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FINANCIAL
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BIA's Management of the
Indian Trust Funds

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Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss the management of the Indian trust funds by the Bureau of Indian Affairs (BIA).

Mr. Chairman, since April 1991, we have testified six times before congressional committees on BIA's management of the Indian trust funds and its efforts to reconcile and audit the trust fund accounts. These testimonies addressed the nature of BIA's past problems, the status of its trust fund reconciliations, and actions BIA might take to improve trust fund operations. My statement today will discuss (1) the status of BIA's actions to correct its past problems, (2) problems that still need to be addressed, and (3) provisions in H.R. 1846, the Native American Trust Fund Accounting and Management Reform Act of 1993, that can help BIA resolve some of these problems.

By way of background, I will first summarize BIA's trust fund management problems and some of the needed actions that have been recommended to overcome those problems.

As you know, the Secretary of the Interior is directed by law to manage Tribal and Individual Indian Monies (IIM) trust funds. BIA, through its Office of Trust Funds Management (OTFM), is responsible for carrying out the government's fiduciary responsibility to ensure that proper control and accountability are maintained over each trust account. The OTFM, located in Albuquerque, New Mexico, oversees trust fund operations at BIA's 12 Area Offices and 93 Agency Offices.

In fiscal year 1992, OTFM was responsible for managing and accounting for about \$2 billion, representing approximately 1,880 tribal and 288,000 IIM trust fund accounts. Fiscal year 1992 reported receipts totaled almost \$550 million and disbursements totaled about \$500 million. Tribal and IIM accounts had reported balances of \$1.5 billion and \$440 million, respectively. The balances in the trust fund accounts have accumulated in part from payments of claims, oil and gas royalties, land use agreements, and investment income.

In summary, BIA has had difficulty in fulfilling its fiduciary responsibility to ensure that proper control and accountability are maintained over each trust fund account. BIA's record has been so poor that the Office of Management and Budget (OMB) has placed trust fund accounting on its high-risk list. Over the years, countless audit reports and internal studies have detailed a litany of problems in BIA's control and oversight of these accounts.

The audit reports have included recommendations for BIA to

- develop written policies and procedures for the conduct of trust operations,
- periodically reconcile account balances,

- arrange for periodic audits of trust fund operations,
- provide periodic statements to account holders,
- arrange for training of personnel involved in trust fund operations, and
- review current systems to determine whether systems modifications will bring about needed improvements most efficiently or whether alternatives should be considered, including cross-servicing arrangements, contracting for ADP services, or new systems design and development.

In our August 1992 testimony¹, we said that OTFM cannot correct BIA's trust fund management problems in isolation from other BIA and Department of the Interior components. For example, the Bureau of Land Management and the Minerals Management Service (MMS) are responsible for the trust-related functions of land and lease management, and oil and gas royalty collections and accounting, respectively. The cooperation of these organizations is essential to correcting BIA's trust fund management problems.

We stated further that to effectively address long-term trust fund management problems, BIA needed to develop a comprehensive strategic plan for addressing every aspect of its trust fund operation, including interfaces between other systems and operations that impact trust fund accounting. We also advised BIA officials about how the Chief Financial Officers Act of 1990, Public Law 101-576, can provide a framework for improving its trust fund management.

STATUS OF TRUST FUND IMPROVEMENTS

BIA has made some progress in short-term and long-term trust fund management improvements. Some examples follow.

- In January 1993, BIA issued an advance copy of its strategic plan for trust fund financial management improvement. Due to the scope and complexity of its problems in this area, BIA divided the strategic plan into two phases. Phase I covers improvements needed within OTFM, whereas Phase II of the plan, which is still being developed, is to cover improvements in organizations outside OTFM.
- Interest on MMS oil and gas collections, which had not been distributed to account holders since 1985, was distributed to all but the Navajo tribe during the past year. The Navajo funds

¹Financial Management: Status of BIA's Efforts to Resolve Long-Standing Trust Fund Management Problems, (GAO/T-AFMD-92-16, August 12, 1992).

are available and are to be distributed pending the outcome of a review of BIA's computer program for distributing income by the tribe's accounting firm.

