UNITED STATES DEPARTMENT OF THE INTERIOR
INDIAN TRUST ASSET REFORM ACT (ITARA) IMPLEMENTATION
TRIBAL CONSULTATION
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P R E S E N T A T I O N

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MS. DuMONTIER: Good morning. Welcome to the Indian Trust Asset Reform Act Consultation Session, and I would respectfully request that Cleve Her Many Horses, if you would like to please start us with an opening. Thank you.

(Prayer recited.)

MS. DuMONTIER: Thank you. My name is Deb DuMontier. I'm the Deputy Special Trustee with the Office of the Special Trustee for American Indians. I'm a direct report to Vince Logan, our Special Trustee, Political Appointee, Senate Confirmed. I'm honored to be part of this consultation today at Sioux Falls.

My tribal affiliation is the Confederated Salish & Kootenai Tribes in the Flathead Nation located in northwest Montana, large land-based tribe fully exercising self-governance.

I was legal counsel for CSKT for 10 years, and I'm a licensed attorney with the State of Montana. For the past 11 years I've been working with OST implementing and leading trust reform, first as a fiduciary trust officer. And we have our fiduciary trust officer for this region here. Next, as a litigation coordinator, and it's been very rewarding to be part of the number of tribal trust

litigation cases that have been settled, nearly 100, if not more than 100, when we get done with this administration. And then, finally, in the position that I'm in today.

On behalf of the Department of the Interior, the staff here today, and those working throughout Indian Country, it's a privilege to serve you and to be a partner in the government-to-government relationship, and we do thank the tribal leadership that is here today. We know we only have a few of the tribal leaders represented for this region, and because of all the other meetings that have been taking place today, and events, we're going to be holding a consultation October 4th in Rapid City, and we'll be getting letters out to that effect, and I'm informed we'll probably be starting that at 9:00 in the morning.

We also appreciate the participation by Cheryl Andrews-Maltais, the Senior Adviser with the Assistant Secretary of Indian Affairs; as well as Mike Smith, our Deputy Bureau Director of Field Office for BIA. I see Tim LaPointe is here, our Regional Director, and our BIA representatives as well as our OST. Thank you very much for joining us.

There may be members of the media here today. I don't actually see any. Doug Lords is our point of contact for media. We just respectfully request that the media not disturb the tribal consultations and any questions by the media be reserved until the conclusion of this session.

As you're aware, the Indian Trust Asset Reform Act was signed by the President on June 22nd. We are holding a number of consultation sessions across the nation, and the last session was intended to be a telephone consultation on September 19th in D.C., but we're going to, again, have one for Great Plains. We're also going to have a consultation for the Navajo Region September 27th.

We are accepting written comments until September 30th. And that also will be extended to October 7th to give tribes a little bit more time to submit their comments.

The legislation is an important step in our commitment to strengthening tribal sovereignty and decision-making. It also gives us an opportunity to evaluate what has worked and what could be improved within the systems and processes implemented as part of the creation of the Office of the Special Trustee. Our staff and you are a

critical part of that evaluation. Today's consultation focuses on Title III of the Indian Trust Asset Reform Act. The law provides that the Secretary will identify all non-monetary management functions currently being conducted by OST. Therefore, we're here to present those functions and consult with you on where these functions might be transferred to other entities within Interior. And I will be presenting in a few moments a brief PowerPoint on Section 304.

The law also provides that within 18 months the Secretary must ensure that the Indian Trust property appraisals and valuations are administered by a single entity within the department. So today we're seeking feedback on that transition. And Mr. Steve Bottemiller, our Regional Deputy Director, will be presenting a PowerPoint on Section 305(a) and some suggestions on how this might be accomplished, but we're looking forward to hearing any ideas that you may have.

And Cheryl Andrews-Maltais will be presenting a short presentation on the draft minimum qualifications for individuals to prepare appraisals and valuations of Indian Trust property. When an appraiser, meeting these minimum qualifications,

prepares an appraisal of Indian property, the user of the appraisal intends to forego Departmental review. The Department will be able to rely on that appraisal without further review.

You, as a trust beneficiary, can submit the appraisal to the Department for use in the trust property transaction, express your intent to waive the review, and no Departmental approval of that appraisal will be required.

We are developing a proposed rule that establishes the minimum qualifications, and we are interested on your views on them. We're also interested in your views on the process by which the Department would verify that an appraiser meets those qualifications. Those and other questions we'll be presenting to you later today. And the proposed rule and all our presentations are in your notebooks that have been provided, and the materials are also online.

