

**TESTIMONY  
OF  
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ACTING PRINCIPAL DEPUTY SPECIAL TRUSTEE FOR AMERICAN INDIAN  
BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
NATURAL RESOURCES COMMITTEE  
SUBCOMMITTEE ON INDIAN AND ALASKA NATIVE AFFAIRS  
ON THE  
FISCAL YEAR 2013 PRESIDENT'S BUDGET REQUEST FOR THE  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS**

**MARCH 6, 2012**

Good afternoon, Chairman Young, Ranking Member Boren, and Members of the Subcommittee. My name is Michele Singer, and I am the Acting Principal Deputy Special Trustee for American Indians. I am pleased to be before the Subcommittee today to discuss the Department of the Interior (Department) Fiscal Year (FY) 2013 budget for the Office of the Special Trustee for American Indians (OST).

The OST's FY 2013 budget request is consistent with the President's goal to reduce the deficit, to provide the resources to meet our fiduciary responsibilities and to provide quality services to Indian beneficiaries.

**Purpose of OST**

The OST was initially tasked by Congress with Department-wide oversight for the reform of Indian trust management and implementation of new fiduciary accounting systems. The OST's oversight role expanded in 1996 to include operational responsibility for financial trust fund management, including receipt, investment and disbursement of beneficiary funds. The Office of Appraisal Services, which appraises Indian trust lands, was moved to OST in 2002. The Office of Historical Trust Accounting was realigned in 2007 to report directly to the Special Trustee.

**FY 2013 Budget Request**

The FY 2013 budget request for OST totals \$146.0 million and reflects a \$6.1 million decrease from the FY 2012 enacted level. The budget includes \$816,000 to fund fixed costs. The FY 2013 OST budget includes a net program increase of \$2.6 million in Program Operations. The program increase in this activity will be used for the Office of Trust Review and Audit to conduct compliance reviews for the Bureau of Indian Affairs (BIA), the Bureau of Land Management (BLM) and the Office of Natural Resources Revenue (ONRR), in accordance with the Indian Trust Reform Act.

The budget includes a \$2.3 million decrease within Executive Direction and \$3.6 million decrease within Trust Accountability reflecting completion of trust reform tasks; a program decrease of \$3.3 million for the Office of Historical Trust Accounting due to decreases in contractor assistance costs.

Key funding for 2013 includes \$9.8 million for Trust Records, \$8.3 million for Trust Review and Audit, \$23.6 million for Field Operations, \$10.7 million for Appraisal Services, \$28.8 million for Trust Services, \$26.8 million for Historical Trust Accounting, and \$26.6 million for Budget, Finance, and Administration.

I would like to highlight five key issues facing OST in 2013.

### **National Commission on Indian Trust Administration and Reform**

As part of the President's commitment to fulfilling trust responsibilities to Native Americans, Secretary Salazar established the framework for the National Commission on Indian Trust Administration and Reform (National Commission) in a 2009 Secretarial Order, issued at the same time the *Cobell* Settlement Agreement was announced. The Order addressed the Department's future responsibilities for trust management, and charged the National Commission with making the Department's trust administration more transparent, responsive, customer-friendly and accountable in managing substantial funds and assets.

Last November, the Secretary named five prominent American Indians to the National Commission, which held its first meeting on March 1-2 in Washington, D.C. The National Commission will undertake a forward-looking, comprehensive evaluation of the Department's management and administration of the trust assets, and, within 24 months, is expected to offer recommendations on how to improve in the future.

The members of the National Commission are:

- Fawn R. Sharp (Chair) -- the current president of the Quinault Indian Nation, and the current President of the Affiliated Tribes of Northwest Indians.
- Dr. Peterson Zah -- an established leader in Native American government and education circles, the last chairman of the Navajo Tribal Council, and the first elected President of the Navajo Nation.
- Stacy Leeds -- a citizen of the Cherokee Nation, Dean and Professor of Law at the University of Arkansas School of Law, and former Director of the Tribal Law and Government Center at the University of Kansas School of Law.
- Tex G. Hall -- current chairman of the Three Affiliated Tribes, past President of the National Congress of American Indians, current Chairman of the Inter Tribal Economic Alliance, and Chairman of the Great Plains Tribal Chairmen's Association.
- Bob Anderson -- an enrolled member of the Minnesota Chippewa Tribe (Bois Forte Band), Associate Solicitor for Indian Affairs and counselor to the Secretary of the Interior on Indian law and natural resource issues at the Department of the Interior for six years during the Clinton Administration. He is currently a Professor of Law and Director of the Native American Law Center at the University of Washington, and holds a long-term appointment as the Oneida Nation Visiting Professor of Law at Harvard Law School.

