

**Secretarial Commission on Indian Trust Administration and Reform
November 20, 2013
Webinar Call Summary V2**

The Secretarial Commission on Indian Trust Administration and Reform held a public webinar on November 20, 2013. Commission Chair Fawn Sharp chaired the webinar. Sarah Palmer, U.S. Institute for Environmental Conflict Resolution (USIECR) facilitated the meeting and Gail Brooks, USIECR, took notes. Approximately 80 individuals participated in the webinar. The webinar agenda and list of materials discussed during the webinar are in Appendix A. These materials are available on the Commission website: <http://www.doi.gov/cobell/commission/index.cfm>. The webinar attendees are listed in Appendix B.

Welcome, Introductions, Agenda Review

Chair Sharp welcomed everyone and thanked the Commissioners for their participation. Commissioners Robert Anderson, Tex Hall, Stacy Leeds, and Peterson Zah were on the call and introduced themselves to the webinar attendees. Chair Sharp reviewed the agenda and objectives for the meeting. The meeting objectives were:

- Attend to Commission operations, specifically approving the summary of the Anchorage, Alaska August 2013 public meeting.
- Review and discuss draft Commission Report Executive Summary and discuss next steps
- Take public comment on the draft as described on the webinar

Chair Sharp then introduced the Commission's Designated Federal Official (DFO) Sarah Harris Chief of Staff for the Assistant Secretary of the Interior – Indian Affairs. DFO Sarah Harris thanked the Commission for their work and explained that the government shutdown in October delayed the finalization of the Commission report and necessitated the rescheduling of the webinar for public comment on the full report for December 10th. The Department will post a notice in the Federal Register announcing the December 10th webinar. She apologized to the webinar audience on behalf of the Department for any inconvenience to them regarding the delay cause by the shutdown.

August 2013 Public Meeting Summary

Chair Sharp reviewed the Anchorage August 2013 Public meeting summary

The seventh and final public in-person meeting of the Secretarial Commission on Indian Trust Administration and Reform was held August 19, in Anchorage, AK. During the public meeting the Commission heard from Alaska tribal leaders and nationally recognized advocates for Alaska Native tribes about strategies to improve the trust relationship with special emphasis on the unique aspects of the trust relationship in Alaska. The Commission also received comment from members of the public who were present in Anchorage or participating online.

Commissioner Zah moved to approve the meeting summary. Commissioner Anderson seconded the motion. The motion was approved with Commissioners Zah, Anderson, and Sharp approving and Commissioners Leeds and Hall abstaining. (Commissioner Leeds was unable to attend the August meeting and Commissioner Hall had not had adequate review of the summary.)

Review, Discuss Commission Executive Summary and Report on Next Steps

Commissioners Anderson and Leeds provided an overview of the draft Commission report, referring to the table of contents.

The report contains 5 sections: 1) History of Trust Reform Efforts; 2) The Nature of the Federal Trust Responsibility; 3) Litigation, Conflicts of Interest and Consultation; 4) Financial Administration and the Office of Special Trustee; and 5) Special Matters.

- Section 1 –provides a descriptive narrative and testimony of trust reform efforts.
- Section 2 –provides examples of court cases; ideas expressed to Congress about how the federal government should manage its trust responsibility, including recommendations for a clear standard for all agencies to follow for carrying out its financial and trust responsibilities regarding tribal interests, natural resources, exercise of treaty rights and other issues. It includes recommendations resulting from the Navajo Nation v. Secretary Hodel case.
- Section 3 - discusses litigation, conflicts of interest and consultation, and includes the recommendations of the 1977 Indian Policy Review Commission regarding establishment of a Trust Council, as well as recommendations that Tribes should have separate representation of their interests and be engaged in consultation on issues of conflicts of interest. A recommendation is also included in the section on tribal consultation that Congress should set out a uniform standard for agencies to employ; that the consultation mandate should have some teeth, enforceable in court, if necessary, without the usual government disclaimers.
- Section 4 – includes recommendations from the management consultant, Grant Thornton’s report to restructure trust administration and that matters to be handled through a new independent commission within DOI similar to the Federal Energy Regulatory Commission (FERC) within DOE; that all functions should be managed under the Assistant Secretary of the Interior – Indian Affairs. This recommendation would require Congressional approval and would likely take a long time to achieve. In the meantime, the Commission suggests that DOI consider moving all trust functions underneath the Assistant Secretary of the Interior – Indian Affairs, including OST functions.

