $382.6 million request.

During the reporting period, we also worked internally and negotiated with the Office of Management and Budget to formulate the Administration's budget request for FY 2004. This was the second budget cycle dominated by concerns about terrorism, homeland security, and military preparedness, as well as a struggling economy. Accordingly, funding for most domestic programs has been restrained. Again, Interior made trust reform a high priority.

The Administration has now finalized its FY 2004 budget request, and by far the largest Interior increase is for Indian trust. Most significantly, the request fully funds Interior's historical accounting plan at $130 million, a more than 700% increase. This substantial investment shows our serious commitment in responding to the Cobell litigation.

Including historical accounting, the increase in the unified trust budget is $168.5 million, bringing the total trust budget to $551 million. Although this half-billion dollar funding is extraordinary standing alone, it is even more dramatic in historic context. A previous decision by this Court noted that "Interior requested only $447,000 for OST funding in Interior's fiscal year 1996 budget . . . ." Cobell v. Babbitt, 91 F. Supp. 2d 1, 54 (1999). Today, the proposed OST budget line item (including historical accounting) is $274.6 million.

Conclusion

This *12th Report to the Court* contains information from various trust process managers on accomplishments and obstacles during the reporting period. As the report details, our progress is incremental. As much as we hope for "quick fixes," these band-aid approaches have not proven effective at achieving major systemic change. Accordingly, Interior's management team will continue pushing hard to design and implement long-term comprehensive reform.

III. DEPARTMENT OF THE INTERIOR

A. INFORMATION TECHNOLOGY

Introduction

This section describes Information Security efforts related to the Department of the Interior (Interior) Indian trust information technology (IT) systems – particularly systems that contain individual Indian trust data (IITD) or provide various computing capabilities, including functions critical to the proper administration of the individual Indian trust responsibilities.

For the purposes of this report and consistent with the definition included in the December 17, 2001, Consent Order (Consent Order), the term "information technology system" refers to any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, including computers, ancillary equipment, software, firmware, and similar procedures, services (including support services) and related sources.

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

> The existence of individual Indian trust assets (e.g., as derived from ownership data, trust patents, plot descriptions, surveys jacket files and statements of account);
>
> The collection of income from individual Indian trust assets (e.g., as derived from deposit tickets, journal vouchers and schedules of collection);
>
> Use or management of individual Indian trust assets (e.g., as derived from leases, sales, rights-of-way, investment reports, production reports, sales contracts); or
>
> The disbursement of individual Indian trust assets (e.g., as derived from transaction ledgers, check registers, transaction registers, or lists of canceled or undelivered checks).

IITD resides on Indian trust IT systems located within several Interior Bureaus and Offices. These systems exist on a variety of communications networks and hardware and software platforms and are of varying states of functionality. The six percent of Interior IT systems identified as having IITD and primarily supporting the BIA and the OST (which operates within BIA's network), the Office of Hearings and Appeals and the

Office of the Solicitor, remain disconnected from the Internet. The remaining ninety-four percent of Interior IT systems have been reconnected to the Internet, and in large part, were not identified as having IITD.

Accomplishments and Completions

During the reporting period, Interior continued to work closely with the Special Master on matters related to IT systems security. Interior has cooperated in the IT security investigations conducted by the Special Master's technical representatives relative to the Consent Order and proposed a set of remote network scanning and penetration testing "rules of engagement" for use by the Special Master's technical representatives, which are pending completion. In cooperation with the Special Master, Interior is developing a reporting mechanism to track IT security vulnerabilities identified during the Special Master's remote scanning or site visits and Interior's actions to mitigate those vulnerabilities.

The following section highlights the more noteworthy accomplishments and completions achieved by Interior and those bureaus and offices managing trust IT systems during this quarter. Although system security weaknesses are still present, the relative security and integrity of Interior's computer systems is slowly improving.

IT Security Program

Interior's IT security program is based on 375 Departmental Manual, Chapter 19 which, incorporates the applicable requirements of law, such as the Computer Security Act of 1987 and Government Information Security Reform Act (GISRA), Executive Branch directives such as Office of Management and Budget (OMB) Circular A-130, Appendix III and guidelines developed by the National Institute of Standards and Technology (NIST) and the Federal CIO's Council. These broad security guidelines have been augmented by Interior-specific requirements and were used to develop a recently enacted Interior IT Security Policy, an IT Security Plan and an IT Security Handbook. Achieving compliance with all aspects of the security program continues to be a challenge. In addition to policies and procedures, Interior has identified the following major areas for strategic focus: Management Support and Performance Measures, Capital Asset Planning, Training and Awareness, System Inventory and Prioritization, and Certification and Accreditation.

Management Support and Performance Measures

During this quarter, the Office of the Chief Information Officer (OCIO) and Office of the Inspector General (OIG) prepared Interior's FY 2002 Government Information Security Reform Act (GISRA) report and submitted the required quarterly Plans of Actions and Milestone (POAM) report. Interior's GISRA report stated that competing program and budget priorities have challenged full compliance with IT security laws and mandates resulting in continued threats to the IT infrastructure and mission information. The report

also states that during FY 2002, Interior has improved its IT security posture with initial implementation of a top-down management approach that:

- Establishes key objectives for the IT Security Program;
- Incorporates relevant NIST based policies, plans, and guidance;
- Increases training and awareness for both technical staff and end-users;
- Seeks adequate funding for IT security resources; and
- Adopts a standard approach to pursue OMB Circular A-130 certification and accreditation.

During this quarter, the Interior OCIO IT security office issued formal guidance on various IT security management issues to agency and program officials at the bureau and office level. Some of the recent formal guidance included OCIO memorandums on "Securing Interior's Wide Area Networks," "FY 2002 Plans of Actions and Milestones Submission," "Anonymous FTP Waiver Process," "Monthly IT Security Performance Measures," "Wide Area Network Vulnerability Testing," and "Virtual Private Exchange Network Security."

The Interior OCIO conducted IT Security Program-level reviews for the bureaus and offices within Interior. Using the basic format and categories of the NIST's Special Publication 800-26 (Security Self-Assessment Guide for Information Technology Systems), the OCIO developed an IT security program assessment questionnaire containing 58 questions. Each response was graded against the five categories of the Federal CIO's Council IT security assessment framework (policy, procedures, implementation, tested, and integrated) and weighted depending on an importance factor. A percentage score for each program was derived based on the number of points achieved compared to the total number of points possible. Weaknesses are tracked using OMB's quarterly POAM report and performance measures are charted at both the individual organization and summary level.

On December 13, 2002, the OCIO security staff began monthly scanning of all Interior Internet connection points and wide area networks using the SysAdmin, Audit, Networking and Security/Federal Bureau of Investigation list of the twenty most critical Internet security vulnerabilities (SANS/FBI Top 20). The SANS/FBI Top 20 lists the ten most commonly exploited vulnerable services in Windows, and the ten most commonly exploited vulnerable services in Unix. Although there are thousands of security incidents each year affecting these operating systems, the overwhelming majority of successful attacks target one or more of these twenty services. These monthly scans will assist Bureaus and offices in prioritizing their IT security efforts so they can address the most dangerous network vulnerabilities first. The SANS/FBI Top 20 list is available on the SANS web site at: http://www.sans.org/top20/.

Capital Asset Planning Security Review

The OCIO IT Security office continued reviewing Exhibit 300s for IT systems filed in conjunction with FY 2004 budget requests. The Exhibit 300 Capital Asset Plan and Business Case, which is submitted yearly to OMB as justification for funding Interior's individual construction and major information technology capital assets, demonstrates Interior's planning, budgeting, acquisition and management process for those assets, and provides assurance that these investments are linked to mission needs in an effective and efficient manner. The review focused on IT security requirements dependent upon the stage of the system lifecycle. Exhibits 300's lacking the content necessary to make an informed IT security determination were identified to the OCIO Capital Planning Office and returned for revisions. The Exhibit 300 process also provides a focused opportunity to ensure adherence to Interior's IT Security architecture throughout the lifecycle of IT systems.

Training and Awareness

Over 20 IT security professionals, including Interior and Bureau-level IT Security Managers, attended the 2002 Federal Information Assurance Conference held October 29-31, 2002, at the University of Maryland. National Institute for Standards and Technology (NIST), National Security Agency, General Services Agency, IT security industry leaders and academia showcased key information assurance programs and services being offered by the Federal Government, including information assurance technologies being produced by industry, and significant security policies and the planning and training necessary for their implementation.

The OCIO IT Security Office prepared and delivered version 1.0 of the Executive and Senior Managers IT Security Training module to all bureau and office CIOs. Each CIO was asked to complete the training by November 29, 2002, and provide comments on the training. The computer-based training contained five modules and focused on statutes that govern IT security in the Federal Government, the role of policy in enhancing Interior's security posture, the roles and responsibility of senior managers, a review of Departmental Manual 375.19 "Information Technology Security Program", and a general overview of the concept of management controls. After incorporating comments received from the CIOs, version 2.0 of the training will be released to an expanded audience including Assistant Secretaries and Bureau Directors.

System Inventory and Prioritization

The IT Security Team members under the auspices of the IT Management Council are developing and prioritizing Interior systems. The starting point for determining where to apply resources for managing and securing information and IT systems is to develop a credible system inventory. The team has developed the initial inventory for all IT systems, including the Interior Indian trust IT systems.

Certification and Accreditation

Interior's CIO Security Officer continued work on a Departmental certification and accreditation (C&A) process based upon the new NIST Special Publication 800-37. Two dedicated contractors are supporting this effort. The 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 identified to support the trust business process reengineering (also known as the "To-Be" business process project) have a goal of certification and accreditation by December 31, 2005.

Audit "Findings and Recommendations" Database

Interior has utilized the "Findings and Recommendations" Database to provide security findings reports to bureaus and offices beginning Initial Assessments on IT systems and update the database with IT security vulnerabilities identified during the Special Master's site visits and remote scanning activities occurring between October and December 2002. The OCIO Project Management Office is developing a strategy to eliminate these findings as bureaus and offices assess IT systems and remediate security vulnerabilities.

Bureau of Indian Affairs – Security Efforts

During the fourth quarter, 2002, the Chief Information Officer for the Assistant Secretary – Indian Affairs (AS-IA) took the following key steps:

- Under the International Business Machines (IBM) contract awarded last quarter, Indian Affairs worked on an Asset Management program. The program is hosted at the BIA facility in Reston, Virginia. The automated Asset Management program has identified over 50% of the network-attached devices on BIA's network. IBM provided BIA Office of Information Resources Management (OIRM) and Indian Affairs OCIO staff training on the Asset Management program this quarter. BIA plans to provide training to Regional coordinators through the next quarter.

- A full-time, BIA-centralized help desk is being developed through a contract with Cherokee Information Services. The contract, awarded this quarter, will be operated under the management of BIA OIRM. The help desk staff will utilize the Problem Management software by Peregrine Systems, Inc. to track and automate services to BIA.

- BIA worked with SAIC contractors on the following initiatives: developed a Security Technical Implementation Guide (STIG) for hardening desktops (Windows 2000) and servers (Windows 2000 server, Windows NT, Novell Netware); partially implemented desktop STIGs in Reston, VA, and Anadarko, OK; hardened 50% of the servers in Reston; hardened CISCO routers based on router STIGS; completed NIST SP 800-26 self-assessment guide questionnaire

for BIA Reston (10/07/02), BIA Albuquerque (10/25/02), BIA Phoenix (11/22/02), BIA Midwest Regional Office Fort Snelling, Minnesota and BIA Portland, Oregon (both 12/16-19/2002).

- SeNet International reviewed the existing BIA IT security policy and plan, and delivered a revised draft to the Indian Affairs security officer. In addition SeNet provided BIA with a project plan for conducting security assessments of BIA's IT Trust systems.

- MCI Worldcom and Veridian developed and tested a prototype of the secure E-mail and Web Proxies solution in December, 2002 at the Veridian facility in Vienna, VA. This solution, when implemented at Albuquerque, NM and Virginia, is designed to provide sufficient security between BIA Net and the Internet.

- BearingPoint, Inc. has initiated boundary assessments on BIA Indian trust systems. The final report is scheduled to be provided to BIA during the next quarter.

Office of the Special Trustee – Security Efforts

During the previous reporting period, OST completed the security work identified in this section of the *11th Report to the Court*. During the current reporting period OST prepared and submitted a proposal to reconnect OST to the Internet. This request was accepted by the Associate Deputy Secretary and submitted through DOJ to the Special Master for consideration on December 5, 2002. The Special Master's site visit to OST did not occur before the end of this reporting period.

In addition, Interior conducted a review of OST's IT security program and the Special Master approved two proposals for connecting certain stand-alone PCs to the Internet.

Office of Hearings and Appeals – Security Efforts

During this quarter, Office of Hearings and Appeals (OHA) submitted its proposal to reconnect to the Internet, which was subsequently submitted to the Special Master. On December 4, 2002, OHA received a site visit from the Special Master's technical representatives at OHA's Arlington, VA office. The following recommendations were identified in the Special Master's report dated December 24, 2002: place email and web servers in a properly configured De-militarized Zone (DMZ); purchase and implement Intrusion Detection Software (IDS) and develop incident handling procedures; and provide additional resources or technology to assist the security administrator.

Pursuing Concurrence To Operate Systems Or Reconnect To The Internet

During this quarter, Interior worked with the Special Master and his experts as they tested Interior systems, identified security vulnerabilities, and validated security vulnerability remediation work completed by the Bureaus and Interior security experts. The percentage of systems reconnected to the Internet or resuming operations remained at approximately ninety-four percent.

The following systems received concurrence from the Special Master during this quarter:

- BIA Administrative PCs
- Minerals Management Service Herndon
- OST Stand-alone PCs (IDEAS and Bloomberg)

The following proposals are under review by the Special Master:

- BIA "Dark" Systems (Land Title Mapper, KeyFile, Native Allotment Data Collection and Access Project, Anadarko sites at Wewoka and Chickasaw)
- MMS State and Tribal Royalty Audit Committee (STRAC) sites
- OHA
- OST systems located in Albuquerque, NM

The following proposals are under review by the Associate Deputy Secretary:

- Bureau of Reclamation trust Systems (rewrite received from BOR in December)
- Fish and Wildlife Services trust Systems
- SOL request for temporary reconnection for testing
- BIA request to connect email, FTP and Web servers to the Internet

Computer and Business Systems Architecture

As described in greater detail in Interior's January 6, 2003 [Fiduciary Obligations Compliance Plan] filing with the Court, in order to institutionalize the enterprise architecture best practices at the Department of the Interior, the OCIO has identified "A Practical Guide to Federal Enterprise Architecture," Version 1.0, as the approach for trust enterprise architecture life cycle management.