Finally, we're interested in your views on the establishment of an Under Secretary for Indian Affairs. The Indian Trust Asset Reform Act provides that the Secretary may establish an Under Secretary for Indian Affairs, who would report directly to the Secretary. We want to hear your thoughts on that

provision.

We're anxious to hear your comments and suggestions. We have four short presentations, and, in general, we want to save time to hear from you.

So starting with my presentation on Title III, Section 304 of the Indian Trust Asset Reform Act, and you'll hear us refer to it as ITARA, improving efficiency and streamlining processes.

First, in addition to Steve, who will present after me, I would like to acknowledge our OST leadership here today. Doug Lords, Deputy Special Trustee Acting for Field Ops; and Rob Winter, our Director of Trust Services and Acting Deputy Special Trustee for Trust Services; Lauren Difilippo, our Office of Solicitor; and Tim Lake, our new Regional Trust Administrator duty stationed in Aberdeen. And I also would like to acknowledge our staff who have worked diligently to make sure the binders were here, and the facilities have been secured, and certainly appreciate all their work. This is our seventh consultation, and it's been interesting traveling and interesting holding these consultation sessions.

Again, Section 304 requires the Secretary of the Interior to identify the non-monetary

functions that OST performs, which is an opportunity for us to reflect upon our current practices and to hear your recommendations regarding this section of the Act as we chart a path forward together with Indian Country.

It's also an opportunity for us to reflect on the Department's progress in trust reform. In the next few slides we'll provide you a brief overview and some context of the Office of the Special Trustee.

So why was OST created? The American Indian Trust Fund Management Reform Act of 1994 created OST in response to strong demands for accountability and transparency for the Indian Trust Funds. The primary purpose of OST was to improve management of the Indian funds and assets held in trust by overseeing and coordinating trust reforms within the Department.

However, in 1996 OST's role expanded by Secretarial order to include operational responsibility for financial trust fund management, including the accounting, investing, and disbursing to individual Indians and tribal beneficiaries. OST was later delegated the functions of appraisals of Indian trust lands and historical trust accounting.

This next slide will demonstrate the complexity of our work not only in the trust funds managed but the number of accounts managed. Implementing a modern centralized -- excuse me. Well, this is the first time where I've lost my notes. Found it. Fiduciary trust account system, OST currently manages approximately 5 billion. OST receipts and disburses 1.7 billion each year, with a 99.99 percent accuracy rate. OST processes, on average, more than 40,000 financial transactions each day totaling more than 10 million transactions annually.

As the pie charts illustrate, the greatest balance, over 80 percent, is held in 3,300 trust accounts for 250 Tribes invested in individual portfolios to meet the cash flow objectives of the respective Tribe. Approximately $845 million, or 17 percent of the trust funds, is invested in a pooled account for over 400,000 IIM accounts, or over 99 percent of the total accounts managed. And of interest for this region, for the Great Plains region, we have over 88,000 IIM accounts and over half of what we manage is managed for this region.

Since the settlement of Cobell, OST has received an unmodified opinion on the IIM financial

statements conducted by an independent major accounting firm for three consecutive years. In addition, OST has developed a strong focus on the beneficiary services to ensure that our tribes and individual beneficiaries receive the customer service necessary to empower them with the knowledge to make informed decisions about their trust assets.

Congress requested identification of all functions other than collection, management, and investment of Indian trust funds that OST performs, and specifically those functions that affect or relate to the management of the non-monetary trust resources, which is our appraisal services program.

Now, for full transparency, we've identified our functions based on our budget justification for the OST programs, including the management, collection, technically BIA collects but we receive, and investment of the Indian trust funds. And, in addition, OST's developed a comprehensive fiduciary trust model to enhance the beneficiary services and accurately account for the Indian trust funds. So some of the functions are interrelated with monetary and non-monetary resources. The asterisk denotes the functions that impact other Department of Interior Offices,

Bureaus, Tribes. And, again, this diagram is in your binder, and also the description for each of the functions is also in your binder.

In addition to the improved financial system and maximized service delivery to beneficiaries displayed on this slide, we've already talked about the Centralized Fiduciary Account System, which we refer to as TFAS, and also lockbox receipting, one-day receipting. And then the portfolios for Tribes that are individual, and then individual portfolios as well as the pooled for IIM. But OST has also established the Office of Trust Records and the American Indian Records Repository, the AIRR.