This section also provides quotes and recommendations from the Great Plains Tribal Chairman’s Association, the Navajo Nation, and Ross Swimmer, Special Trustee for American Indians about those OST functions that should be moved back under the Assistant Secretary of the Interior – Indian Affairs and better integrated with other parts of the Bureau.

The Commission asked Grant Thornton to pick out the top 10 things that could be accomplished under the existing DOI structure immediately (not requiring Congressional action) to improve trust administration, and they produced a list of 20 items, including the process of handling funds and providing information and access to funds in Indian Country in a meaningful way and insufficiencies in the audit system.

- Section 5 - discusses several distinct sections for special treatment: probate, appraisal, and two sections dealing with Alaska and Eastern Oklahoma. There are several changes to both probate and appraisal processes that could be done immediately at the administrative level. If a FERC-

like commission is established, the probate process would need to undergo an overhaul in structure.

- The Eastern Oklahoma section calls for legislative reforms with lands continuing to pass out of restricted status; remanding probates to tribal courts.
- Recommendations in the Alaska section include, 1) to allow the Secretary of the Interior to permit Native corporations to more easily transfer lands to tribes; 2) authorize amendment to provide that former reservation lands can be acquired by Native villages in Indian Country, and 3) a restoration of Native hunting and fishing rights extinguished in the Alaska Native Claims Settlement Act.
- Section 5 also discusses how DOI handles water rights litigation and recommends that changes be made at the Office of Management and Budget level.

Commission Discussion of Draft Report as Described

Commissioner Hall: How is the Commission protecting the rights of the allottees? There has always been a difference in management of land between land the government is interested in (e.g., mineral rights, etc.) and trust and allottees.

A: The report is weighted toward making sure that allottees are taken care of. It speaks more to the rights of allottees. Emphasis is on improving administration for allottees, making sure that individual tribal members can figure out what's happening with their lands and accounts.

Commissioner Hall: Is there detailed discussion in the Grant Thornton report of how is OST is going to be sunsetted? Commissioner Hall would recommend that current regional level functions should be brought back and preserved under BIA.

A: The Grant Thornton report has specific recommendations about organizational structure, where they identify gaps in communication or financial administration, and critical services that are missing. They also recommend that where services are critical there should be no lag time in their delivery during a transition.

Commissioner Hall: Is Grant Thornton recommending complete sunseting of OST? What goes back under BIA?

A: OST would become part of new proposed Commission functions. Indian education and Indian services would be placed under BIA. (They but could be moved over as well – it was just not in Grant Thornton's scope of work to look at those).

Commissioner Zah: Thanks to Bob and Stacy for doing so much hard work, and for including the Navajo proposal about rehabilitation of land where lands were frozen by the federal government, as in the Bennett Freeze.

Commissioner Zah would also like to see discussion concerning the quality of people being hired by the federal agencies to carry out the recommendations of this Commission and others. He stated that there needs to be an emphasis on hiring passionate, engaged people rather than people who don't listen or do not follow through on carrying out recommendations.

Public Comments

Q: Will there be a draft of the report posted? *and* Where do I find the Executive Summary?

A: The draft table of contents will be posted on the Commission website after the call. The draft report and executive summary will be available and posted on the Commission website before the conference call on December 10th. The Commission will be changing the executive summary to reflect today's comments.

Q: Is the Grant Thornton technical report available for review?

A: The Grant Thornton report will be appended to the Commission final report prior to the December 10th webinar with the top 20 recommendations and will be available.

Q: Restrictive Settlement Tribes of the Northeast - any discussion or comment? USET did submit comments.

A: Commissioner Anderson will put testimony received on these issues into the report and clearly delineate that issue.

Q: Have you collected comments from the land owners?

A: Yes. There has been a lot of participation from individual allottees; there are representative comments in the report

Q: Based on the Executive Summary provided today, the Commission report sounds very good. Thanks for all the work. If not addressed in the Grant Thornton recommendations, does the Commission plan to make any specific comments regarding self-determination for tribal trust asset management?