Interior has established and is finalizing policies for trust enterprise architecture development and systems integration management, and the trust IT governance as identified within step one of "A Practical Guide to Federal Enterprise Architecture." These policies identify the roles and responsibilities for the key trust system owners, business owners and executive management. Interior has also established the multi-bureau Trust Enterprise Architecture Team and the Trust Executive Steering Committee.

The Interior Chief Architect for Trust Systems plans to implement a systems integration management methodology that will ensure communication is established and change

management activities are coordinated throughout the development of new architectures and the transformation of baseline existing architectures to target future architectures.

The previously published Trust Management Improvement Project - Technology Architecture is undergoing revision. The revised trust architecture includes a trust technical profile in a technical reference model, version 1.0, Aug 15, 2002, that identifies the technologies needed to support the trust IT environment consistent with Interior's Enterprise Architecture.

Delays and Obstacles

Many challenges must be addressed regarding the security and integrity of IT systems. The shortcomings and failures of the overall system are well documented. A host of prior reports from government institutions, private contractors, and, most recently, the Special Master, SRA International, Inc., and NIST have pointed out in great detail the security weaknesses (e.g., lack of firewalls, intrusion detection, active log monitoring, etc.) of the systems housing IITD. These documents have been provided to the Court prior to this reporting period.

There are obstacles or impediments to achieving acceptable IT systems improvements. For example:

> **Acceptable standards for IT systems security need to be articulated and the standards need to be realistic.** A standard process for assessing the security levels of our critical systems (Initial Assessment) has been developed. In the short term, for systems containing IITD, expectations need to be clarified regarding acceptable security measures that will permit Interior to undertake its critical work. In the long term, the negotiated systems security standard must balance the relative risks of providing access to the system against the need to conduct trust business processes.
>
> **Past views within Interior (and the Federal government, in general) have not led to the development of a robust IT systems security infrastructure.** Current security measures were designed to support traditional government programs, where openness with the public was accepted. Substantial efforts will be required to establish a solid, stable, dynamic and secure infrastructure designed to meet a new, robust set of requirements for trust reform and trust assets management. Interior, in conjunction with the Special Master, has been reviewing the relative security of trust-related IT systems and making improvements where needed.
>
> **Employee fears about personal litigation involvement are undermining creativity and decision making.** As previously noted to the Court, the NIST Computer Security Expert Assist Team (CSEAT) reported that current litigation is having a negative impact on employee performance. The continued focus on

pursuing contempt or other disciplinary actions against individuals working on this issue may further exacerbate this concern.

Generally, the quantity and quality of information system technical leadership and support staff are insufficient. Interior and BIA are seeking to add technical leadership and support staff. Interior recently selected a new CIO for Interior and a new CIO for BIA. Interior is continuing to seek other qualified individuals to assist in improving the operations of Interiors trust-related IT systems. The lack of sufficient staffing will likely adversely impact the pace and quality of improvement efforts.

The government (e.g. Interior, OMB, Congress, etc.) needs to evaluate current funding requirements. Making material improvements in the current status of IT system security will likely require additional funding. Interior is working with Congress to address its funding requirements for FY 2003. IT initiatives are being delayed due to the funding limitations caused by Congress's use of continuing resolutions. Once the FY 2003 budget is passed, Interior plans to work with OMB and Congress in an attempt to obtain reprogrammed funds to support other IT security initiatives. In addition, Interior is preparing funding requests for FY 2004.

Trust-related systems are not integrated within Interior. Interior IT systems are operated on various communications networks, on different hardware/software platforms and with different database configurations and varied security approaches. Interior has undertaken a general evaluation of these systems and is taking the initial steps to develop Interior-wide trust systems architecture.

OMB has directed Interior to adopt an enterprise architecture plan. Funding for trust system security improvements may be dependent upon receiving OMB's approval of the architecture plan. Therefore, the schedule to implement trust-related initiatives is subject to OMB concurrence, which may impact schedules and resource availability.

The reliability, quality and structure of the relevant application systems and the data contained therein have been questioned. The ability to accomplish business process standardization is important and unknown. The degree to which trust-related IT systems can be consolidated or integrated will influence the design of security measures and its overall effectiveness.

In the short term, Interior employees and security experts are taking steps to address these issues as a part of the efforts being undertaken to improve the security of individual Indian trust systems. In the longer term, Interior will be addressing these issues in more detail as a part of its efforts to achieve compliance with OMB Circular A-130, Appendix III.

Assurance Statement

I concur with the content of the information contained in this Information Technology section of the 12th *Report to the Court*. The information provided in this section is accurate to the best of my knowledge.

Date: January 29, 2003

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

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 tribal lands. Cadastral surveys 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. 25 U.S.C. § 176 requires the BLM to direct and control the survey of Indian lands.

Approved cadastral surveys are officially filed in the BLM State Office within whose jurisdiction the surveyed lands are located. Secretarial copies of cadastral surveys are officially recorded at the BLM Eastern States Office, Springfield, Virginia. There are lands in Indian country that were surveyed by Bureau of Indian Affairs (BIA) Indian Service surveyors during the early 1900's, yet many official records of these surveys cannot be located. The BLM is currently working with the Office of Historical Trust Accounting (OHTA) to locate these records. Similar research to locate these records at the agency level is being performed with the cooperation of the BIA.

A Cadastral Geographic Information System (CGIS) is the primary tool the BLM and BIA must continue to develop for integration of land records and cadastral surveys. One of the utilities of a CGIS is that it assists the BIA in locating the highest-priority surveys thus allowing both the BLM and the BIA to formulate a strategy for addressing the survey needs. A CGIS allows for accurate, survey-based ownership and leasing information to be integrated and utilized for Interior trust management needs.

Accomplishments and Completions

Inventory of Survey Needs/Automated Cadastral Survey Request and Database: The BLM has developed an automated survey request database and is currently working with the BIA to enhance the tool. Although the automated survey request database has been field tested in the Northwest Region, the initial software design did not have all the pertinent information necessary to sort the data and extract the highest-priority cadastral survey requests.

BIA has provided BLM information known as "priority drivers" that will allow the data to be sorted based upon particular criteria established by BIA. BLM has incorporated these drivers into the automated survey request database. The Northwest Region of BIA has completed an inventory in Oregon and Washington and will incorporate the priority drivers into the database during the next reporting period. BLM will demonstrate the software to the BIA. Upon approval from BIA, the software will be made available nationwide.

The initial nationwide inventory of cadastral survey requests was scheduled for completion by May 2003. However, as noted in *Status Report to the Court Number Eleven*, the target date of May 2003, has been pushed back because of delays experienced in the latter half of 2002. Both BLM and BIA are committed to completing this inventory. Once data begins to be received from the field, a new target date for completing the inventory can be anticipated.

Cadastral Indian Project Manager Position: A selection has been made for this position and the candidate has accepted. The Cadastral Indian Project Manager will begin work with the BLM Chief Cadastral Surveyor during the next reporting period. The Cadastral Indian Project Manager will oversee the ongoing and future survey needs for Individual Indian trust and Tribal lands and coordinate between key Tribal, BIA, Office of the Special Trustee for American Indians (OST) and BLM groups to develop long-term strategic plans to meet critical, high priority survey needs.

Office of Historical Trust Accounting (OHTA) Pilot: Copies of the OHTA Cadastral Survey Pilots on Acreage Errors and on Locations Errors have been sent to OHTA. BLM will follow up with briefings on the Pilots as requested by OHTA. The reports identify benefits from integrating cadastral survey and ownership records.

Training Course, "Land Tenure in Indian Country:" This training course is designed to educate realty specialists, cadastral surveyors, appraisers, and other land tenure specialists about land issues facing both BLM and BIA and how to work together to resolve these issues. The Pilot "Land Tenure in Indian Country" training course was held in September 2002, at the Tamastslikt Cultural Institute, Umatilla Indian Reservation, Pendleton, Oregon. The course proved successful in educating a cross section of students from BLM, BIA and Tribes and requests for additional training courses have been received. The first "Land Tenure in Indian Country" training course is scheduled for the summer of 2003, in the Sacramento area. BLM will collaborate with the OST Training Coordinator for future courses.

Current Status

Expansion of the Cadastral Geographic Information System (CGIS) Model, "Yakama Model:" The CGIS merges cadastral survey field data with current land status and resource data to create a usable spatial representation of ownership, use and resource information. The Yakama Nation identified errors between the land records and the field data concerning utility company rights-of-way locations. The CGIS was instrumental in discovering these discrepancies. The Yakama Nation was successful in negotiating a new $1.2 million per year franchise fee with the utility companies. The $1.2 million benefit is a direct result of a complete and thorough review by the cadastral surveyor of the land status records linked to specific field locations. Currently, the total benefit from the Yakama Nation's CGIS is over $25 million.

The Ute Mountain Ute, Southern Ute and Coeur d'Alene Tribes continue to work on creating systems similar to the Yakama Model that integrate land and survey records. An agreement was signed in December 2002, between the Ute Mountain Utes, BLM and BIA to implement a CGIS.

Workforce Issues: In August 2002, the BLM implemented a policy for "Recruitment and Relocation Bonuses and Retention Allowances." The objective of implementing this policy is to increase the number of cadastral surveyors employed by BLM. In December 2002, BLM issued its first Retention Bonus to a key cadastral surveyor in the Wyoming State Office.

Department of the Interior Indian Trust Lands Boundary Standards: These Standards are ready for review and will be referred to the Solicitor's Office during 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 continue to move forward with a pilot study focused on risks associated with funding, process and priority setting of cadastral services in Indian country. The logistics are being finalized between OTRM and BLM for the pilot study that will be performed during the next reporting period at the Idaho State Office and the Northwest Region.

Assurance Statement

I concur with the content of the information contained in the Cadastral Survey section of the *12th Report to the Court.* The information provided in this section is accurate to the best of my knowledge.

Date: February 3, 2003

Name: *Signature on File*
Donald Buhler

THIS PAGE INTENTIONALLY BLANK

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. Only information on leases of Indian Land is available to MRM.

Accomplishments and Completions

The MRM completed implementation of the major elements of the reengineered system on November 1, 2001, and continued to phase in the less time-critical modules during the ensuing months. During the computer system shutdown, MRM was unable to process mineral revenue reports related to Indian or Federal leases. After the systems were reactivated in March 2002, MRM placed its priority on processing individual Indian mineral lease revenue reports so that it could produce distribution files to BIA. MRM's Indian mineral revenue backlogs arising from the system shutdown have now been eliminated and MRM is processing current revenues as received.

Current Status

The final module of the MRM reengineering project—Exception Processing—is expected to be fully implemented by March 31, 2003.

In addition to the reengineering project, three recommendations were added to this activity as a result of the Electronic Data System (EDS) Report on Trust Reform. These recommendations will help provide appropriate documentation of procedures and agreements, but none represent problems that are adversely affecting the fulfillment of Interior's Indian Trust responsibilities.

1. **Establish Ongoing Application Change Control Procedures.** To document how software enhancements and modifications are approved and implemented in the steady state environment (March 31, 2003).

2. **Resolve Information Exchange Issues between MMS and all other Systems.** Although there are no unresolved information exchange issues between MMS and other Interior systems, EDS made this general recommendation to help address any future issues that may arise. MMS will establish a policy and process for documenting information exchanges between MMS and its business partners, e.g. BLM, Office of Trust Funds Management (OTFM), and BIA. Service level

agreements are expected to be proposed and executed, as appropriate. These policies and procedures will be heavily influenced by the emerging Interior security guidelines and interconnection requirements expected to be available by September 30, 2003. Development of service land agreements are expected to begin after security guidelines and interconnection requirements are in place

3. **Document Procedures Regarding Royalties Disbursement.** This will document royalty disbursement procedures and contain executed service level agreements between MMS and BIA. This service level agreement is expected to be in place by September 30, 2003.

Delays and Obstacles

None.

Assurance Statement

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

Date: January 29, 2003

Name: *Signature on File*
Phil Sykora
Manager, Financial Management
Minerals Revenue Management
Minerals Management Service.

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 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 activity level personnel who actually know about the work being performed. The trust reorganization planning team is attempting to combine 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

- **The reorganization of the Bureau of Indian Affairs (BIA) and the Office of the Special Trustee for American Indians (OST) was permitted by the appropriations committees in both houses of the Congress.** The reorganization aligns the trust responsibilities within BIA and OST to assure responsiveness to individual trust needs. This new organizational alignment will assist Interior in its review of the performance results of the staff who provide service to trust beneficiaries. BIA and OST will create dedicated fiduciary trust positions as part of a restructuring of trust functions. New trust officer positions in the field should be used to, among other things, review and evaluate trust transactions, approve certain transactions, and strengthen the system of accounts receivable. Interior plans to implement the new organization during calendar year 2003. Training and staffing for new trust positions are planned and are expected to be implemented throughout calendar year 2003 and 2004.

- Interior required an Individual Development Plan (IDP) for employees with significant trust responsibilities to be developed by December 31, 2002. Offices and bureaus are assessing and will report their status early in calendar year 2003. In the OST, 100 percent of the gross IDPs completed as of December 31, 2002, are under review by a working group that is focused on global trust management training requirements. Due to the large number of trust management employees in BIA, BIA is using a sampling approach to audit and ensure that IDPs are in place. Results of the initial BIA audit will be used to further refine assessment of the BIA IDPs. Minerals Management Service (MMS) has already reported that they have IDPs for most relevant employees. The IDP identifies planned, future and mandatory training and development to sustain and/or enhance successful performance. The Indian Trust Human Resource (HR) Advisor will stay

informed on the status of business process reengineering and thereby assist in the coordination of IDP development.