The AIRR located in Lenexa, Kansas, is a dedicated underground storage facility used for the proper safeguarding and storage of fiduciary trust records. This is a major achievement, and the AIRR has specially-trained staff dedicated to protecting very important documents for Indian Country. And for the tribal leaders who are interested in visiting the AIRR, please let us know and we can make those arrangements, as well as if you're ever in Albuquerque and would like to visit our facilities located at mast head. Would love to have

you there.

OST has enhanced beneficiary services with our trust officers and staff, able to assist beneficiaries either on tribal lands or in close proximity to those lands to partner with the Bureau of Indian Affairs, the Office of Natural Resource and Revenue, the Bureau of Land Management, other federal and state agencies, and Tribes in addressing Indian trust matters on a regional and local level.

OST also operates a toll-free trust beneficiary call center with expanded hours of service and direct support of beneficiary calls and inquiries, providing consistent, timely, and accurate information.

The TBCC has responded to more than 1.8 million calls since 2004, with a first line resolution rate of 94 percent, meaning they answer your call 94 percent of the time the first time you call. The standard in the industry is less than 50 percent.

The OST field operations dedicated and direct services to beneficiaries complements the work of our Federal and Tribal partners so they may remain focused on their mission and important stewardship of natural resources and the land.

In addition, our staff aggressively looks for account holders with unknown addresses through outreaches, interagency collaboration, and searches of over 7,000 electronic databases. Thus far we have found more than 330,000 account holders and distributed more than $386 million. The success stories are amazing, and, in some cases, drastically changing lives of our beneficiaries. This work has also helped the land buy-back program for Tribal Nations in getting the purchase offers out to a number of Indian landowners of fractionated interest.

Our fiduciary trust officers and regional trust administrators provide financial empowerment training to promote economic self-sufficiency. And, also, we provide beneficiaries with the statement of their accounts including the funds activity and the real property assets to help increase financial awareness and to inform individuals and tribes of their interests.

Ongoing initiatives, to streamline automated processes for OST are based on best practices and lessons we have learned from close work with our tribal leaders and communities. Trust resource and asset management in Indian Country must

not be stagnant. Trust reform is always a work in progress.

OST is developing 21st Century tools to enhance services such as online banking for IIM accounts or enhancing StrataWeb which is how Tribes currently access tribal account information. OST continues to work on probate reform initiatives and provides support for Indian estate planning services to assist Indian landowners with understanding the American Indian Probate Reform Act.

OST is reducing our carbon footprint and promoting cost effective efficiencies with automating trust processes and digitizing trust records.

OST will continue to support the Cobell settlement and the land buy-back program with our expertise and innovation with appraisal evaluations, outreach, and account services. And of interest for Tribes' Compacting Trust Programs, OST has developed, with the assistance of nine pilot tribes and consortiums, an online evaluation tool to streamline the evaluation process that's less burdensome on Tribes than the current evaluation process. And some of you that were here a little bit earlier, we were playing a video. That video is

available online, but that's the Tribal Methodology Project. And the Title II ITARA, which we're not discussing today, but there is provisions in there for evaluations of trust programs that this particular evaluation tool may satisfy.

Benefits to the separation of duties. We know that OST's value comes not from its position within a particular office at the Department, but, rather, from its singular focus and discrete duties related to the fiduciary trust responsibility. Moreover, these duties must continue no matter in which office the functions are located to maintain a level of services Indian Country deserves.

The core trust accounting functions, providing direct beneficiary service and maintaining internal controls, were created and established separately with the intention of operating independently of the general trust operation. This structure was created to avoid conflicts of interest, commingling of resources, redirection or re-prioritizing of other interests to ensure accountability and delivery of services.

The separation provides a dedicated and direct approach to managing Indian financial trust assets in accordance with sound fiduciary trust

principles.

So in conclusion, that was a very quick overview of OST. We've identified our functions. There is also an accomplishment's brochure in your binder of OST's work over the past 20 years. We look forward to working with all of you to implement the 2016 Indian Trust Asset Reform Act and welcome the opportunity to dialogue with you to develop a strong plan to serve Indian Country.

Again, the handouts provided to you are posted on the ITARA website. The web link is identified on those handouts. We've also provided links to various documents and reports such as our annual audits and other background material for your reference.

