

REPORT OF THE COMMISSION ON INDIAN TRUST ADMINISTRATION AND REFORM

November 2013

November 20, 2013 Webinar Call Summary V2

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Review, Discuss Commission Summary and Report on Next Steps

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Commission Discussion of Draft Report as Described

Commissioner Hall: "How is the Commission protecting the rights of allottees?"

A: The report is weighted toward making sure that allottees are taken care of.

Next paragraph:

Is there detailed discussion in the Grant Thornton report of how OST is going to be sunsetted? Commissioner Hall would recommend that current regional level functions should be brought back and preserved under BIA. **This action would not be protecting the rights of allottees or making sure that allottees are taken care of.**

I just returned from a joint meeting with Indian Land Working Group (ILWG) and the Affiliated Tribes of Northwest Indians (ATNI) held in Spokane, WA. While sunset OST was not on the agenda, ATNI clearly knows the position of our allottees on sunsetting OST.

I have personally presented written statements to the Trust Commission in opposition to sunset OST. I have personally spoken to this issue at the Trust Commission meetings. **We support moving tribal funds from OST to BIA as that appears what tribes want.** We do not support closing OST and moving individual IIM accounts to the BIA for the following reasons:

The legislation that created the Office of Special Trustee, H.R. 4833, September 12, 1994, Title "American Indian Trust Fund Management Reform Act of 1994" provided for the establishment of the Office of Special Trustee. It has brought about a much better, successful, satisfactory system of accounting of the allottee funds. While we may not agree with everything OST has done, the performance of accounting is much better than the history of the accounting in the BIA in the past.

As a reminder, the United States government has legal obligations of trust responsibility both to tribes and individual Indians. The U.S. Supreme Court ruled that the federal government has a fiduciary responsibility to the individual allottee, or his/her heirs, for the protection of the assets of an allotment, this included trust funds, in ***Mitchell, et al v. United States***.

The Act of 1994 does not operate under the same requirements as the Bureau of Indian Affairs.

There is no requirement for OST to adhere to Civil Service laws, such as is the BIA. Civil Service personnel of the BIA are employed because of their G-S level, not specifically because of their special competency to manage money and execute judicious investment strategies for the benefit of the beneficiary. Review what Civil Service has done to the BIA as an example of what not to do.

Sec. 202 of the Act of 1994 provides for the voluntary withdrawal from trust funds program. The reason for that provision was not used by tribes is because (e) "Dissolution of Trust Responsibility. Beginning on the date funds are withdrawn pursuant to this section, any trust responsibility or liability of the United States with respect of such funds shall cease, except as provided for in Section 207 of this title". Be positive that this language is not included in any transfer of Tribal Trust funds to BIA.

If the Trust Funds were returned to the BIA via "Sunset", tribes could contract out trust services. This practice of Self-Governance, which all entities approve of, does deplete the funds of the BIA for such services and that is what would happen if OST was transferred to the BIA. There would then be a depleted budget to manage the Trust Funds of the individual Indian and direct service tribes leading to mismanagement of the funds. Many Indians do not want their Self-Governance tribe to manage their Trust Funds.

If tribes want to move tribal Trust Funds ONLY from OST to BIA, allottees would support them, providing that it is clear that Individual Indian Monies (IIM) would remain at OST under the present management and regulations.

Respectfully Submitted,

Helen Sanders

Founder and Spokesperson, AA and AT

Allottees Association & Affiliated Tribes & Bands of the Quinaielt Reservation