Current Status

- **Interior bureaus plan to develop Workforce Plans by September 30, 2003, for FY 2004-2008 and update annually.** The first workforce plans will focus on the trust management organizations as they operate today. Potential reorganization efforts and the business process reengineering under the Interior Comprehensive Trust Management Plan will affect the workforce planning skills analysis and planning decisions. As the business process reengineering progresses, new job requirements will be established that will require different training and skill levels. It will also alter the timelines for completing reengineering and other workforce planning actions. The Indian Trust HR Advisor will stay informed on the status of business process reengineering and thereby assist in the coordination of workforce planning activities.

- **Workload analysis and workforce planning software options are being considered.** The Indian Trust HR Advisor, Office of Personnel Policy staff, and trust managers are continuing to research software tools and contractors' ability to accomplish automated comprehensive workload assessment and assist in developing long-term workforce plans. The goal is to identify a provider and viable methodology for use during business process reengineering, as appropriate, and after processes are reengineered to collect and assess required competencies, staffing and training in the workforce planning process. Four potential providers of workforce planning tools were reviewed during this reporting period.

Delays and Obstacles

- Implementation of the approved reorganization described above is expected to be complete at the end of calendar year 2004; and therefore, current staffing will undergo review and change. The individual responsibilities of the employees and managers will change. The addition of trust officers and trust administrators to the staffing of OST and new staffing in BIA will begin in the locations that have the greatest trust income and greatest number of account holders. Therefore, the completion of workforce plans during calendar year 2003, will in many cases, focus on work as it is known today. As the work is reorganized, the workforce plans will be updated.

- The continuing restriction on the use of the Internet in many trust organizations affects electronic collection of staffing data across all bureau lines. Lack of Internet access also continues to complicate Internet recruiting.

Assurance Statement

I concur with the content of the information contained in this section of the *12th Report to the Court*. The information provided in this section is accurate to the best of my knowledge.

Date: January 24, 2003

Name: *Signature on File*
Kathryn A. Bown
Indian Trust HR Advisor

THIS PAGE INTENTIONALLY BLANK

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

The Historical Accounting Plan for Individual Indian Money Accounts - During this reporting period, OHTA prepared a *Historical Accounting Plan for Individual Indian Money Accounts* (Plan) to conduct a historical accounting for about 260,000 IIM accounts. The Plan has been prepared in response to a September 17, 2002, order in the *Cobell v. Norton* litigation requiring the Department of the Interior (Interior) to file with this Court a plan for conducting a historical accounting of the IIM trust accounts. Interior filed the Plan on January 6, 2003, as required by this Court (*Cobell v. Norton*, 226 F.Supp.2d 1 (D.D.C. 2002)).

The work described in the Plan is estimated to take five years to complete and to cost about $335 million. The historical accounting described in the Plan covers all IIM accounts that were open as of December 31, 2000, and all IIM accounts that were open as of October 25, 1994, or opened thereafter, but closed as of December 31, 2000.

OHTA's staff helped to prepare the Plan for the Court's January 6, 2003, filing deadline. Further, OHTA's consulting contractors were instrumental in designing the Plan that Interior submitted to the Court. For example, Chavarria, Dunne & Lamey LLC (CD&L), Deloitte & Touche LLP (D&T), Ernst & Young LLP (E&Y), Grant Thornton LLP (Grant Thornton), KPMG LLP, and Booz Allen Hamilton (BAH) provided data and/or technical assistance for the Plan.

Additionally, OHTA's statistics consulting firm, National Opinion Research Center (NORC), an affiliate of the University of Chicago, was tasked to develop a sampling plan to assist OHTA to perform the historical accounting work described in the Plan. NORC prepared a sample design report, "Sample Design Planning Report," for the Plan, which is attached as Appendix D to the Plan.

Historical Research Associates, Inc. (HRA) Report - HRA delivered a report to OHTA describing the U.S. Forest Service's historical involvement with timber sales on Indian lands and assessing the potential for finding information pertinent to IIM accounts in Forest Service records. HRA found that the Forest Service had a cooperative agreement with Interior during 1908 – 1909, giving the Forest Service responsibility for forest management on Indian lands. During this brief period, the Forest Service administered

timber sales on thirteen reservations, and five of these sales involved sales of allotted timber.

Procedures adopted by Interior and the Forest Service at the time called for records relating to these timber sales to be transferred to the Forester in Washington, D.C. It appears, however, that the detailed financial records may have remained on the reservations where they were turned over to the Office of Indian Affairs.

Forensic Examination of Overwritten Tapes - This project was discussed in the *Status Reports to the Court Numbers Ten and Eleven*. During this reporting quarter, OHTA representatives discussed the identification of legacy tape reels and backup data cartridges that may contain IIM data with representatives of the BIA's Office of Information Resource Management. These tapes are held by Iron Mountain, a private firm specializing in handling storage of documents, located in Springfield, Virginia. OHTA has determined that there are 1,752 tapes that relate to Indian trust matters in storage. The majority of the information contained on the reels is available on either live databases or in paper form. The tapes contain information on nine different tracks and encompass transactions from 1986 forward.

The prospects of recovering complete, accurate, meaningful data from the track-by-track recovery process are extremely low. Although the physical recovery of some data from the overwritten reels may be possible, the ability to read and analyze the data is not easily achieved without the re-creation of the software environment in which the media was initially recorded. The software environments used during the time period in question are no longer available within Interior and the re-creation of the software environment would require a multi-million dollar, multi-year software development effort before the track-by-track recovery of the data reels could begin. Therefore, OHTA has determined that it will not attempt to conduct a forensic examination of BIA's overwritten tapes.

Current Status

This section summarizes activity of ongoing OHTA projects.

Palm Springs Field Office - OHTA and KPMG, working with Bank of America (Bank) personnel to identify any records the Bank may still possess regarding its management of Sacramento Region accounts, have concluded that the Bank's records of its data processing service contract are not available. OHTA intends to search for other sources to address these issues.

KPMG has initiated a pilot reconciliation process to identify new TFAS accounts at Palm Springs and the associated TFAS batch numbers. These batches will be used to request financial information from OTFM and ownership information from the Sacramento LTRO in order to commence historical accountings. This work will commence during the next quarter.

Large Dollar Transactions – KPMG has reviewed the Integrated Records Management System (IRMS) and TFAS transactional data to identify checks to be requested from Treasury during the next quarter. This information will support OHTA's historical accounting of the group of transactions of $5,000 or more described in the Plan.

Judgment and Per Capita IIM Accounts - As reported in the *Status Reports to the Court Numbers Ten and Eleven*, CD&L is tasked to reconcile a number of Judgment and Per Capita IIM accounts. CD&L continues to perform accounting procedures on these IIM accounts. On October 2, 2002, CD&L transmitted one group of Judgment IIM accounts to OHTA, in which CD&L reconciled 909 Judgment IIM accounts with an associated total dollar value of $2,698,099. To date, the cumulative number of Judgment IMM accounts reconciled is 14,235 with a dollar value of $40,944,193.

Historical Statements of Account for an initial group of 560 reconciled Judgment IIM accounts were mailed on October 9, 2002, to the parents or legal guardians of account holders. A second group of 648 accounts was mailed on October 28, 2002, for a total of 1,208 accounts. The information provided included (1) a Historical Statement of Account covering the period from the initial deposit of the Tribal judgment distribution into the IIM account and interest through December 31, 2000, (2) a letter describing the historical accounting work performed, including a general description of the account history, and (3) a brochure containing informational material with answers to anticipated questions. On December 23, 2002, the Court issued a Memorandum and Order pursuant to Fed. R. Civ. P. 23(d) prohibiting the "... parties to the litigation, their agents and officials, and their counsel..." from communicating in any manner "... with any class member in this litigation regarding this litigation or the claims involved therein." In response to this Order, Interior discontinued its mailings of Judgment IIM historical accountings.

As reported in the *Status Reports to the Court Numbers Ten and Eleven*, Grant Thornton has been engaged to perform a quality control check of CD&L's work on Judgment IIM accounts. During the current quarter, Grant Thornton issued a quality control report on 662 Judgment IIM accounts submitted by CD&L on July 31, 2002. Grant Thornton also conducted a quality check for the two mailings described above.

CD&L also issued monthly reports on its work on Per Capita IIM transactions for the October through December 2002 reporting period. CD&L reconciled 41,736 Per Capita IIM transactions with an associated dollar value of $14,541,630. CD&L submitted the foregoing in two reports dated October 2, 2002, for 35,151 transactions and November 26, 2002, for 6,585 transactions. Grant Thornton expects to issue its quality control reports on these submissions together with three earlier groups of Per Capita IIM submissions by June 30, 2003. To date, the cumulative total of Per Capita IIM transactions reconciled is 95,364 with a dollar value of $80,071,398. (The Per Capita IIM dollar values reconciled will be greater than the December 31, 2000, Per Capita IIM accounts balance because the accountants are examining throughput dollars which

include collections, disbursements, and other activities to reconcile Per Capita IIM transactions.)

Eastern Region - The Eastern Region has 48 land-based IIM accounts and 48 Special Deposit accounts (work during this quarter identified 11 additional IIM accounts, increasing the total number from 37 to 48). This is an ideal size to learn about the difficulties that will be encountered when accounting for larger numbers of accounts. This project is expected to be completed by June 30, 2003. It will substantially complete the historical accounting for one of the 12 BIA Regions.

New Accounts Opened 1998 and Later - E&Y prepared a work plan to perform the accounting for the new TFAS accounts that begins in the Southwest Region. The Southwest Region was selected since land records are in the Albuquerque LTRO and financial records are in the Office of Trust Records facilities, also in Albuquerque. This plan was reviewed and approved by OHTA and the quality control contractor, Grant Thornton. E&Y commenced the analysis of the transaction histories for these accounts, including the review of selected supporting financial documents from the Office of Trust Funds Management (OTFM). E&Y has also obtained certain land title information. 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 on obtaining Land Records Information System (LRIS) data due to the December 5, 2001, TRO and the December 17, 2001, Consent Order were experienced. During the quarter ending December 31, 2002, OHTA redirected E&Y's efforts to other projects, such as the additional work on the named plaintiffs described below. This project will re-commence during the next quarter.

Collection of Missing Information from Outside Sources - As reported in the *Status Report to the Court Number Eleven*, OHTA prepared a draft for the "Policy and Procedures for the Collection of Missing Trust-related Records" during that reporting quarter. The draft is presently undergoing internal review and, when finalized, will be included in the *Department Manual*. The proposed policy states that Interior will:

- Alert potential third-party custodians of Interior's efforts to locate and secure possible missing trust–related information and request that they retain this information;
- Identify missing information needed to conduct a complete historical accounting during the historical accounting process;
- Identify and locate records held by third-party custodians; and
- Obtain or copy third-party records.

On October 15, 2002, the Office of Management and Budget approved Interior's request to continue to seek Indian trust-related information from third parties. Interior announced

its intent to seek trust-related information in a *Federal Register* notice published on February 6, 2002.

Accounting Standards Manual - Grant Thornton and D&T, with assistance of CD&L, E&Y, KPMG and NORC, prepared a revised draft of the *Accounting Standards Manual (Manual)*. OHTA initially issued the *Manual* on July 2, 2002. The *Manual* is a dynamic document and provides guidance to accounting firm contractors, other OHTA contractors and OHTA staff on the key documents to use in performing the historical accountings of IIM accounts. Copies of the *Manual* have been distributed to Interior officials to inform them of an important part of the historical accounting process.

Historical Accounting Software - During this reporting period, the contractor continued its work on the historical accounting software. This project was reported in the *Status Report to the Court Number Eleven*. KPMG and BAH coordinated development efforts with the accounting firm contractors, other OHTA contractors, and OHTA staff to define the software technical requirements.

Initial requirements for the software have been identified and submitted to OHTA. Programming commenced during December 2002. Completion of the software is targeted for May 2003. In addition, the overall system security is being analyzed and is under development.

As stated in the *Status Report to the Court Number Eleven*, the historical accounting software will standardize the historical accountings conducted by each of the accounting firm contractors, and will facilitate use of electronic and hardcopy transaction documents, which will have been imaged and indexed.

To facilitate the historical accounting and use of the reconciliation component of the historical accounting software, KPMG began to map the journal voucher (JV) debits to the corresponding credits for all JV debits in the Alaska Region, Palm Springs Agency and Southern Ute Agency.

Land Title Project - The goal of the Land Title Project (Project) had been to evaluate the completeness of the BIA's LRIS underlying the IIM accounts. There are two facets to this Project – (1) completeness of the physical land records (*i.e.*, whether all Indian Trust tracts/allotments are in LRIS) and (2) accuracy of the ownership data (*i.e.*, whether all individual owners are recorded in LRIS).

The analysis of the accuracy determination of the LRIS ownership data is now moving towards completion during the next reporting period. Earlier, it had to be put on hold, as noted in the *Status Reports to the Court Numbers Ten and Eleven* (due to the inability to gain access to LRIS, a result of the December 5, 2001, Temporary Restraining Order and the December 17, 2001, Consent Order).

NORC resumed this Project during the previous quarter and has now received from the Land Titles and Records Office (LTROs) virtually all the tract history reports for which it needs to check whether the random samples of probates were properly posted to the LRIS system. All work on the Project will be completed during the next quarter, with final reports issued and final recommendations made on the next steps.

Named Plaintiffs - OHTA selected E&Y to complete historical accountings from August 1999 through December 31, 2000, for four of the named plaintiffs in the *Cobell* litigation. As part of a separate contract with the Department of Justice, E&Y has 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 prior to December 31, 2000, the concluding date for the historical accounting.

During this quarter, E&Y substantially completed the historical accounting for the above-referenced individuals. Draft results of these accountings have been presented to Grant Thornton for an independent quality control check, which is underway. E&Y is currently working on outstanding items that will allow OHTA to complete the historical accountings for the named plaintiffs.

Outreach

InterTribal Monitoring Association Presentation - On October 16, 2002, OHTA's Executive Director participated in a day-long session devoted to trust matters at the 12th Annual InterTribal Monitoring Association meeting in Las Vegas, Nevada.

Council of Petroleum Accountants Society Presentation - OHTA's Chief of Staff made a presentation at the fall conference of the Council of Petroleum Accountants Society (COPAS) in Las Vegas, Nevada, on October 23, 2002. Many of the members of COPAS are chief financial officers, controllers, and chief accountants for petroleum companies, and it was recommended that OHTA approach this group for assistance in identifying potential sources of trust-related records within the oil and gas industry. The following issues surfaced as a result of OHTA's presentation.