In the meantime, the OST staff continues to work hard to serve Indian Country and remain focused on our mission to honor our trust responsibilities with the beneficiary focus on participation, while providing superior stewardship for the trust assets for the proper discharge of the Secretary's trust responsibilities.

So with that, I'm going to turn it over to Mr. Steve Bottemiller for a presentation on Section 305, the appraisals. Thank you for your time and

attention.

MR. BOTTEMILLER: Thank you. My name is Steve Bottemiller, and I am the Deputy Director of Regional Operations for the Office of Appraisal Services for OST. And just a bit about me, I have been doing appraisals now for 40 years, and I've spent 25 years of that 40 years in the federal service and have been with the Office of Special Trustee for a year now.

I hold three professional designations. I'm a member of the Appraisal Institute, the Appraisal Institute's Review or General Review Specialist designation. And then I'm a Fellow in the Royal Institution of Chartered Surveyors of London, England.

So getting right into Section 305(a), it requires that appraisals and valuations of Indian trust property be administered by a single bureau, agency, or other administrative entity within the department.

So just a bit of background about where OAS has been. In 2002 the appraisal program was transferred from BIA to OST under Secretarial Order 3240. In 2005 through 2009 the appraisal program was under the management of the Appraisal Services

Directorate which now is the Office of Valuation Services in the Department of Interior.

In 2010, OAS was moved from that management structure back under OST, and we've been there to this day.

The next slide here you will see the current appraisal process. And step one, we have a requestor, BIA, or Indian Tribe or Real Estate Services function starting the appraisal process.

Then step two, the requestor prepares and submits appraisal requests with the required documentation. And the required documentation that we're generally looking for are things like title status reports, maps, legal descriptions, surveys, tract numbers, et cetera, things that we need in order to produce a credible appraisal product.

Step three, the Office of Special Trustee for American Indians, the Office of Appraisal Services. So it enters our organization. The appraisal report then is completed and submitted for technical review and approval.

Step five, the Office or OST, Office of Appraisal Services then completes that review, and either approves or rejects the report, and then that is communicated back to the originator or the

requestor in the beginning. So that's the basic process of what we do.

Now, in regard to backlog, which concerns many of you. In 2008 appraisal requests that were past due totaled 3,369. And as of July of this year, 2016, we have reduced that to 289. So that's a substantial reduction in the number of years.

Might also mention that for fiscal years 2012 through 2015 we had 35,502 appraisal requests. And of those requests, 902 were canceled. So a small percentage, 2.54 percent.

So far, 2015, it is 11,154 appraisal requests for that FY. 210 were canceled representing 1.88 percent.

So basically in the Department of Interior, Office of Special Trustee component, we've got the Office of Appraisal Services. We conduct appraisal work, not just the reports but also the reviews.

We then utilize the Division of Minerals evaluation, and we'll show them in a chart here on the next slide. And they primarily conduct mineral, estate appraisals, valuations, that type of thing. And then we utilize the Forestry component of the Bureau of Indian Affairs to conduct timber cruises

and appraisals.

So like I mentioned earlier, or in the prior slide, you can see here the framework. So under the Secretary of Interior we have the Assistant Secretary of Policy Management and Budget. And under that is the Office of Valuation Services and the Division of Minerals and Evaluation is part of the Office of Valuation Services.

In the center there is where we are, OST. We have the Office of Appraisal Services, and then we have the OAS Regional Offices.

Under the Secretary or the Assistant Secretary of Indian affairs, we have the Bureau of Indian Affairs. We have field operations, the regional offices, agency offices, and then the Forestry branch. And so the OAS regional office then, as you can see by the dashed lines, is supported by the Division of Minerals and the Forestry branch.

So in this slide the OAS currently approves all appraisals and valuations of Indian trust property. Some of these valuation services are provided by OAS as well as tribal and individual landowners being supported by DME Mineral Estate Appraisals and BIA Forestry Timber Appraisals.

In FY '15, OAS completed 3,099 appraisal requests. 171 percent of these completed appraisal requests required some DME mineral evaluations, and 78 required some BIA intervention in regard to valuations.

So if you take a look at Bullet No. 3, this represents the norm for OAS. And Bullet 4 is the 11,873 involved land buy-back program for Tribal Nations. 7,142 of the completed appraisal requests within this 11,873 required some kind of DME Mineral Estate Appraisals. And roughly 10 percent, or 1,187, required some form of BIA Forestry Timber Appraisals.