A: That's an option that's out there that DOI should support. The Commission will look at what's in the report and make sure it's addressed

Q: Message to Regina Gilbert: Do you have any info on Ft. Reno - Cheyenne Arapaho on buyback program or correspondence with Michael Copperthite.

A: *This question was forwarded to Ms. Gilbert after the webinar.*

Q: How is undivided allotted land being divided? I have never seen any division of the lands that I know of and am wondering how the sales when they happen are going to be divided. Would like to clarify further that I am talking about undivided lands within one allotted land section that may have 30 or more owners with varying amount of land that are undivided.

A: As far as we know, they have not changed the current standard; it's still being divided under regular partitionment. *Note: Additional clarification was sought from the webinar participant and the Commission will follow up with the individual after the webinar.*

Q: Who do we email additional questions or comments?

A: Email additional questions to trustcommission@ios.doi.gov by November 25th.

Adjourn

Chair Sharp thanked all the participants in the webinar and the Commissioners for their hard work and adjourned the webinar at 2:30 pm Pacific.

Webinar Call of the Secretarial Commission on Indian Trust Administration and Reform

November 20, 2013

1:30-2:30 Pacific /2:30 – 3:30 Mountain/3:30-4:30 Central/ 4:30-5:30 Eastern

Phone: 888-469-0490

Public Access Code: 4141505

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Objectives

- Attend to Commission operations
- Review and approve Commission Report Executive Summary
- Discuss next steps, and
- Public comment

Agenda (Times listed in Pacific)

- 1:30 – 1:35 Welcome, Introductions, Agenda Review –Chair Sharp
- Brief explanation of how public comments will work on webinar. – Sarah Palmer (facilitator)
- 1:35 – 1:45 Approve August 2013 Public Meeting Summary - Commissioners
- 1:45 – 2:15 Review, Discuss Commission Executive Summary and Report on Next Steps – Commission and DFO Harris
- 2:15 – 2:30 Public Comment – Sarah Palmer, facilitator
- Questions online
 - Questions by phone
- 2:30 Adjourn –Chair Sharp

Commission Website: <http://www.doi.gov/cobell/commission/index.cfm>

Commission Email: trustcommission@ios.doi.gov

Webinar Materials:

- ITC August 19 Public Meeting Summary 091213 DRAFT
- Trust Commission Executive Summary

Appendix B Webinar Participants.

Abeita, Victoria
Abeyta, Martin
Abrahamson, Greg
Alderete, Marie
Anderson, Natasha
Anderson, Robert
Baker, Rhonda
Barham, JP
Bennett, Gayla
Bird, Cathy
Bivens, Francine
Brooks, Gail
Brown, Katrina
Bullshoe, Lisa
Butler, Eleanor
Clausen, John
Cordry, James
Crespin, Sarah
Darling, Nedra
Davis, Mark
Deeschii-nii, Martha
Dettling Logan, Teresa
Devlin, Michael
Dewilde, Lesley
Dykstra, Liz
Edelstein, Joshua
Freeman, Priscilla
Garcia, Ernest
Gerard, Patricia
Geyer, Alan
Gilbert, Regina
Gonzales, Trina
Hall, Tex
Halterman, Marshea
Hamilton, Ange
Henning, Randy W.
Hicks, Charlotte
Hill, Clifton
Huff, Anita
Hunt, Novella
Jackson, Charles
jones, marianne
Kerndt, Gustave
Kinnison, Akilah



Lane, Travis
Leeds, Stacy
Liberty-Traughber, Mary
Lohman, Cheryl
Marks, Patty
Mattingly, Patricia
McBride, Eileen
McClanahan, Rosalie
McKenna, Robert
Moore, Virginia
Morris, Ginger
Murray, James
Olson, Patricia
Pafel, Debby
Parker, Phil
Patten, Jenny
Patterson, Brian
Poitra, Chad
Redman, James
Rey-Bear, Dan
Riggs, Helen
Ross, Brian
Rugen, Cathy
Scribner, Theodore
Scribner, Wayne
Sebastian, Dale
Shaw, Bodie
Sparks, Elizabeth
Sundown, Mardell
Tenorio, Michelle
Warito, Ratana
Watts, Daniel
Wilson, Sheri
Wilson-Hight, Evon
Winter, Robert