- Industry consolidation could present some problems in identifying and collecting relevant records. Surviving companies have "inherited" records from acquired companies, but they may not be fully aware of the extent or the completeness of those records.

- Companies are concerned about potential liabilities inherited from acquired companies.

- Companies are concerned about Federal Government access to records unrelated to Indian trust matters. Few, if any, companies have segregated Indian trust-

related records from non-trust-related records and it could be costly to do so, particularly for inactive, archived records.

- A representative from the State of New Mexico identified a State web site (www.ongard.state.nm.us) that allows companies and others to review oil, gas, and CO_2 production information, pricing, and taxes paid for individual production units within the State.

12th Annual Alaska Tribal Providers' Conference - During the week of December 2, 2002, OHTA's BIA Liaison and a staff member of Upper Mohawk, Inc., a contractor for OHTA, distributed brochures and other information from a booth at the 12th Annual Alaska Tribal Providers' Conference in Anchorage, Alaska. The event, attended by over 1,600 representatives from 229 Alaska tribes, is sponsored by BIA and brings together the tribal service provider representatives for the Alaska Region for the purpose of updating their knowledge on their programs and informing them about important planned events.

Consultants - During this quarter, OHTA hired two additional consultants, Historical Research Associates, Inc. (HRA) and Morgan, Angel & Associates, L.L.C., to advise on historical research, including histories of IIM activity, research on Indian leasing policy and Indian Tribal histories.

New Projects

IRMS/TFAS Data Validation - KPMG is currently assisting OHTA in performing several high-level validations of the electronic data received from OTFM. As a component of this process, KPMG identified non-conforming IRMS account numbers (*i.e.*, accounts in IRMS that do not conform to the standard accounting numbering convention). Additionally, KPMG compared the IRMS master file balances to the IRMS transaction file balances to determine which accounts may be missing electronic transactional data.

KPMG has begun comparing the final IRMS balance and the opening TFAS balance for each non-zero balance account in IRMS to confirm that the entire balance was transferred to TFAS. Additionally, KPMG created a master list of IRMS and TFAS account numbers, which identifies the region that administers each account and other general summary statistics.

Delays and Obstacles

OHTA has identified the following.

1. *December 5, 2001, Temporary Restraining Order/Computer Shutdown* – As discussed in previous status reports and in the section titled, "New Accounts in the Trust Fund Accounting System (TFAS)" of this report, OHTA continues to

indicate that the computer shutdown has delayed the completion of some of its accounting work.

2. *OHTA Has Little Authority to Obtain Relevant Documents in Custody of Third Parties* – As stated in the *Status Reports to the Court Numbers Nine through Eleven*, OHTA may be unable to obtain access to IIM records held by third parties due to the lack of a requirement for parties outside of Interior to retain Indian trust-related records. As noted above in "Collection of Missing Information from Outside Sources," Interior is in the process of finalizing its policy and procedures for the collection of missing information. This policy identifies the process Interior intends to follow in seeking missing information.

   In an October 17, 2002, memorandum from Interior's Office of the Solicitor, the Solicitor provided guidance concerning retention of Indian trust-related records and addressed what authority the Federal Oil and Gas Royalty Management Act of 1982 may provide as it relates to the collection of missing information from outside sources. OHTA is reviewing the memorandum, and on November 8, 2002, OHTA and MMS representatives held a meeting to discuss this memorandum.

Assurance Statement

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

Date: February 3, 2003

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

III. OFFICE OF INDIAN TRUST TRANSITION

Introduction

The Office of Indian Trust Transition (OITT) was established in November 2001 as a temporary office to plan and implement the transition of trust-related functions within the Department of the Interior (Interior) to a new trust organization within Interior. During the past year, OITT has worked with all agencies within Interior that have trust-related obligations, and with outside groups including individual tribes, the Tribal/Interior Task Force and several consultants to develop transition strategies for the Indian trust, a comprehensive plan of action to manage the trust, and a reorganization of Interior to provide the leadership for trust administration.

12th Report to the Court

This Report has been prepared in the same manner as the previous four Reports. OITT was responsible for organizing and assembling the Report and ensuring that the various managers of trust or trust-related activities presented their accomplishments during this reporting period. Also listed are current activities and any obstacles to continued improvement of trust management. Each manager is ultimately responsible for the content of his or her report and has included an assurance statement that his or her report is correct.

January 6, 2003, Fiduciary Obligation Compliance Plan

During this reporting period, OITT supported the development of a Court ordered *Fiduciary Obligation Compliance Plan* (Plan) detailing Interior's financial trust obligations and standards to meet those obligations. The Plan was developed during this reporting period, and was sent to the Court on January 6, 2003. The Plan reflects that portions of the statutory obligations of trust fund accounting are being met and that trust reforms are now being incorporated into the Comprehensive Trust Management Plan (CTM Plan) for trust management.

In addition to the CTM Plan, a separate exercise documenting "As-Is" business processes was underway, and continued during this reporting period. This work began in early 2002. Eight trust business processes were identified as critical to the management of the trust functions within Interior. The way in which each process is currently performed is being identified and documented. During the first quarter CY 2003, work will begin to identify and document ways in which each business process can be reengineered to manage trust activities more effectively.

Reorganization

The departmental reorganization plan was completed during this reporting period. The reorganization was the subject of a year-long consultation process with a task force made up of tribal leaders from each Bureau of Indian Affairs region and Interior senior management. The final reorganization affects primarily the Bureau of Indian Affairs (BIA) and the Office of the Special Trustee for American Indians (OST). Within BIA, a new branch at the regional and agency level will house all trust activities. This new branch will allow employees within the trust area to be dedicated to trust management without having other time-consuming and possibly conflicting responsibilities. Within OST, a new operational branch will consist of trust administrators at a regional level and trust officers at the field level. These employees will offer support to the BIA staff, be direct contact people for beneficiary consultations and advice, and provide expert trust advice when reviewing or approving trust transactions to ensure that Interior is meeting its fiduciary responsibilities. Beneficiaries will be able to obtain answers through one contact, the trust officer, and this will reduce the number of interruptions to the agency operations staff and enable a more productive work environment. OST will continue to be responsible for oversight of Interior trust activities in all Interior agencies. Interior's reprogramming proposal has been approved by appropriate committees in both houses of Congress. Interior's reorganization initiative is expected to be implemented during CY 2003 and CY 2004.

Comprehensive Trust Management Plan

During this reporting period, Interior engaged the services of a contractor to support and facilitate the finalization of the CTM Plan. This plan incorporates a strategic framework, along with the goals and objectives that were agreed to as part of the planning process begun in early CY 2002. The contractor facilitated several meetings within Interior and is helping to complete the charts, graphs and tasks that will visually demonstrate the future of Interior trust management.

The CTM Plan is expected to be complete by the end of second quarter of CY 2003. As business processes change, the plan will be revised as necessary to incorporate new or amended goals and objectives within the CTM Plan. Trust business process reengineering will continue throughout CY 2003 and 2004.

The first process to go through the reengineering is probate. A "To-Be" Process Modeling Workshop was held December 2002 to begin consideration of the preliminary findings of the "As-Is" study on probate. A second meeting with a larger group of Interior and tribal representatives will be held during January 2003. The intent of the workshops is to review the results of the "As-Is" study and then make adjustments to the process to improve efficiency and effectiveness. Prior work on probate done as part of earlier trust reform initiatives will also be used as a resource for the "To-Be" model.

Training

As reported in the 11th Report, training for Interior managers involved in trust activities is being developed through the Cannon Financial Institute. The first class is scheduled to begin in late February 2003 and is expected to be attended by several Interior senior managers. Subsequent classes will be held for trust managers during the second and third quarters of CY 2003. The course is a highly technical trust training course similar to that offered to bank trust officers and executives. It is tailored to Indian trust management and is intended to familiarize Interior managers with specific duties and responsibilities required of a trustee, including property management, funds management, accounting, investments and beneficiary reporting and service requirements.

In addition, the three-day Trust Foundations Course that has been offered to Interior employees in the trust work area is expected to be completed by the end of the third quarter of CY 2003. OITT, OST and BIA are currently discussing options for ensuring that remaining employees who have not been trained attend appropriate sessions.

Trust Policies and Procedures

A trust policy specialist with private sector trust experience was hired during this reporting period. In addition to trust experience, this person has a legal and business background. Responsibilities include cataloging all trust policies, procedures and regulations, overseeing the development and writing of new policies, procedures and regulations as needed and updating the same as required, in conjunction with program managers. This position will report to the senior trust policy officer within the Office of the Special Trustee for American Indians and will work closely with all Interior agencies to ensure that appropriate guidance for action related to trust management is available to managers.

Delays and Obstacles

To make the transition from one organizational design to another is extremely difficult. While the paperwork can be prepared and the new organization be displayed on paper, the real work is the implementation of the new organization through follow-up training, development of desk manuals, handbooks, policies and procedures, and changing manager and staff expectations. Interior's trust obligations are now being performed by more than 2,500 employees scattered over 20 states and hundreds of tribal locations. They are working hard to manage the trust, but most know that improved processes will allow them to do even better.

The on-going trust litigation continues to be a major obstacle to the success of doing the job better, however. Thousands of employees are still not connected to the Internet as a result of the litigation. This slows business enormously. It delays getting information into the system, completing probates, issuing title reports, documenting transactions and comparing data between regions. The routine planning process to create the CTM Plan

was interrupted for nearly three months as a result of litigation requirements. Continued pressure of litigation-driven requirements that take time away from the normal work flow bring increased pressure on employees trying to do their jobs and creates an atmosphere of ill will and low morale.

The recent resignation of the Assistant Secretary for Indian Affairs appears to be directly attributable to the on-going litigation. It often takes months or as long as a year to fill such a key position, and in the meantime acting officials are required to perform the duties of this position with little credit and great responsibility.

The solution to the problems will have to come from all three branches of the Government. Interior will have to continue to plan and improve its trust delivery systems, Congress will have to continue funding trust activities, and the Court needs a better understanding of the complexity of the process. Congress, tribes and Interior need to meet and discuss this complexity as well and work on legislation to resolve some of the issues that must be addressed legislatively. For instance, the Internal Revenue Service requires that Interior have W9 forms for all accounts that have more than $10.00 of interest income. Interest income from trust accounts is taxed as income to the beneficiary.

Tens of thousands of accounts having less than $1.00 on deposit are required to have interest paid, yet interest on most of these accounts is less than one cent, and fractions of a penny cannot be credited to an account. Often, multiple probates are required for an Indian beneficiary. One probate may be done by Interior, a second by a tribal court and a third by the state of residence depending on whether the beneficiary owns property outside the reservation. "Whereabouts unknown" accounts continue to be a problem, because in some instances the cost of a return envelope and stamp to let Interior know that the beneficiary has moved is more than the trust asset is worth. Even when prepaid stamped envelopes are sent to seek verification of location, the beneficiary apparently does not believe it is worth the time or trouble to respond. Some examination needs to be done to determine if such small-scale accounts should remain in trust or a more robust program to purchase highly fractionated interest needs to be considered by Congress.

These and other obstacles mentioned in the managers reports continue to make trust administration difficult and must be addressed soon.

Assurance statement

I concur with the content of the information contained in this section of the *12th Report to the Court*. The information provided in this section is accurate to the best of my knowledge.

Date: January 29, 2003

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

THIS PAGE INTENTIONALLY BLANK

A. TRUST BUSINESS PROCESS MODELING

Introduction

Interior is nearing completion of one of the critical steps required to implement more efficient, integrated and beneficiary-centric trust business processes. During the next reporting period, the task of identifying business process baseline models and documenting variations to the baseline model for the eight core "As-Is" trust business processes is targeted to be completed. 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)

Finalizing the "As-Is" trust business process models is a significant step because these models will serve as the foundation for future analysis and reengineering. After determining which parts of the "As-Is" processes should remain and which should be reengineered, the processes targeted for improvement will proceed through the reengineering process ("To-Be"), followed by an integration process (Universal Support Functions), for the purpose of establishing consistent trust business processes across the entire Department.

Accomplishments and Completions

The Trust Business Process Modeling Team (Team) completed the Bureau of Indian Affairs (BIA) Regional workshop discussion sessions. These were held to document how the eight core trust business processes are currently being performed. The final two BIA regional workshop discussion sessions were concluded during this reporting period. In total, ten BIA regional workshop discussion sessions were held which allowed all twelve BIA regions to be documented. (*The BIA Eastern Oklahoma & BIA Southern Plains Region workshop discussion sessions were held together; however, the documentation process recorded the Regional business processes and variations separately. In addition, the BIA Midwestern and BIA Eastern Region workshop discussion sessions were held together with the business processes and variations being recorded separately*). The Team also identified the need for two additional site visits. Both the Office of Trust Funds Management in Albuquerque, New Mexico and the Minerals Management Service in Lakewood, Colorado were visited to document their trust business process roles. The workshop discussion sessions completed during this reporting period include:

Office of Trust Funds Management	October 1- 3, 2002
Western Region	October 7-11, 2002
Pacific Region	October 15-18, 2002
Minerals Management Services Accounting	October 29-30, 2002

During these workshop discussions, the "As-Is" baseline model, for each core trust business process, was closely reviewed, analyzed and commented on by Interior and Tribal staff responsible for performing the trust functions. All variances from the "As-Is" baseline models were discussed and documented, and any resulting enhancements were added to the baseline.

Following all site visits, the Team consolidated its work and created a compact disk (CD) containing the variances and enhancements to the baseline models for that region. The CD was distributed to the Regional Directors and all workshop participants for confirmation that all variances were captured and documented correctly.

During the week of November 18 – 21, 2002, a workshop discussion session, strictly for compacting and contracting Tribes and 638 Tribes (those Tribes that have by compact or contract assumed the management of certain Federal Government functions benefiting the Tribes), was conducted by the Team. The workshop discussion session was necessary to obtain input on the business processes these Tribes use in the daily management of their lands and resources. It was essential to the overall documentation of the "As-Is" business processes that Interior had the opportunity to capture the flexible and innovative business processes of the Tribes that have already contracted trust services from Interior. It is recognized that Tribal input will continue to play a critical role in the future design and improvement ("To-Be") of the overall trust business processes.

