



United States Department of the Interior

OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS

Washington, D.C. 20240

APR - 8 2002

Memorandum

To: Secretary

From: Tom Slonaker
Special Trustee for American Indians

Subject: Going Forward on Trust Reform

As you know, I am firmly committed to a successful conclusion to Indian trust management reform and the installation of critically needed trust management practices and systems. You have indicated that you are committed to these goals, as well. The purpose of this memorandum is to update you on my views on the current status of trust reform and to reiterate the availability of the trust and management expertise of the OST team going forward.

I support the two concepts vital to trust reform that you have espoused: First, that a single comprehensive organization dedicated to trust asset management is needed, and second, that the standard for performance of the Department's trust responsibility to Indians should conform to common law and private trust standards. In my view these two issues are pivotal to trust reform in the Department.

Beyond these basic trust policy issues, the additional keys to successful trust management going forward are:

- Executive leadership
- Accountability
- Project management
- Trust experience
- Risk management/oversight

I have previously identified these factors in discussions with you and your senior management team, in reports to the Court, and in testimony to the Congress. I believe the critical failures in trust reform to date relate to failures in these basic management areas. Successful progress going forward is rooted in performing well in these areas.

Several key trust reform initiatives appear not to be moving forward expeditiously. For instance, while the Department has taken some steps to rationalize the implementation of what was TAAMS, repair the probate process, and begin to address the data cleanup process more efficiently, it has not dedicated sufficient resources to these core efforts beyond what OST itself established last fall. The leader of that

combined project, Deputy Special Trustee Donna Erwin, has the necessary knowledge and experience to achieve success. To support her and help ensure her success, I have instructed my management team to collaborate with Donna and recruit and hire --within OST's structure--the additional trust experience and project management staff that she needs to be successful. To date, there has not been a concerted and disciplined effort to evaluate and make recommendations to you regarding the EDS II report of January 24, 2002. Unlike the quick response and action on the November 12, 2002, EDS report concerning TAAMS and BIA Data Cleanup, the January EDS report languishes in the face of Tribal Task Force meetings on reorganization, efforts to re-connect DOI IT systems, and Cobell litigation activities. Work on the review of the EDS report must be a high priority.

Moreover, the Department continues to focus on Cobell and Tribal litigation activities at the expense of basic trust reform. The legal advice and counseling currently provided is driven by the litigation posture, as opposed to actually fulfilling the fiduciary responsibility. It is absolutely essential that we keep our focus on establishing and improving basic trust management practices and systems.

Based on these and other considerations, I have come to the conclusion that OST needs to step beyond its oversight role and provide direction for trust reform. I have two specific recommendations to assist you going forward.

First, OST should assume responsibility for completing an action plan to implement trust reform. It is timely to "re-plan" the implementation of trust reform, but the new plan must improve on the HLIP and be properly executed. Accordingly, OST will work to develop an action plan encompassing your general goals and the objectives for the Department's performance of its fiduciary responsibility as outlined in the Reform Act. OST has both the trust expertise and the planning experience to complete this task in a reasonable time. I will supplement the existing staff with the necessary seasoned executives.

Second, OST should assume line responsibility for the development and management of the trust systems including but not limited to data cleanup, probate, and policy and procedures, as well as the business processes. While design and implementation of a new trust organization is important, it is also important to ensure the necessary trust systems are put in place as soon as possible. I will need your support for dedicating some people in various parts of DOI who can provide assistance, too.

As I see it, we have two goals: Establishing the trust systems needed going forward, and setting up the future organization that will house those systems. It is my opinion that OST should manage the former, which is where its expertise is grounded. OITT should manage the latter, which is where its expertise is grounded. OST's Donna Erwin is currently building the staff and contractors needed to carry forward expeditiously the basic trust operations. Without a basic trust system, DOI will never be able to discharge its trust responsibility properly. OITT is dealing with longer-term issues related to the Tribal Task Force and the shape of the future trust organization.

In summary, the advantages for the Department and trust reform of these two steps are that they:

- Place a senior political executive -- who was selected for his trust and management experience in large financial institutions -- in charge of trust reform and the development of basic trust operations.
- Draw on the trust skills of the OST senior management team.
- Provide a stronger effort for the future of trust reform within DOI.

I would like to discuss this further with you at your earliest convenience.

cc: Deputy Secretary