- OTFM has brought its fiscal year 1993 systems reconciliations backlog up-to-date, with a few exceptions. According to OTFM, the trust fund general ledger accounts are being reconciled to their Treasury accounts and Investments subsystem accounts. In addition, the IIM subsystem accounts are being reconciled to the general ledger at most Area Offices. Those Offices having difficulty are receiving assistance from OTFM.
- In response to our recommendation that BIA conduct an organization and staffing analysis, OTFM contracted for a work-load analysis of OTFM and trust fund-related functions performed in BIA's Area and Agency Offices. The OTFM analysis was completed in November 1992, and the Area and Agency Office analysis was completed in April 1993. These studies contain a number of recommendations which, if effectively implemented, should improve trust fund operations.

The following has occurred with regard to the trust fund reconciliation project.

- In November 1992, BIA management created a separate Special Projects Team outside of OTFM, by reassigning 5 staff and the Project Assistant and reallocating \$6.4 million from OTFM, to oversee the trust fund reconciliation project and develop Phase II of the strategic plan. OTFM retained responsibility for routine trust fund operations and the short-term trust fund improvement projects.
- In March 1993, the Department directed the Special Projects Team to focus its attention almost exclusively on the tribal reconciliation project and mandated that the work be completed by March 1994. The Special Assistant in charge of the Special Projects Team developed an ambitious plan to accomplish the tribal reconciliation work by that date. In August 1993, the Special Projects Team, was returned to OTFM, where this work is continuing.
- On January 13, 1993, a Solicitor-led team, referred to as the IIM Work Group, consisting of BIA, Department, and Inter-tribal Monitoring Association representatives was formed to explore settlement or other alternatives to reconciling the IIM accounts. IIM reconciliations were halted in February 1992, primarily due to missing records and the potential costs of reconciling a large number of small accounts. To date, the team has had two meetings but has made only limited progress towards defining alternatives for settlement or reconciliation of the IIM accounts.

- The Land Records Management Work Group, led by a BIA Agency Superintendent, was formed in November 1992 to ensure that problems associated with fractionated ownership are addressed through effective systems which provide accurate and timely information. This group has not met for the past few months and its draft report is on hold until the work group fully understands the trust fund reconciliation process.

PROBLEMS THAT STILL NEED TO BE ADDRESSED

We have identified a number of concerns affecting the trust fund management improvement and reconciliation project. As we testified last year, BIA recognized the seriousness of its problems but was making only limited progress in addressing them. Currently, progress is lagging in a number of areas. Some examples follow.

- While implementation of Phase I of BIA's strategic plan is technically on hold until the new administration has time for review and comment, OTFM has moved forward on a number of initiatives, including development of employee performance standards and desk operating procedures. Development of Phase II of the plan, which deals with areas outside OTFM's control, is moving ahead slowly due in part to a Department directive to focus priority attention on the tribal reconciliation project.
- In April 1992, OTFM prepared a reorganization plan which would increase its staff from 51 to 90 positions. However, the reorganization was delayed pending decisions on trust fund management improvement initiatives. As of September 1993, BIA is moving ahead with OTFM's reorganization plan which now calls for an increase from 51 to 100 authorized positions. The increase of 10 positions relates primarily to the transfer of the Special Projects Team to OTFM. According to OTFM, 47 of the 51 currently authorized positions are either on board or selections have recently been made to fill these positions.
- The March 1994 timetable, which the Department has established to complete the tribal reconciliations back to 1972, may be unrealistic given the volume of records to be reviewed and time required to search for missing documents. While progress is being made on the reconciliation project, according to OTFM's September 10, 1993 progress report, missing records are still a significant problem. Because of this problem, OTFM feels it will be difficult to meet the March 1994 deadline. As a result, OTFM has prepared a draft issue paper which contains options on how to proceed with the tribal reconciliation work.
- BIA has not yet filled certain key OTFM vacancies, such as the Investment and Accounting Chief positions. As a result, OTFM has not been able to implement pilot tribal investment programs. Tribes are expressing concern about implementation delays for the investment pilots. During much of fiscal year 1993, the