So primarily OS -- or OAS has two appraisal divisions. One is the regional operations, which is the one that I'm responsible for, and the other is the land buy-back program which is on a ten-year cycle of securing properties.

Okay. So that's a bit about what we are and where we're at. So here's a pie chart that basically is a pictorial of what I just talked about where we've got 2,850 appraisal requests this last year, and 78 of those requests required some BIA Forestry involvement, and 171, or 6 percent, required some mineral evaluations.

So here is the pie chart as we just saw in the prior page. And what is happening is we're transitioning into something new, and we are going -- or OAS will be going into some single entity.

In this instance it is has just been identified as the Indian Land Valuation Offices. There could be something else, and then that will be administered by several options. One might be the Office of the Secretary. Another option could be the Office of the Special Trustee for American Indians.

Another could be the Assistant Secretary for the Policy, Management and Budget. OAS could be transitioned into the Office of Valuation Services. We could also be transitioned into the Assistant Secretary for the Indian Affairs. It could be transitioned into the Bureau of Indian Affairs or there could be other departmental offices.

So a number of options and opportunities for OAS to be able to continue strong and credible service to the Indian Nations throughout the United States.

So I want to thank you for the opportunity of being able to share that with you. And we're

very much looking forward to comments in regard to where you feel OAS should be. Yes, all appraisals. So, anyway, thank you again, and I'll turn it over to Cheryl.

MS. ANDREWS-MALTAIS: Thank you. Thank you very much, and good morning. My name is Cheryl Andrews-Maltais, and I'm the Senior Adviser for the Assistant Secretary of Indian Affairs, and I'm also a former tribal leader of my community, the Wampanoag Tribe of Gay Head, Aquinnah, in Massachusetts.

And my portions today are particularly with the minimum qualifications and the development of the Under Secretary's position.

Basically what I'm here to do is solicit your feedback and comments on how best to develop these areas to better meet the needs of Indian Country.

Consultation is a significantly important component to what it is that we do in Indian Country now, and we want to make sure that as we move forward that we're looking at and establishing programs, protocols, and our offices to where it benefits with what Indian Country is today versus Indian Country of the past.

So just to get started, the Indian Trust Reform Act, or as we keep referring to ITARA, my section is 305(b), Minimum Qualifications for Appraisals.

Essentially Section 305 is looking to establish minimum qualifications for appraisers. Not later than one year after the date of enactment of this act, the Secretary shall establish and publish in the Federal Register minimum qualifications for individuals to prepare appraisals and valuations on Indian property. And that means by June 22nd of next year, '17, we will need to have these minimum qualifications and standards created and published.

Also, as Deb mentioned, the comment periods have been extended. And, again, we're asking for your comments, guidance, and ideas on how to best prepare these things.

Secretarial approval -- excuse me. Secretarial approval, in any case in which an Indian Tribe or Indian beneficiary submits to the Secretary an appraisal or valuation that satisfies the minimum qualification described in Section B, and that submission acknowledges the intent of the Indian Tribe or beneficiary to have the appraisal or

valuation considered under this section, the appraisal or valuation shall not require any additional review or approval by the Secretary, and shall be considered to be final for the purposes of effectuating the transaction for which the appraisal or valuation is required, meaning that it doesn't go any further.

If the Tribe or the individual beneficiary has determined that this is what they want, then it doesn't require any more Secretarial review.

The proposed Rule 43 CFR, and this is what has been passed as far as the rules. This part applies to anyone preparing or relying upon an appraisal of Indian property.

Focus on what are the minimum qualifications for qualified appraisers?

A, the appraiser must hold a current certified -- or the idea is that the appraiser must hold a current Certified General Appraiser's license in the state in which the property appraised is located.

B, the appraiser must be in good standing with the appraiser regulatory agency of the state in which the property is appraised -- the property appraised is located.

And, C, the appraiser must comply with the Uniform Standards of Professional Appraisal Practice rules and provisions applicable to appraisers, including but not limited to competency and ethics requirements.

And we're looking for you to guide us in such a way that helps the Tribes establish a standardized appraisal mechanism of minimum qualifications. It's important to understand that without having some sort of standard of minimums, those appraisals may not be in the best interest of the Tribes and/or the Tribal members. So it's really important to make sure that we have those levels of professional standards built into the mechanism.