After collecting information from the compacted/contracted Tribes, the task of documenting the beginning to end flow of the eight core trust business processes was completed. Next, the information collected from the BIA Western Region, BIA Pacific Region, Office of Trust Funds Management, Minerals Management Service and the Tribal workshop discussion sessions was used to complete the evolution of the final baseline models for each trust business process. The accomplishment is significant because the baseline models will serve as the foundation for the "To-Be" reengineering. Just as significant is completing the assembly of the regional variations to the "As-Is" baseline models. The variances have all been 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. As with the final baseline models, the variance tables will be considered essential elements for the "To-Be" reengineering.

Current Status

The preliminary draft "As-Is" report from Electronic Data Systems was delivered to Interior in December 2002. For each core trust business process, the draft report contains

an "As-Is" baseline model as well as documented regional variations, significant findings, quick hit and long term recommendations. Currently, the Team and Interior staff are commenting on the preliminary draft report.

The lack of a methodical approach to establishing a trust business model has been a detriment to past reform efforts. In order that the current trust reform effort does not fail, Interior is developing trust reform business solutions that will transform the eight existing core trust business processes into more efficient, consistent, integrated, and fiscally responsible processes which will meet the needs and priorities of Indian beneficiaries. It is expected that development of the business solutions will be a multi-year task as the business solutions must be developed in tandem with the other components of Interior's ongoing trust Reform effort including:

- Data Quality and Integrity
- Indian Trust Systems
- The Comprehensive Trust Management Plan
- The new organization that was announced by the Secretary in December 2002

The multi-year effort will result in the implementation of consistent, efficient business processes across all agencies, offices, services and bureaus in Interior that perform trust or trust support activities. Implementation, however, will require, among other things, comprehensive policies, procedures, handbooks, new and amended regulations, personnel, training, systems development and implementation, and above all else, the commitment of staff and management to change and to become more accountable and effective in managing trust Assets.

Delays and Obstacles

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

- the lack of Internet access and inter-bureau email
- the sheer complexity of reengineering the existing trust business processes to achieve integrated and consistent business processes
- the massive enterprise-wide change, which will be required to transform the existing trust business processes into a beneficiary centric operation

Assurance Statement

I concur with the content of the information contained in the Trust Business Process Modeling section of the *12th Report to the Court*. The information provided in this section is accurate to the best of my knowledge.

Date: January 31, 2003

Name: *Signature on File*
Jeff Lords

B. COMPREHENSIVE TRUST MANAGEMENT PLAN

Introduction

A Departmental strategic planning team under the guidance of the Office of Indian Trust Transition (OITT) has been developing the framework for a Comprehensive Trust Management (CTM) Plan.[2] The planning team consists of representatives from the Bureau of Land Management, Minerals Management Service, Bureau of Indian Affairs (BIA), Office of the Special Trustee for American Indians (OST) and OITT. Each member of the team is responsible for getting input from his or her respective agency managers and staff. In addition, the Department of the Interior (Interior) has retained a management-consulting firm to assist in preparing the CTM Plan. The CTM Plan was also the subject at several Tribal/Interior consultation Task Force meetings during CY 2003.

The CTM Plan will include goals and objectives that Interior plans to achieve in performing its trust responsibilities. The CTM Plan, when completed, will articulate Interior's strategy for managing and reforming its trust responsibilities.

CTM Plan

The CTM Plan will describe Interior's strategy for managing and reforming its fiduciary trust responsibilities. The CTM Plan, targeted for completion before the end of the second quarter of CY 2003, will contain the vision and mission, the strategic framework for trust management, the primary business lines associated with the trust and the goals and objectives to meet Interior's trust obligations.

The CTM Plan will begin with 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 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
4. Land and natural resource management that produces a reasonable return while meeting desires of beneficiaries to the extent permitted by law
5. Trust fund asset management that meets fiduciary standards
6. Administrative services that:

[2] This plan has been previously been referred to as the Indian Trust Business Plan. See, e.g. Eleventh Report, Nov. 1, 2002, at 37-38.

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 objectives and sub-objectives that will define the broad ways in which the goals will be accomplished. Each objective must be completed in order to achieve 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 as well as the experience and expertise of trust managers and consultation with tribal leaders on tribal specific needs.

An integral part of the implementation plan which will follow 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. Implementation of the revised business processes will 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 is being developed as reported in the "Trust Business Modeling" report section of this document.

Once the "As-Is" model is complete, a revised model for each process will be developed as part of a "To-Be" process. One result of reengineering the eight business processes to create the "To-Be" model, should be to enable Interior to develop performance measures and set performance standards. The "To-Be" reengineering is expected to continue during the next two years and will be part of the implementation plan that will follow the CTM Plan. The goals and objectives of the CTM Plan may be updated and revised as required by the future development of reengineered business processes and organizational requirements.

Assurance Statement

I concur with the content of the information contained in Comprehensive Trust Management Plan section of the *12th Report to the Court*. The information provided in this section is accurate to the best of my knowledge.

Date: February 3, 2003

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

C. PROBATE

Introduction

Probate is one of the three trust improvement projects consolidated in the Office of Indian Trust Transition on November 21, 2001. 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.

Accomplishments and Completions

Probate Handbook.

A contractor delivered a completed 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. The draft is subject to continuing revision based on the final "As-Is" findings and recommendations and the "To-Be" trust process reengineering.

Case Preparation.

Case preparation is the gathering of information and documents to enable the submission of a probate package to a deciding official. Contractor preparation of probate cases involving money as the only asset continued in the Western, Great Plains, Midwest, Rocky Mountain and Northwest Regions. Prior to this reporting period, contractor case preparation work on probate cases that involve land interests was limited to the Western Region. During this reporting period, the contractor expanded its efforts to prepare probate cases involving land interests into the Midwest, Great Plains, Southern Plains, Rocky Mountain, Northwest, Pacific, and Navajo Regions.

Certified Death Certificates.

Regulations require 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. During this reporting period, agencies submitted information about 188 decedents for whom they were not able to obtain death certificates. By using the services of VitalChek Network, Inc., which is a company that specializes in obtaining certified vital records for third parties and which has contractual relations with all states except Louisiana to obtain death certificates, 133 of these requests have been fulfilled so far.

Probate Process Reengineering

A decision was made to begin the reengineering process with Probate in order to determine what would be the most efficient forum for reengineering, the most appropriate size and makeup of the group, and how best to incorporate the eight Universal Support Functions (which are Risk Assessment, Automated Systems Requirements, Records Management, Internal Controls/Fiduciary Security, Policies and Procedures, Workforce Planning, Training, and Defining Future System User Technical Assistance Center Requirements). Reengineering of the probate trust process business model began in September 2002. Consistent with the contractor's recommendations following that initial meeting, the participants were given an opportunity to submit visions of an overall revised probate process. Twelve such visions or recommendations were submitted and were reviewed and evaluated in December 2002 by a group of subject matter experts from all phases and levels of the probate process. Three candidates for a "straw man" or preliminary model of the probate "To-Be" trust business model were developed for consideration at a forum to be held in January 2003.

Current Status

Case Location and Status (CLS) Database.

Because the automated interim Probate Tracking System was an Internet-based system, it was discontinued pursuant to the December 5, 2001, court order and subsequent "Disconnect Order" issued by the Assistant Secretary - Indian Affairs. It was decided not to try to bring the system back on line because it was an Internet-based proprietary system that was thought to require too much time and expense to meet security concerns. In order to obtain accurate information about probate caseloads, a database that does not require internet access was 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 BIA CIO for review and approval in October 2002. It was determined that it should undergo a full Interior systems certification and accreditation process.

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

A representative of Interior attended the Western regional meeting of NAPHSIS in November 2002 to explore whether Interior might be notified by the states when the death of a trust beneficiary is reported and might arrange to obtain death certificates from the various states in a more timely and direct way. NAPHSIS invited Interior to submit a preliminary proposal in writing so that discussions could proceed. A proposal will be submitted to NAPHSIS during the next reporting period.

Number of Cases Processed and Decided – October through December 2002.

During this reporting period, BIA deciding officials received 354 cases and issued decisions in 267 cases; OHA deciding officials received 591 cases and issued decisions in 587 cases. OTFM distributed and closed 755 accounts representing 731 estates. The Trust Funds Accounting System, as of the end of December 2002, contains 25,447 open estate accounts. Of these, 13,336 are classified as official deaths, as evidenced by a certified death certificate, and they are in the case preparation stage. Another 7,873 of these accounts are classified as unofficial deaths, where OTFM has received some indication of a death that has not yet been confirmed. The remainder of these accounts are in the probate process or have been decided but the assets have not yet been distributed.

Case Preparation – Probate File Processing (involving land interests).

A total of forty-five (45) backlogged land cases prepared by the contractor were approved by the BIA during the reporting period.

Case Preparation – Probate Summary File Processing (money only).

A total of seventy-one (71) backlogged Summary Distribution cases prepared by the contractor were approved by the BIA during the reporting period.

Case Preparation – Priorities.

In addition to focusing on the agencies with the highest caseloads, the top 501 open estate accounts, based on the amount of money in the account, were identified. These accounts represented only 3.4% of the estate accounts, but totaled $31 million or 65% of the funds. As of the end of this reporting period, 112 of these cases had been closed, totaling $6 million in assets distributed.

Posting and Recording.

The contractor's posting and recording efforts during this reporting period were devoted to bringing records current at the Rosebud Agency in support of the pilot Indian Land Consolidation Program project for the Rosebud Reservation in order to purchase small fractionated interests there.

Delays and Obstacles

The lack of access to the Internet, and the lack of electronic mail communications between OHA and BIA necessitated by the December 5, 2001, court order and subsequent "Disconnect Order" issued by the Assistant Secretary - Indian Affairs, continued 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, more costly, and more time consuming. A review of the requirements is underway to explore effective alternatives.

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 request will be made to the Office of Trust Risk Management during the next reporting period to 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. 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 section of the *12th Report to the Court*. The information provided in this section is accurate to the best of my knowledge.

Date: January 30, 2003

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

D. INDIAN TRUST SYSTEMS

Introduction

Reform is focused on defining trust business processes to meet beneficiary needs and fiduciary requirements. The goal of Indian Trust Systems is to acquire the best automated systems that 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 and standards enumerated in the Department of the Interior (Interior) Enterprise Architecture.

Accomplishments and Completions

The Office of Trust Systems is examining each of the eight businesses processes required for execution of the trust business. As reported in earlier Court reports, the Request for Information published in "Federal Business Opportunities" in July 2002 to solicit information on commercial software applications elicited seventeen responses. During this period, three vendor responses were examined. Evaluation and review of the responses were accomplished by a team of Bureau of Indian Affairs (BIA) title subject matter experts (SME) and Trust Systems and Projects staff. A bankruptcy tracking system that was a candidate system to possibly support the Probate process was also examined. The SME concluded that none of the evaluated products would meet the Title or Probate business process requirements without extensive modification and testing.

Updates to the system security plan, security legal requirements analysis, risk management plan and security plan of action supporting the Cognicase Current Land Title module were received from the systems support contractor. These plans and documents were reviewed by Trust Systems and Projects staff and minor corrections made. As part of Interior's systems Certification and Accreditation (C&A) process, the documents will be forwarded to the Office of the Special Trustee's Chief Information Officer (CIO) for review, approval, and submission to the Interior CIO for issuance of an approval to operate order.

Current Status

Creation of a database template to document probate case workload at BIA agencies and regional offices and OHA offices was completed and submitted for systems C&A. The database includes the case number, location and current status of each outstanding probate. Draft C&A documentation was forwarded to the BIA for its review and comment.

Development of a plan for the data quality and integrity initiative for collection, validation, correction as necessary and maintenance of critical data elements continues. Trust Systems and Projects staff worked extensively with EDS personnel to develop

viable alternatives for data warehouse design. Determination of the best solution for a data warehouse implementation is expected by the end of the next reporting period.

Computer equipment and software ordered to support electronic collaboration methodologies for all of the process reengineering efforts has been delivered, configured, tested, and may become operational upon completion of the certification and accreditation.

Delays and Obstacles

Research into new information system solutions and components was hampered by lack of internet connectivity. Development of documentation supporting a full C&A of the database to document probate case workload at BIA agencies and regional offices and OHA offices is delaying information collection.

Assurance Statement

I concur with the content of the information contained in this section of the *12th Report to the Court*. The information provided is accurate to the best of my knowledge.

Date: January 30, 2003

Name: *Signature on File*
William L. Becker
Supervisory IT Specialist

E. TRUST DATA QUALITY AND INTEGRITY

Introduction

In the *11th Report to the Court*, this section was titled Trust Data Quality Analysis. It is now titled Trust Data Quality and Integrity to be consistent with the Data Quality and Integrity (DQ&I) Project, detailed further in this section.

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. 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

The Trust Systems and Projects (TS&P) office finalized the critical data elements (CDE) list. 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 name, account number, and tract number. The CDE were identified by a contractor after its extensive review of available documentation and interviews with personnel from the TS& P Office, Bureau of Indian Affairs (BIA), Office of Trust Funds Management (OTFM) and Minerals Management Service (MMS).

The CDE list will be provided, during the next reporting period, to Interior bureaus and offices with trust asset management responsibilities, for their review. The internal Interior review is scheduled to be completed during the next reporting period.

The Eastern Navajo, Concho and Anadarko Agencies were selected as DQ&I Model Agency Project sites. An Eastern Navajo Agency site visit was conducted October 8-9, 2002. Concho Agency and Anadarko Agency site visits were conducted October 22-25, 2002. A Farmington Indian Minerals Office (FIMO) site visit was conducted November 14, 2002. FIMO is responsible for all Interior oil and gas activities on trust land under the authority of the Eastern Navajo Agency.

Current Status

DQ&I Model Agency Project

The DQ&I Model Agency Project will identify, verify for accuracy, correct, if necessary and safeguard CDE, in order to ensure the accurate status and reporting of trust real property assets to the trust beneficiaries. Upon verification of accuracy and/or correction, CDE will be stored in a standard format. Once stored, stringent quality control processes will be implemented to maintain accuracy of CDE updates.

The Eastern Navajo, Concho and Anadarko Agencies were selected as DQ&I Model Agency Project sites because in fiscal year (FY) 2001 they were three of the top four agencies having the highest recurring amounts of trust income being deposited into Individual Indian Monies (IIM) accounts. In FY 2001, these three agencies comprised approximately 23% of the $119 million total recurring trust income deposited into IIM accounts.