OTFM Deputy Director has covered the Accounting and Investment Division Chiefs' functions. According to OTFM, a selection was made for the Investment Chief position on June 24, 1993. However, the position remains unfilled pending the outcome of a background check. OTFM is currently requesting a waiver from the background check requirement. Regarding the Accounting Chief position, OTFM expects to be able to fill this position once its proposed reorganization is approved.

- OTFM's plan to have written trust fund policies and procedures has slipped from March 1994 to September 1995. OTFM has developed an inventory of needed policies and procedures and has hired a contractor to assist in their development.
- OTFM has implemented automated interfaces between its general ledger and its subsidiary ledgers so that data entered into one component of the system does not have to be entered a second time. Unfortunately, the automated interfaces have not worked as intended, and OTFM is attempting to resolve this situation. However, even if the interfaces ultimately work as envisioned, OTFM will still need an integrated trust fund system to eliminate some of the problems that are now occurring. The OTFM director realizes this and is currently developing a request for proposal to hire a contractor to perform a systems and account holder needs assessment.

With respect to the need for a reliable integrated trust fund system, we are currently performing a study for another House subcommittee to address options for transferring trust fund accounting and investing functions to other entities. We have identified entities that may be able to manage BIA's trust accounting and investing activity and some that have, or are, developing oil and gas royalty and real estate trust accounting systems that seem appropriate to BIA's accounting needs. The Subcommittee Chairman requesting this study wants us to ensure that the options we are identifying will avoid the problems associated with BIA's failed 1990 attempt to transfer the trust funds to a large private bank, which led to the congressional ban on transfers.

In addition, the administration has moved slowly in making key BIA appointments. The Assistant Secretary for Indian Affairs position was not filled until mid-July 1993 and, since January 1993, the position of Deputy Commissioner has been filled in an acting capacity by a number of individuals from within BIA.

H.R. 1846 REFORMS

The Native American Trust Fund Accounting and Management Reform Act of 1993 (H.R. 1846) mandates many of the improvements recommended

in BIA audits and contractor studies. Among other things, the proposed legislation

- reaffirms the trust responsibility of the United States and instructs the Secretary to provide (1) adequate systems for accounting, (2) adequate internal controls and periodic timely reconciliations, (3) account holders with meaningful, periodic statements of their accounts, and (4) periodic statements of performance and an annual audit of the trust fund accounts;
- reaffirms that the government's trust responsibility includes the funds derived from the use and sale of leased lands, judgments, mineral leases, oil and gas leases, timber permits and sales, and water resources;
- gives tribes the option of voluntarily and permanently removing their funds from the government's trust or doing so on a pilot, or demonstration, basis in order for tribes to manage their own funds; and
- requires that the Secretary establish a program to assist Indian people to obtain expertise in the management of trust funds, including outreach agreements with financial institutions to provide classroom training, internships, and employment opportunities.

The Department of the Interior has been responsible for performing most of the functions specified in H.R. 1846 all along. The proof of whether the Department will carry out the provisions of H.R. 1846 will be in the new administration's execution of these initiatives.

Adequate financial systems and accounting staff, the filling of key positions, and the support of senior Department and BIA managers are important elements in fixing BIA's trust fund problems. These problems took many years to develop. Even with concerted effort, the selection of a modern integrated accounting system, sufficient staffing and funding, and the strong support of Department and BIA management, the Congress, and OMB, these problems will take time to correct.

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Mr. Chairman, I wish to thank the Committee for the opportunity to testify on our work and on this important legislation. This concludes my remarks. I would be happy to answer any questions you or Members of the Subcommittee may have at this time.

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