Another question we have is must I submit an appraisal to the Department? Yes, you must submit -- you must submit appraisals for transactions that require Secretarial approval under other parts of this Title 25 and Title 43 of the Code of Federal Regulations, meaning leases and rights of way. And that means if the Secretary's approval is needed, appraisals and valuations are needed.

Another question is is will the Department

review and approve the appraisals? And the answer is no, if (1) the submission acknowledges the intent of the Indian Tribe or individual Indian not to require the Departmental review and approval.

Or, (2), if the appraisal is completed by a qualified appraiser meeting the rule's requirements.

And, (3), no owner of any interest in the Indian property objects to the use of the appraisal without Departmental review. Meaning that it's -- this places the decision of having that property appraisal accepted in the hands of the Tribe or the tribal member.

But on the other hand, the answer is yes, that the Department will review the appraisals if any of the criteria above are not met, or, (2), if the appraisal was submitted for purchase at probate under 43-30, which is Indian probate hearings and proceedings, or the land buy-back program for tribal nations, or legislation requiring the Department to review and approve an appraisal.

What happens if the Indian Tribe or individual does not agree with the submitted appraisal? If the Indian Tribe or individual does not agree with the submitted appraisal, the Indian

Tribe or individual may choose to, not use the appraisal conclusions or findings, and request that the Department perform an appraisal or valuation.

In this instance, there were questions: Is the Department liable if it approves a transaction from an Indian property based on an appraisal submitted by a qualified appraiser?

And the answer is: The Department is not liable for any deficient or inaccurate appraisal or valuation it did not review or approve.

Again, why it's so important to make sure that there is standard minimum qualifications for the appraisers if a Tribe wants to assume those responsibilities.

Even if the Department approved a transaction for Indian property, including but not limited to a lease, grant, sale, or purchase, based on an appraisal prepared by a qualified appraiser. And that's, again, why it's so important to have those standards.

The questions to consider are: (1) Do any tribes grant Certified General Appraisal licenses similar to those granted by the states? And if so, is the license limited to appraisals and valuations done on a property within the Tribe's jurisdiction?

(2) Are the minimum qualifications appropriate for appraisals and valuations of timbers, minerals, and other property separate from the appraisals and valuations of real property? And if not, what qualifications would be better suited for those appraisals and valuations?

And (3), is there a way to allow for the Department to verify an appraiser's qualifications without requiring the qualifications to be submitted with each appraisal and still ensure the appraiser is qualified at the time the appraisal is submitted, for example, there have been no changes in the appraiser's qualifications such as a loss of license or certification.

So, again, these are some of the questions that we've put forward that we discussed our role here is to solicit your ideas and your comments on what you think would be best practices for us to incorporate into our deliberations as we create these guidelines for those minimum qualifications.

The next section is the Indian -- the Under Secretary for Indian Affairs. Now, the ITARA is calling for a new position, namely the Under Secretary on Indian Affairs, and it did not specify where that would be, how that would be structured,

what roles/responsibilities that position is going to have. So we're looking to Indian Country to help us develop guidance on what we think or how you think it should be developed for the responsibilities that the Under Secretary will have.

Basically in Section 303(a), establishment of position. The Secretary may establish in the Department the position of Under Secretary for Indian Affairs, who shall report directly to the Secretary.

(b), the appointment shall be appointed by the President and with the advice and consent of the Senate.

(c), the duties, in addition to any other duties directed by the Secretary, the Under Secretary shall coordinate with the Office of Special Trustee, to ensure an orderly transition of the functions of OST, to one or more appropriate agencies, offices, or bureaus within the Department. To maximize, to the extent practicable, supervise, coordinate -- supervise and coordinate the activities and policies of the BIA within BoR, BLM -- sorry about that -- the Office of Natural Resources and Revenue, National Park Services, and Fish and Wildlife.

1 And, 3, provide for regular consultation
2 with Indians and Indian Tribes that own interests in
3 trust resources and trust fund accounts.
4 So these are the provisions that are
5 also -- that are constant -- I mean, that are
6 currently out there.
7 The Under Secretary will also be
8 responsible for personnel provisions, appointments.
9 Underneath -- the Under Secretary may appoint and
10 fix the compensation of such officers and employees
11 as the Under Secretary determines to be necessary to
12 carry out any functions transferred under this
13 section.
14 (2), Requirements. Except as otherwise
15 provided by law, any officer or employee described
16 in paragraph 1 shall be appointed in accordance with
17 the civil service laws.
18 (b), the compensation of such an officer
19 or employee shall be fixed in accordance with
20 Title V of the United States Code.
21 And, (c), in appointing or otherwise
22 hiring any employee, the Under Secretary shall give
23 preference to Indians.
24 And this is just an idea of how this
25 schematic would or could look like. But, again,

this is something that we're looking to Indian Country to determine exactly where they feel the Under Secretary should be, what roles and responsibilities that person should have, and to guide us in putting it in an appropriate place for our recommendations back to the Secretary.