In FY 2001, the top ten BIA Agencies having the highest recurring amounts of trust income deposited to an IIM account constituted approximately 59% of total recurring trust income deposited into IIM accounts. Upon full implementation at Eastern Navajo, Concho, and Anadarko Agencies, the DQ&I Model Agency Project is scheduled to be implemented at the remaining seven agencies, prior to conducting a nation-wide deployment. Although FY 2001 agency statistical information was used in selecting the three model agency sites, we continue to gather and evaluate agency statistical information that may impact the order of the rollout beyond the three model agency sites.

Data Warehousing

Data warehousing allows for the collection of data elements extracted from dissimilar data sources. In the context of the DQ&I Model Agency Project, a data warehouse is scheduled to be developed and used to periodically extract CDE originating from the systems used by the various Interior bureaus and offices (primarily the BIA, OTFM, and MMS). Once extracted, common relationships among CDE may be identified and CDE queries and CDE ad hoc reporting may be conducted. These capabilities are vital to the process of verifying for accuracy and/or correcting CDE, so that accurate and timely trust real property asset statements can be provided to the beneficiaries.

In this section, data warehousing conceptualization pertains exclusively to the DQ&I Model Agency Project, with the understanding that this data warehouse design will fit into the overall future Interior-wide data warehousing efforts.

Contractor Efforts

During the 12th reporting period, the contractor's efforts were modified to focus on the CDE validation/correction effort at the three DQ&I model sites.

Prior to the modification of the contractor's efforts, pre-deployment data cleanup tasks consisted of researching and correcting critical key fields, reducing BIA backlogs, acquiring documents and encoding directly into the Cognicase current land title product and/or the Land Records Information System (LRIS). Specifically, the contractor's data cleanup efforts were:

- Title Ownership Chain Sheet Preparation and Review for the Alaska Region;
- Document Acquisition at the Eastern Region;

- Title document processing for Great Plains, Midwest, Northwest, Pacific, and Southwest Regions;
- Probate encoding for Great Plains Region;
- Multiple owner identification number research and review tasks for Northwest, Pacific, Rocky Mountain, Southwest, Navajo, and Western Regions;
- Current document type and modifier tasks for Flathead Agency and Northwest Region;
- 100N identification number research and encoding task for Flathead Agency;
- Non-Enrolled identification number task for Pacific Region;
- Title ownership chaining tasks for Flathead Agency;
- Realty/Title land tract match task for Rocky Mountain Region;
- Lease research and verification for Crow Agency;
- LRIS death notifications encoding task for Southwest Region;
- Trust landowner identification / IIM account number comparison task, across legacy systems, for Southern Plains Region;
- Document recording and microfilm task for Eastern Region;
- Drafting and encoding administrative probate modifications tasks for Southwest Region.

Data Cleanup Delays and Obstacles

During the 12th reporting period, the contractor's data cleanup efforts were impacted by the following:

- The contractor being unable to access its Local Area Network server at the Southern Plains Region, due to a regional office management decision.
- At its Albuquerque, NM office, the contractor had a T1 communication line (necessary for connectivity to the Cognicase current land title product) installed November 7, 2002. However, during the 12th reporting period, access to the Cognicase current land title product remained unavailable and no encoding for the Alaska Region was accomplished due to the contractor's personnel not having assigned system logon identifications (ID). The system logon ID issue will be resolved during the next reporting period.
- Lack of BIA personnel to review task cases prepared by the contractor;
- Lack of BIA personnel to perform Enrollment ID verifications;
- Regional workload decision to limit to ten, the number of LRIS automated reports per day at the Rocky Mountain Regional Office, due to regional office management decision.

Assurance Statement

I concur with the content of the information contained in this section of the *12th Report to the Court*. The information provided in this section is accurate to the best of my knowledge.

Date: January 29, 2003

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

IV. OFFICE OF THE SPECIAL TRUSTEE

Acting Special Trustee's Observations

Interior's commitment to trust reform has been evidenced by many activities carried out in the last quarter. Most importantly, reorganizing the Office of the Special Trustee for American Indians (OST) and the Bureau of Indian Affairs (BIA) to focus on accountability, service to the beneficiaries and meeting their fiduciary responsibility has required the hard work and dedication of many within Interior. I continue to stress to managers the importance of reaching out to all bureaus and offices within Interior that are responsible for Indian trust management. It is imperative at this critical juncture of the reorganization efforts that all managers make a diligent effort to work as a team to accomplish the needed trust reform.

I continue to believe that the most serious problem facing Interior which hampers our ability to meet our fiduciary responsibilities is fractionation. Interior is devoting time and effort to the study of the Indian Land Consolidation Act (ILCA) pilot projects that are currently in place. However, progress in stemming the continued exponential growth of miniscule individual interests in allotments requires efforts from entities outside of Interior. Success may require unique and novel approaches developed with the assistance of Congress, Tribes, individual allottees, and other interested parties. The problem of fractionation touches all aspects of trust management including Interior's ability to maintain accurate ownership records and manage financial and natural resource assets. Fractionation robs the real estate of its economic value by diminishing the marketability of the asset. This makes it of paramount importance that Interior focuses even more heavily on developing innovative solutions to this problem.

Another concern is the need for better coordination on training, policies and procedures and improvements in information technology among all bureaus and offices that provide trust services. A course is being developed in conjunction with Cannon Financial Institute to focus on the management of trust resources which includes emphasis on issues unique to the Indian trust responsibility. It is vital to the success of trust reform that all appropriate personnel within Interior attend training courses to improve their understanding of our fiduciary responsibilities and our delivery of services to the beneficiaries – both Tribal and individual.

An important step in the process of improving our service delivery is the hiring of additional staff in the field with knowledge and experience in the delivery of trust services. Trust Officers in the field will be an important first point of contact with the beneficiary. Trust Officers will provide answers and information to beneficiaries which will allow operations staff additional time to process transactions and accomplish daily work. This will improve accountability and oversight of trust management.

Continuing to coordinate the development and implementation of consistent policies and procedures for Indian trust management will present challenges. This effort will require

employees from OST, BIA and other bureaus and offices delivering trust services to work together to put in place and monitor compliance with policies and procedures designed to facilitate the meeting of Interior's fiduciary trust responsibilities.

Finally, it is most important to Interior's trust reform and reorganization efforts that OST and BIA stay focused on improving the way we manage our trust responsibilities. Trust reform efforts are designed to improve service to the beneficiaries, demand accountability and facilitate meeting our fiduciary responsibilities. This requires major change in the status quo, and I understand that is uncomfortable and even frightening for some within Interior. However, it is imperative to the success of these efforts that all employees and managers stay focused on the task at hand and strive for success.

Assurance Statement

I prepared the Acting Special Trustee's Observations.

Date: February 3, 2003

Name:
Donna Erwin
Acting Special Trustee for American Indians

A. CURRENT ACCOUNTING ACTIVITIES

Introduction

Current accounting activities include the following activities: Locate Missing Mandatory Documents; Whereabouts Unknown Accounts; Special Deposit Accounts; and Small Dollars Accounts.

Accomplishments and Completions

1. Locate missing mandatory documents for unrestricted accounts

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 form 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 was received for two accounts this reporting period. Of the 472 total accounts, documentation has been received for 471 accounts as of December 31, 2002. OTFM has made numerous phone calls to the remaining account holder asking for the required documentation, she has not yet returned the documents.

Phase 2 included data collection for all remaining unrestricted accounts regardless of their disbursement totals, excluding accounts that already contained mandatory documents. A total of 39,258 initial letters were mailed to account holders requesting mandatory documents. A minimum of three requests will be sent to these unrestricted account holders. Documentation was received for 3,844 accounts this reporting period. Of the 39,258 total accounts, documentation has been received for 11,272 accounts as of December 31, 2002, leaving 27,986 accounts still awaiting documentation.

Current Status

Phase I – awaiting documentation on one account.

Phase II –27,986 accounts are awaiting documentation. Second requests were sent to 19,218 account holders this quarter.

Delays and Obstacles

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

2. TFAS

Introduction

The conversion of the IIM accounts to the 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 will identify the source of income and a listing of all assets owned.

Current Status

The Request for Proposal for the trust funds accounting system and options for including additional data was released on December 20, 2002. The proposals are expected to be received by the end of the first quarter CY 2003.

Delays and Obstacles

The existing five-year contract with SEI Investments, Inc. expires March 31, 2003 and is currently out for re-bid. Additional enhancements to the current TFAS cannot be made until a new contract has been completed and accepted.

3. Whereabouts Unknown

Introduction

As reported in previous quarterly reports, 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. OST provided IRS a list of Social Security Numbers (SSN) of whereabouts unknown account holders. IRS matched these SSN to their database and forwarded OST's memo, disbursement, change of address and W-9 forms to account holders current addresses. As of December 31, 2002, 1,340 account holder addresses were updated as a result of the IRS letter forwarding process.

Current Status

As reported in prior reports, OST is working with the Veteran's Administration (VA) and the Social Security Administration (SSA) in the effort to locate Whereabouts Unknown (WAU) account holders. The SSA interagency agreement has been signed by OST and is awaiting SSA signature. The VA interagency agreement is expected to be completed during the next reporting period.

The WATCH effort, as described in earlier quarterly reports, continues with Trans Union, a contractor that notifies OTFM of possible address changes. This quarter, 1,706 WATCH notifications were received from Trans Union. Letters and change of address forms were then sent to these account holders.

As of December 31, 2002, there were 66,864 Whereabouts Unknown accounts. The following table illustrates the number of accounts stratified by account balance:

Accounts equal to or over $100,000	39
Accounts under $100,000 and equal to or over $5,000	3,859
Accounts under $5,000 and equal to or over $1,000	9,513
Accounts under $1,000 and equal to or over $100	17,088
Accounts under $100 and equal to or over $1	27,013
Accounts under $1	9,352

Extra effort is put into locating the Top 100 highest dollar balance WAU account holders that include looking for phone numbers, calling other account holders with same last name, calling field offices, etc.

Delays and Obstacles

OTFM 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. Trans Union is a contractor that notifies OTFM of address changes.

4. Special Deposit Accounts

As of December 31, 2002, there existed 20,909 special deposit accounts (SDA) representing $66.3 million in the TFAS. Funds in these accounts will be distributed to IIM account holders, tribes or other third party interests.

Accomplishments and Completions

At the end of this reporting period, the contractor completed the pilot project to develop the work plan procedure. As previously described in the *9th, 10th* and *11th Reports to the Court*, the SDA pilot project was initiated to develop work plan procedures for distributing the residual SDA balances and to develop a prospective database to track and report SDA current activity. The contractor continues to refine the prospective database and is working closely with the Office of the Special Trustee Chief Information Officer to ensure compliance with Information Technology requirements. The prospective database will track all receipts and distributions from SDA beginning January 2, 2003, and generate various reports that will reflect the status of the funds in SDA, and therefore, compliance with a "to be issued" Bureau of Indian Affairs SDA policy.

In November 2002, Interior decided to split the SDA project between the Office of Historical Trust Accounting (OHTA) and OTFM 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, and
- OTFM will address SDA opened after that date.

OTFM distributed the work plan procedure to OHTA in December 2002. A meeting is to be held during the next reporting period between OST, OTFM, the Office of Trust Risk Management and OHTA to discuss the next steps for SDA cleanup.

Current Status

With the recent change in focus by senior management of Interior, to split the SDA project between OHTA and OTFM, OTFM will now focus on implementing the SDA Prospective database (SDA Pro). SDA Pro will track transaction activity in SDA beginning January 2, 2003. The use of this database will also eliminate the need for applying cleanup procedures to the account activity after January 2, 2003.

OTFM will coordinate the *SDA Document Preparation and Encoding Procedures* training with the OTFM/BIA Interagency Handbook training. OTFM anticipates completing the training of OTFM and BIA staff by June 2003. A mass mailing of the "to be issued" policy and the *SDA Document Preparation and Encoding Procedures* is expected to be completed in January 2003 to each BIA Regional, Agency, and/or Field Offices.

Delays and Obstacles

The pilot project to develop the work plan procedures has been completed. However, the SDA national rollout has not started. Delays encountered in the pilot will be an issue in the national rollout regardless of who does the work. For example, the BIA Navajo Region Realty Services staff in Window Rock, Arizona, still does not have access to its

offices, trust documents, or files. The Region anticipates the staff will be back in the office during the next reporting period. In addition, staff at BIA Regional and Agency offices who participated in the pilot project continues to comment that competing priorities for trust reform projects and workforce staffing delays have hindered tasks associated with the SDA pilot project.

5. Small Balance Accounts

In this reporting period, as of December 31, 2002, there are 19,238 accounts that have a $.01 - $1.00 balance with no activity for the previous 18 months. The total sum included in those accounts is $5,668.77. TFAS currently holds these small dollar accounts, for which OTFM 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 estimated that these accounts, on average will earn less than one cent/year.

OTFM is working with the Office of the Solicitor to reconcile the statutory obligation to accrue interest with the technical inability at present to allocate interest earnings of less than $0.01 to the respective accounts. OTFM and the Solicitor's office expects during the next reporting period to develop an option paper for a policy decision as to how best to resolve this issue.

Other Items

Beginning with the posting of interest income for the December, 2002 period, OST will notify the account holder of the annualized rate of interest being earned e.g., DEC 2002 INCOME AT THE ANNUALIZED RATE OF 5.49%. This interest includes the net result of any gains and losses incurred by the IIM investment pool account. Beginning in the second quarter of CY2003, OST will include a note on the statement of performance concerning gains or losses of the IIM investment pool account in accordance with the provisions of 25 USC 4011 (b).

Assurance Statement

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

Date: February 3, 2003

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

Date: February 3, 2003

Name: *Signature on file*
Helen Riggs
Project Manager

B. RECORDS MANAGEMENT

Introduction

A records management program is being developed and implemented to ensure that: necessary Indian records are created and maintained; records retention needs are met through authorized schedules; and records are safeguarded throughout their life-cycle. The Office of Trust Records (OTR) was established in 1999 to develop and implement an active 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.

A new Director was appointed in December 2002. The line authority for supervision and management of OTR remains with the Assistant Deputy Secretary.

The draft OTR work plan discussed in the *Eleventh Report to the Court (Eleventh Report)* was finalized on December 19, 2002. OTR completed and implemented its own Files and Disposition Plan during this reporting period.