## **Administrative Cost Savings and Management Efficiencies**

To complement the work of the National Commission, and in support of the President's ongoing commitment to fiscal discipline and spending restraint, OST continues to participate in aggressive Department-wide efforts to streamline operations and curb non-essential administrative spending.

One of the areas the National Commission will examine is operational efficiency in Indian trust management. In line with that effort, OST has contracted with Booz Allen Hamilton, a leading consulting firm, to conduct an efficiency analysis of all major operations within OST. The evaluation will focus on core functions and internal controls to establish a baseline of current operations, and provide service delivery options and alternatives to the current OST operations. The goals of the review include improved function, efficiency and enhanced internal controls. This will ensure that the core areas of OST efficiently work together and complement each other. The OST expects their work to be completed in April 2012.

The OST is currently considering a number of cost-saving measures, including operational realignments.

## **Cobell Trust Land Consolidation Program**

Another important departmental initiative arising from the *Cobell* Settlement Agreement is the *Cobell* Trust Land Consolidation Program (Program). The Settlement Agreement, as enacted by Congress, provided \$1.9 billion for a Trust Land Consolidation Fund. The primary purposes of this Fund are to: (1) acquire fractional interests in trust or restricted lands; and, (2) implement the Land Consolidation Program.

The OST is working with the BIA and other offices to ensure that the greatest possible benefits can be realized from the expected \$1.9 billion Fund, which will be available to the Secretary upon final judicial approval of the *Cobell* Settlement Agreement. The OST plans to leverage existing resources and experience to benefit the Department's planning efforts, build on and complement ongoing tribal consultations, and help ensure effective project execution within the ten years allowed for the Program.

In early February 2012, after obtaining initial input from tribes, individual allottees and interested tribal organizations during seven regional tribal consultations across the country, the Department published a *Draft Plan for the Cobell Land Consolidation Program*. The OST is engaged with other departmental offices and bureaus to prepare for the Program, consider input received during the public comment period (which is set to close on March 19, 2012), and develop a comprehensive implementation plan with associated structures. This will include drawing from the experience the Office of Historical Trust Accounting gained over the last eleven years in working cooperatively with tribes to resolve complex tribal claims and issues.

Implementation of the Program will be a complex and challenging endeavor, requiring tight integration of distinct capabilities within the Department, and cooperation with stakeholders across Indian Country.

## **Litigation Support**

The OST is closely assisting the Department's Office of the Solicitor (SOL) and Department of Justice (DOJ) with over 100 lawsuits filed against the United States by various Indian tribes for alleged mismanagement of trust assets. The cases are filed in various Federal District Courts and the Court of Federal Claims. The OST has assisted the Government attorneys with document production and organization, digitization, and financial analysis of tribal accounts. The OST has coordinated the litigation efforts between the various OST programs and SOL for responses to informal and formal discovery requests and other legal documents.

On December 6, 2011, the United States presented settlement offers to 60 Indian tribes as a part of the Settlement Proposal of the Obama Administration (SPOA) effort to resolve tribal trust litigation cases through settlement proceedings. To facilitate and support this process, OST provides historical trust accounting data and copies of monthly periodic statements for tribal review of trust accounts information. In addition, OST provides expert analysis of trust data and appraisal information for other ongoing matters and arranges for an OST representative to attend court proceedings, alternative dispute resolutions and settlement negotiations.

## **Tribal Consultation Initiative**

Finally, on December 1, 2011, Secretary Salazar signed Secretarial Order (S.O.) 3317, "to update, expand and clarify the Department's policy on consultation with American Indian and Alaska Native Tribes." This signing was the culmination of a process begun by President Obama in November 2009, when he instructed all agencies to review their policies on tribal consultation and compliance with Executive Order (E.O.) 13175 (Consultation and Coordination with Indian Tribal Governments).

S.O. 3317 reaffirms the authority of E.O. 13175, and acknowledges that the provisions for conducting consultation are now expressed in the *Department of the Interior Policy on Consultation with Indian Tribes*, which is a new departmental policy developed with tribal leaders during 2010 to 2011.

Through the remainder of FY 2012, OST will continue implementation of the new Policy. The OST will review current operational activities in light of the new guidance, and will work to ensure that the President's commitment to tribal consultation and collaboration is reflected in all decision making processes. By FY 2013, and in coordination with the Department, OST will have developed a *Supplemental Policy on Tribal Consultation*, and the principles of consultation and collaboration will have been incorporated in all our policy manuals. Meaningful tribal input will greatly improve Federal decision making and delivery of OST's mission.

## **Conclusion**

Mr. Chairman, once again, I would like to thank you for the opportunity to appear before you today, and I will be happy to answer any questions you may have.