Accomplishments and Completions

The format for reporting OTR activities below is consistent with the strategic goals identified in the *Eleventh Report*.

Records Retention Schedules

A final draft of the 4000 record series of the Bureau of Indian Affairs Records and Dispositions Handbook, commonly referred to as 16 BIAM (Bureau of Indian Affairs Manual), was completed on December 20, 2002 by OTR. The 4000 series of the 16 BIAM includes realty, forestry, fish and wildlife, irrigation, safety of dams, agriculture, environmental, water rights, minerals and mining and range management programs. OTR developed this draft in conjunction with a Bureau of Indian Affairs (BIA) working group. A formal transmittal will be sent in the next quarter requesting formal comments from the BIA. A copy of the draft will also be sent to the National Archives and Records Administration (NARA) for a courtesy review in the next reporting period.

The BIA draft electronic records schedules for the following systems were completed and submitted for comment to the acting Deputy Commissioner of the BIA on October 31, 2002: Integrated Records Management System (IRMS) Lease/Range; IRMS Lease; IRMS Lease Distribute; IRMS Owner; IRMS Individual Indian Monies (IIM); IRMS People; Royalty Distribution Reporting Systems (RDRS); Osage Annuity System (including Lake Fund);and Land Records Information System (LRIS). Comments were received from the BIA and a final draft of the above listed BIA electronic records schedules was completed on December 30, 2002. The draft final schedules expect to be sent during the next quarter to the BIA acting Deputy Commissioner along with a request

for his signature on Standard Form 115, Request for Records Disposition Authority, which is necessary for the formal submission by OTR to NARA.

An OTR/OTFM Scheduling Team was formally established this reporting period. An initial draft of the OTFM records schedule was reviewed by the Scheduling Team. A detailed action plan for completion of OTFM schedules was developed. OTFM record retention schedules are expected to be submitted to NARA for the Archivist's approval on September 1, 2003. OTFM team members were trained on how to prepare records schedules by NARA on December 19, 2002.

Record Keeping Requirements

Initial Policies and Procedures for OST/BIA Physical Security and Safety, Procedures for Research at OTR Records Centers, Policies and Procedures for Contracted and Compacted Tribal Trust Program Records, Guidelines for a Vital Records Plan, Electronic Records Management Policy, and Document Production Request Procedures were drafted December 13, 2002. These draft policies and procedures will be under review by the Director, Office of the Special Trustee for American Indians (OST) management and the Assistant Deputy Secretary.

OTR entered into an agreement on October 6, 2002, with Labat-Anderson, Inc. to develop one index of all Indian records (trust and non-trust), under OTR control, located in Albuquerque, New Mexico and Lee's Summit, Missouri. Indexing of records began at both locations in December 2002.

Safeguard Records

OTR did not conduct any records site assessments at BIA or OST offices this reporting period. Procedures for conducting records site assessments and providing follow up and feedback to BIA/OST offices are under development. The procedures will be drafted during the next reporting period. The records site assessment program of OTR will resume after the procedures are drafted and shared with BIA/OST for comment during the next reporting period.

On December 4, 2002, the Deputy Secretary issued a memorandum entitled "Clarification on Indian Trust Records Management and Records Freeze" ("Clarification memo"). The Clarification memo specifies the prerequisites and conditions under which inactive Indian trust records may be moved. OTR has drafted a form which can be used by Interior agencies to request movement of records as directed in the Clarification memo. This form was submitted to the Assistant Deputy Secretary for approval which is expected in the next reporting period.

No records were transferred from the Ft. Belknap Agency to the Assiniboine and Gros Ventre Tribes for the P.L. 93-638 programs contracted from the BIA during the last reporting period. During this activity period, the BIA Rocky Mountain Regional

Director was verbally advised by the OTR Director that original records could not and should not be transferred to the Tribes and that only copies of records necessary to run the programs could be provided.

OTR implemented physical security measures at its records center in December 2002. OTR contracted for on-site security services. Among their responsibilities, the security guards search bags, briefcases, etc. as visitors enter and exit the facility. This will ensure that no records, other than authorized copies, will be taken out of the facility. During this activity period, the OTR Director notified all BIA and OST offices that no Interior employees or contractors will be allowed in the records storage areas unless authorized by the OTR Director.

Current Activities

Training

As reported in the *Eleventh Report*, the training program was suspended as a result of the concerns raised by the Special Master in September 2002. The timetable for development of training policies and procedures was established and is incorporated in the OTR work plan. A basic component of the restructured training program is guidance for identification of a "trust record" by the records custodian. OTR completed a draft trust definition matrix for the existing 16 BIAM during this reporting period with the assistance of the Assistant Deputy Secretary. This matrix will be presented to the Department of the Interior senior managers during the next reporting period. The restructured training program will incorporate the matrix, develop new training material incorporating the trust matrix and training is expected to resume in the next reporting period using the existing 16 BIAM and the trust matrix.

Evaluation of Records Program

A timetable for development of evaluation procedures was established as a part of the OTR work plan. Criteria for site records program evaluations will be developed during the next reporting period and procedures will be drafted for conducting the evaluations. OTR will assist the BIA and OST to identify BIA regional and agency records liaisons and OST records liaisons in the next reporting period. The records liaisons will be essential in implementing changes in the records management programs of the BIA and OST. The records liaisons will provide OTR with direct contacts for records management at the regional and agency level of the BIA and at the field and central office level of OST.

Record Retrieval

As reported in the *Eleventh Report*, the use of a contractor to index boxes of records, in OTR's possession, at the level of document types, date and source was being considered. In October, OTR entered into an agreement with Labat-Anderson, Inc. (Labat) to index

all records at this level. One electronic database will be produced as a result of the indexing project. The indexing began in December 2002 in Albuquerque, New Mexico and at Lee's Summit, Missouri. OTR staff, experienced in researching the documents, are assisting Labat personnel in identification of records as necessary. This index will facilitate access to the records for all purposes, including: historical accounting, litigation and research.

Procedures for conducting research and handling of records at OTR facilities were drafted this reporting period. During the next reporting period, it is anticipated that the procedures will be finalized and training materials developed. Customers will attend a briefing session on the procedures prior to being allowed to research records. An interim program was developed for customers during the last reporting period until a formal program is developed. OTR provides a short briefing session conducted by an OTR records management specialist where customers are instructed on the proper methods of handling the records. Additionally, signs were posted during the last reporting period in the research areas which inform and remind customers of how they should conduct themselves during research.

Reporting

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

Delays and Obstacles

- Lack of a completed appropriations bill for FY'03 from Congress is prohibiting the hiring of OTR records management liaisons for the BIA and OST offices. These individuals, to be hired by OTR, will play a vital role in implementing records management changes in the BIA and OST and will work directly with the individuals identified by BIA and OST as records liaisons.

- Lack of dedicated staff/resources in BIA and OST to manage records. The lack of dedicated staff has hindered participation in development of records retention schedules and the availability of staff in BIA and OST to provide feedback on drafts produced by OTR for these agencies. This will be discussed with BIA/OST management during the next reporting period.

- Varying quality of inventories/indexes of boxes of records in OTR's possession. Because there is no single database, responses to requests for production of documents, research requests from tribes and Indian individuals, Office of Historical Trust Accounting research requests and other records research takes longer because the search for responsive materials must be manually conducted through electronic and hard copy OTR databases.

- Lack of policies and procedures continue to be obstacles. Written policies and procedures must be put in place to provide guidance to records custodians and users of records on how to maintain, safeguard and retain trust records.

As reported in the *Eleventh Report*, all of these delays and obstacles are being addressed through the OTR work plan. Some progress is being made as reported above.

Assurance Statement

I concur with the content of the information contained in the Records Management section of the *12th Report to the Court*. The information provided in this section is accurate to the best of my knowledge.

Date:- February 3, 2003

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

THIS PAGE INTENTIONALLY BLANK

C. TRAINING AND TRUST MANAGEMENT STAFFING

Introduction

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

Accomplishments and Completions

Trust Foundations Outcome Study:

As reported in the Eleventh Report to the Court, Upper Mohawk contracted with the Center for Business and Economic Research (CBER) of the School of Business Administration, University of Dayton, for an outcome study. This study was designed to measure the retention and application of the material taught in the Trust Foundations course. After surveying employees who had taken the training and those who had not, the Outcome Study demonstrates that employees who are exposed to the issues and concepts provided in the training have a better understanding of what is needed to perform as a trustee, while employees who have not taken the training assume they know more about their responsibilities as a trustee than they actually can demonstrate. For instance, the study illustrates that those who took the training have an increased awareness about a number of topics including the Federal Indian Trust Responsibility, the 1994 American Indian Trust Fund Management Reform Act, and the importance of trust records. Participants also responded that they apply information from the training to their current job. This study is a helpful resource that demonstrates that the non-technical and introductory Trust Foundations course is a valuable foundation for the technical training that must follow.

Current Status

Progress has been made within the Office of the Special Trustee (OST) and the Office of Indian Trust Transition (OITT) in the development of a centralized trust management training program to supply the trust organization training and education needs in the future. A trust training coordinator, in OST, has been assigned responsibility for the development and provision of trust training throughout Interior.

A draft specialized "Fiduciary Trust for Managers" course was developed during this quarter in concert with the Cannon Financial Institute. Course content was reviewed and an initial offering of the course for 25 managers from several Interior agencies is scheduled for February, 2003. In addition, specialized technical trust courses are being tailored to individual jobs. Trust training will reflect the job requirements which are the result of work force planning in both the Bureau of Indian Affairs and the Office of the Special Trustee.

A registrar process has been initiated which will track the attendance and course completion of each employee of the Department of the Interior who enrolls in a Trust Training Class. Supervisors will be able to follow individual employee's progress. Employees will be able to obtain current transcripts as they pursue certification.

Trust Foundations: An Introduction to Trust Reform and Change

During the period of October 1, 2002 – December 31, 2002, Upper Mohawk Inc., the training contractor that provides general trust training to Interior and Tribal trust asset managers, provided the course, *Trust Foundations: An Introduction to Trust Reform and Change* to 439 employees. This brings the number of employees who have completed the training during the past two years to 1,649, out of a population 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.

During this reporting period, OST renegotiated its contract with Upper Mohawk to reflect a per-class price for the 70 to 100 classes that are expected to be held between January and June, 2003. Each class can accommodate up to 20 students: departmental managers are expected to provide appropriate leadership to ensure that their employees attend these courses. As a convenience to Interior employees, Upper Mohawk is able to provide training on-site when requested.

Delays and Obstacles

Instances of bureau and office management not providing the appropriate leadership, direction and support to ensure employees attend the Upper Mohawk training courses continue to be a concern in some areas. OST has been seeking solutions to such occasions when they are identified. Employees from bureaus other than the Bureau of Indian Affairs and the Office of the Special Trustee have begun enrolling in the class. Additional efforts to market the courses have been helpful. However, while overall attendance has increased this quarter due to these marketing efforts, classes continue to be cancelled due to insufficient enrollment. Additional efforts are underway by leadership in OST and BIA further to improve attendance.

Assurance Statement

I concur with the content of the information contained in this section of the *12th Report to the Court*. The information provided in this section is accurate to the best of my knowledge.

Date: February 3, 2003

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

THIS PAGE INTENTIONALLY BLANK

D. RISK MANAGEMENT AND INTERNAL CONTROLS

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 Interior's Indian trust asset management program. This program will be coordinated with the "As Is" and business process reengineering efforts involved with trust reform. Currently, these include trust systems, data quality, probate, special deposit cleanup and coordinating independent third party audits and conducting special review and evaluation projects.

Accomplishments and Completions

Pilot Risk Management Programs

A Management Control Plan Database (MCPD) tool has been developed to aid the managers in performing their internal control programs. It will be scheduled for the certification and accreditation process beginning in the next period. This reporting period, the MCPD was implemented as a working model for the Northwest and Southern Plains BIA Region.

OTRM visited with the Regional Director and the superintendents of the five pilot agencies selected from the Northwest Region and with the Deputy Regional Director and the superintendents of all agencies in the Southern Plains Region. Both visits included conducting risk assessments and management control evaluations. Management reports were provided for each agency and the Regional Offices. During these meetings, OTRM presented its concept of a Management Control Administrator (MCA) function deemed necessary to effectively administer an ongoing Risk Management Program. The Directors indicated support for the Risk Management process and for the MCA positions, but cautioned that funding and approved positions are needed.

Project Coordination and Training

OTRM staff provided risk management overview training to a meeting of the Appraisal staff in Phoenix, Arizona. Approximately 25 persons attended.

Audit Annual Interior Indian Trust Funds Financial Statement

The Indian Trust Funds Financial Statement audit is required by the Trust Fund Reform Act 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 FY 2002 audit report is expected during the next reporting period. The audit completion has been delayed because the

independent auditor needed to review and evaluate the Statement on Auditing Standards (SAS) 70 report performed on the SEI Trust 3000 (TFAS) system. Receipt of that report was delayed beyond the end of this reporting period.

In prior years, the auditor has reported material weaknesses in internal controls, dependable accounting systems, and reliable accounting information. OST's conversion to a commercial trust fund accounting system, and the implementation of enhanced OST management controls during FY 2002, ensure that all trust funds entered into the trust fund accounting system are properly accounted for. Remaining items to correct the material weaknesses include: (1) OHTA's need to provide the historical accounting; and (2) strengthening the existing system of controls to ensure that BIA ownership and distribution information is correct. OTRM will review and monitor the progress of the corrective actions for these weaknesses.

To facilitate expanding the scope of the Indian trust independent audit to include all trust asset management functions, the OST will consult with the OIG to plan for transferring the current audit contract to the OIG.

Special Projects

These projects result from inquiries by beneficiaries or other interested groups and usually question the adequacy or status of trust and fiduciary activities of Interior. OTRM assigns the matters to internal audit staff to investigate and respond and, where necessary, recommend corrective actions to the Special Trustee.

During this reporting period, 27 cases are in inventory, of which 15 are in process and 6 are under management review, 4 are not yet assigned, 1 was cancelled and 1 is suspended.

Current Status

Pilot Risk Management Programs

OTRM received favorable reception to the Risk Management Program implemented in the Northwest Region and has agreed to extend the pilot to incorporate additional agencies and programs provided funding is continued.

Bureau of Land Management has identified the Idaho State Office to begin implementing a Risk Management Program for cadastral surveys to be followed by program development for minerals. OTRM expects to begin the cadastral survey implementation process for this location in the next reporting period.

Trust Systems and Projects Support

On-going support of the "As Is" and "To Be" business process reengineering effort will expand in future reporting periods. Risk assessments of streamlining some probate functions will be conducted and resources will be detailed to expand participation in the cadastral survey, subsurface mineral and data quality improvement business processes.

Assurance Statement

I concur with the contents of the information contained in the Risk Management and Internal Controls section of the *12th Report to the Court*. The information provided in this section is accurate to the best of my knowledge.

Date: February 3, 2003

Name: *Signature on File*
Kenneth M. Moyers

THIS PAGE INTENTIONALLY BLANK

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.

Effective October 1, 2002, the Acting Special Trustee directed that the Chief Appraiser and the regional appraisers would report directly to the Assistant Special Trustee. There was no change in the Chief Appraiser's delegated authority for the Indian lands valuation and appraisal function, which in turn is re-delegated by the Chief Appraiser to the regional appraisers.

As part of the Office of the Special Trustee for American Indians (OST) reorganization, OAS will be made part of the new Field Operations structure. The Director of OAS will report to the Deputy Special Trustee – Field Operations. This arrangement will advance the realignment that began with the transfer of the Indian trust lands valuation and appraisal function to OST by Secretarial Order in March 2002. The move to OST Field Operations is intended to continue the standardization of Indian land appraisal work under a national office, which should further solidify the professional independence of the appraisers.

Representatives from the Western and Pacific regional appraisal staffs met with the Trust Business Process Modeling Team during the reporting period to assist with the "As-Is" baseline modeling. In December a CD-ROM containing the appraisal baseline model and regional variances was sent to each regional appraiser for review to determine if the variances were captured and documented correctly. By the end of the reporting period, all 10 of the on-board regional appraisers had responded to the Trust Business Process Modeling Team. The next step will be to finalize the "As-Is" model and for the appraisers to participate in reengineering the appraisal process.

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 the *Uniform Standards of Professional Appraisal Practice*; and updating or generating pertinent provisions in trust program manuals that outline options and administrative procedures for ensuring the timely completion of appraisals.

The Rocky Mountain Regional Appraiser reported that the workload was stable in a region where major backlogs have been an issue in recent years. (As recently as the *9th Report to the Court*, a backlog of 2,000 appraisals was discussed.) The Regional Appraiser reported that just 95 of the 217 appraisal requests on hand on December 31, 2002, were past due.

The Chief Appraiser reported that he and the Senior Review Appraiser provided appraisal assistance in six of the 12 regions during the reporting period. Among the projects were appraisals requested by the Office of Inspector General on behalf of the Department of Justice, by the Bureau of Reclamation and by a Field Solicitor's Office.

The use of contract appraisers has been limited for the most part, with the primary exceptions being the Pacific Region where appraisal work is almost entirely contracted and the Great Plains Region where approximately 85% is contracted. The Southwest, Southern Plains, Northwest and Midwest Regions reported no contract appraisal work during the reporting period.

The individual selected for the regional appraiser position in the Eastern Region (to be located at Cherokee, North Carolina) declined the offer. The position is to be re-advertised more widely in the next quarter. The regional appraiser position advertisement for the Navajo Region closed late in December and a selection is expected in January.

Delays and Obstacles

Final plans for structuring the Office of Appraisal Services and implementation of new appraisal information systems have been deferred pending the business process modeling. Revision of the Appraisal Handbook and improvements in workload management tools are delayed until the appraisal process reengineering is complete.

Assurance Statement

I concur with the content of the information contained in this section of the *12th Report to the Court*. The information provided in this section is accurate to the best of my knowledge.

Date: January 30, 2003

Name: *Signature on File*
Kenneth F. Rossman
Assistant Special Trustee

THIS PAGE INTENTIONALLY BLANK

F. TRUST POLICIES AND PROCEDURES

Introduction

The OST Office of Trust Regulations Policies and Procedures 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 BIA, but is no longer staffed.

Accomplishments and Completions

The *11th Quarterly Report* stated that a vacancy announcement had been prepared and would be advertised during this reporting period for a person who would be responsible for assembling a staff of people to complete the arduous task of meeting the five areas of responsibility outlined above. The position advertised was for a trust policy specialist. This position will report to the Office of Trust Regulations, Policies and Procedures upon completion of the reorganization of OST.

Philip H. Viles, Jr. was hired in December, 2002 as the Trust Policy Specialist. Mr. Viles served as a bank trust officer for almost three years upon graduation from law school. Since that time, he has added both an M.B.A. degree and a Master of Library and Information Studies degree. Mr. Viles will be working with all Interior agencies to assist with development of trust regulations, policies and procedures to ensure their consistency in meeting Interior's fiduciary trust obligations.

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

Current Status

Statutory Revisions:

Bureau of Indian Affairs/Office of the Special Trustee

Review of Title 25, United States Code – On June 11, 2002, the Director, Office of Indian Trust Transition, signed a letter to all Tribal Leaders providing a copy of BIA's Trust Policies and Procedures (TPP) staff recommendations for repealing or amending numerous provisions of Title 25. This represented the initial step in the consultation process. At the request of the National Congress of American Indians (NCAI), the deadline for comments was extended from August 15, 2002 to November 15, 2002. As a result of further comments from Indian Country indicating concern about the time

required for comments and concern about the complexity of the project, Interior agreed to withdraw its request for any action on the revisions to Title 25. A formal notice of the withdrawal of the proposed revisions will be issued in the next reporting period.

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 Office of Trust Responsibilities (OTR) assumed responsibility for this effort. 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 during the drafting and review process. It is anticipated that the regulation will be published in the fall of 2003.

25 CFR 124 – Deposits of Proceeds of Lands Withdrawn for Native Selection under the Alaska Native Claims Settlement Act – OTFM and the Office of the Solicitor completed their review and comment on the draft revision of this regulation. The draft rule is expected to be published in the first quarter of CY 2003.

25 CFR 162 Subparts C & D – Residential Leases and Business Leases – The staff of the Office of Trust Responsibilities (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 (ITMA) 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 is February 2003. The comment period is planned to run for 90 days, and tribal consultations will be conducted on the proposed rule. The Final (Rule) publication is scheduled for the fall of 2003.

25 CFR 216 – Surface Exploration, Mining, and Reclamation of Lands -- The staff of the Office of Trust Responsibilities (OTR), BIA, continued its review of the regulation in order to update and revise the regulation. The target date of March 2003 for publication of the revised regulation may be delayed due to the identification of issues that will require further research and legal determinations.

Minerals Management Service

As previously reported, the MMS proposed rule on the valuation of oil produced from leases on Indian trust lands is under review by the Office of the Solicitor. The review is expected to be completed during the first quarter of CY 2003.

Internal Program Guidance:

Grazing Permits (25 CFR 166) Handbook – The staff of the Office of Trust Responsibilities (OTR), BIA, and tribal representatives met in December 2002 to continue writing the handbook. The target date for completion of the initial draft for distribution to the 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 CY 2003. The revised final draft will be furnished to the Office of the Solicitor 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 CY 2003.

National Environmental Policy Act (NEPA) Compliance Handbook – A draft NEPA handbook was prepared and circulated by the Office of Trust Responsibilities (OTR) in BIA, to the appropriate staff located at BIA field offices for their review and comment. The BIA internal comments, including those of the Office of the Solicitor, will be reviewed and appropriate changes made to the handbook. The target date for distribution of the BIA final NEPA handbook for review and comment by Indian tribes and Alaska Natives is 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 Native American employees, especially those involved in trust management and reform. In response to an invitation from the Office of Government Ethics (OGE), Interior's Ethics Office held a preliminary meeting with OGE in June 2002, and in July requested a meeting to discuss possible amendments to the law to clarify its effects. OGE expressed an interest in meeting to discuss the situation and a meeting was scheduled for early January 2003.

Forestry Program, Indian Affairs Manual (IAM) Chapter – The BIA Forestry draft chapter of the IAM is presently 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.

IAM, Part 101, Individual Indian Money Accounts - BIA's former Trust Policies and Procedures Office and the Office of the Solicitor's 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 – BIA will complete development of the Surface Leasing Handbook once the regulations for surface leasing are adopted and a legal review of the handbook is completed. It is anticipated that the handbook will be printed and ready for distribution in the fall of 2003.

Delays and Obstacles

Continuity of this project has suffered with the delay in hiring staff. In the *11th Report*, the Bureau of Indian Affairs reported that its own subproject was without staff and would be replaced by a policies and procedures office under the Special Trustee. Although a Trust Policy Analyst has been hired for OST, the BIA does not yet have policy and procedures staff.

Assurance Statement

I concur with the content of the information contained in the Trust Policies and Procedures section of the *12th Report to the Court*. The information provided in this section is accurate to the best of my knowledge.

Date: January 29, 2003

Name: *Signature on File*
Philip H. Viles, Jr.
Trust Policy Specialist

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 19th Century. Fractionation is a complex and potentially emotionally charged issue due primarily to the 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 Interior are attempting to address this complex issue. The opportunity offered by the Indian Land Consolidation Act and the Amendments of 2000 (ILCA) is 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 in 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 three fiscal years (1999-2002) of the ILCP pilot project first authorized by Congress in 1999, while the Great Plains Region, Rosebud Agency, is completing its initial implementation plan and preparing to acquire interests during the next quarterly reporting period in FY 2003. Extending ILCP to other reservations will reduce the amount of record keeping, accounting and probates required, by reducing the number of persons owning small multiple interests on multiple reservations.

As a direct result of expanding its ILCP from three to five reservations, the Midwest Region acquired interests from sellers who owned interests on the initial three reservations as well as the two added reservations. Thus, the Midwest Region eliminated Interior's responsibility for the administration of those sellers' interest and any future probate otherwise resulting from those owners/sellers.

Accomplishments and Completions

- Acquired 2,929 interests (a total of 51,000 interests through December 2002).
- Purchased an average of 750 to 1,000 interests per month (based on a three year average).
- Maintained a consistent stream of applications to sell interests approximating a value of $1 million.
- Recorded 351 deeds.
- Completed development of implementation and operating procedures at the Rosebud Agency.
- Completed 24 certified Title Status Reports for the 42 tracts identified for consolidation by the Tribal Land Enterprise Board of Directors.

Current Status

- Initiating reconciliation of ownership data on the Minnesota Chippewa Bands' reservations.
- Continuing to process applications and purchase interests.
- Continuing to consult with the Rosebud Sioux Tribe and the Tribal Land Enterprise to identify additional target tracts.
- Preparing to review pending applications and initiate the acquisition process on Rosebud Reservation during the next reporting time period.

Delays and Obstacles

Regional and agency staff continued to work on operational gaps inherent in new programs and pilot projects. ILCP staff are exploring methods to:

- Improve funding distribution to ILCP program offices to prevent delays in program operations.
- Address Youpee estate re-distributions to ensure that purchases include any potential re-distributed interest of the seller. There are approximately 820 estates in the Great Plains Region and 750 in the Midwest Region that are Youpee-related estates.

- Obtain sufficient congressional appropriations to maintain a viable land purchase and consolidation program.

ASSURANCE STATEMENT

I concur with the content based on the information supplied by the Regions and contained in the Fractionated section of the *12th Report to the Court*. The information provided in this section is accurate to the best of my knowledge.

Date: January 30, 2003

Name: *Signature on File*
Larry E. Scrivner

THIS PAGE INTENTIONALLY BLANK

VI. ACRONYMS

A-130	OMB Circular A-130
BIA	Bureau of Indian Affairs
BIAM	Bureau of Indian Affairs Manual
BLM	Bureau of Land Management
BOR	Bureau of Reclamation
C&A	certification and accreditation
CD	compact disk
CD&L	Chavarria, Dunne & Lamey LLC
CGIS	Cadastral Geographic Information System
CIO	Chief Information Officer
CLS	Case, Location, and Status Database
COPAS	Council of Petroleum Accounting Services
CSEAT	Computer Security Expert Assist Team
D&T	Deloitte & Touche LLP
DMZ	Demilitarized Zone
DOJ	Department of Justice
DQ&I	Data Quality and Integrity
EDS	Electronic Data Systems
E&Y	Ernst & Young LLP
GISRA	Government Information Security Reform Act
HR	Human Resources
HRA	Historical Research Associates
IBM	International Business Machines
IDEAS	Interior Department's Electronic Acquisition System
IDP	Individual Development Plan
IIM	Individual Indian Money
IITD	Individual Indian Trust Data
ILCA	Indian Land Consolidation Act
ILCP	Indian Land Consolidation Program
IRMS	Integrated Records Management System
IT	Information Technology
ITMA	Inter-Tribal Monitoring Association
KeyFile	Key File Document Imaging System
LRIS	Land Records Information System
LTRO	Land Titles and Records Office
MCPD	Management Control Plan Data Base
MMS	Minerals Management Service
MRM	Minerals Revenue Management
NAPHSIS	National Association for Public Health Statistics and Information Systems
NARA	National Archives and Records Administration
NCAI	National Congress of American Indians
NIST	National Institute of Standards and Technology
NORC	National Opinion Research Center at the University of Chicago

OAS	Office of Appraisal Services
OGE	Office of Government Ethics
OHA	Office of Hearings and Appeals
OHTA	Office of Historical Trust Accounting
OIG	Office of Inspector General
OIRM	Office of Information Resources Management
OITT	Office of Indian Trust Transition
OMB	Office of Management and Budget
OST	Office of the Special Trustee for American Indians
OTFM	Office of Trust Funds Management
OTR	Office of Trust Responsibilities, Office of Trust Records
OTRM	Office of Trust Risk Management
SAIC	Science Applications International Corporation
SANS	System Administration, Networking and Security
SDAs	Special Deposit Accounts
SME	subject matter experts
SOL	Office of the Solicitor
SRA	SRA International, Inc.
SSA	Social Security Administration
STIG	Standard Technology Implementation Guide
STRAC	State and Tribal Royalty Audit Committee
TFAS	Trust Funds Accounting System
TPP	Trust Policies & Procedures
TS&P	Trust Systems & Projects
VA	Veterans Affairs
WAU	Whereabouts Unknown