And at that, again, I would just like to thank you for having us here and having the opportunity to speak with you on behalf of these particular -- this new law, and the impacts in Indian Country, and strongly encourage that, you know, you give us your feedback and ideas on how we can best develop these programs and these positions. And with that, I'd like to give it back to Deb as well as encourage open and candid discussion.

MS. DuMONTIER: Thank you, Cheryl. That concludes our presentations and we'll now open it up to comments. The functions regarding OST Section 304, we have a year to submit a transition plan to Congress, and that's one reason why we've started the consultations so quickly after the enactment of the legislation. The Secretary, Sally Jewell, has requested that we provide her the information so that she may be able to submit that report prior to this administration. So your comments are valuable

to us. We have a court reporter here who will be able to document your comments that you would like to make today. And also, again, we encourage you to submit your written comments prior to the extended deadline, which is October 7. So with that, we'll open it up for comments starting with our tribal representatives.

MR. ANTOINE: Good morning. I'm not sure this is on. My name is Eric Antoine. I am the in-house attorney for the Rosebud Sioux Tribe, and we had a couple of questions regarding the July 13th, 2016 Dear Tribal Leader letter that was sent out, and it kind of relates to the creation of this Under Secretary position. Our questions had to -- the letter itself isn't really very specific about what functions are going to be under this new position. And one of our concerns is that some of the OST functions, are they all going to be under this new position or are they going to be transferred to some other department within the Interior, for example, BLM, BoR, et cetera?

And that was a concern for the Rosebud Sioux Tribe because we -- it isn't clear from your letter whether these functions will all be under this new position or some other department within

the Interior.

And our second concern is the funding for OST, will that also stay within the Bureau or would it be transferred to some other department or division within -- related to the question on the functions and the funding, will they also be transferred out of the Bureau or will they be under this new secretary position? So those are our -- some of our questions and/or concerns.

MS. ANDREWS-MALTAIS: Thank you for that. With regard to where the Under Secretary's position will be, that's something that we're looking to the Tribes and Indian Country to provide us with guidance on where Indian Country thinks that position should be. And with regard to where those services would be, that, too, we're looking to have these consultations in order to gather ideas and suggestions with regard to that. So if you do -- if Rosebud has any suggestions as to where they'd like to see it, we would welcome to having those submitted to us in writing, if you'd like, if you have specific suggestions.

With regard to the funding, I'm not in a position to say where the funding would be. But, obviously, where the functions go, if the functions

are being performed, those functions have got to be paid. But, again, I'm not -- nothing is etched in stone at this point, so what we're doing is wanting to hear from Indian Country what the suggestions are. And having that your questions are here, we can certainly address the questions, particularly, because we have the court reporter. But if you wanted to also put them formally in writing, we would be happy to review them in that manner as well.

Are there any other comments? Considerations? We have a tremendous panel, and we have a lot of our federal partners and subject matter experts here in the room. And if you would like to -- if you have questions about anything else we would be happy to entertain them as well.

MS. DuMONTIER: Doug, do you want to introduce yourself, and maybe you could introduce Howard.

MR. LORDS: I'm loud enough. For most of you that don't know me, my name is Doug Lords. I'm the Acting Deputy Special Trustee for our field operations in Albuquerque, New Mexico. I am an enrolled member the Chippewa Cree Tribe of the Rocky Boy Reservation in upper Montana, Box Elder, Montana. Twenty years -- 26 years with the

government, and my normal job is Trust Services, but I am now more active in Field Ops. Can I have, please, the other TO's stand up, please, and introduce yourself, please.

MR. VALANDRA: Name is Howard Valandra from Rosebud. I'm the Fiduciary Trust Officer for the Yankton Reservation and the Yankton Santee Reservation in Nebraska. With me today is Mona Wright. She's a committee person with the Yankton Sioux Business and Claims. And Secretary Stewart Little with the Santee Sioux Tribe.

MR. LORDS: Thanks, Howard. And if anyone has a specific question outside of consultation, please feel free to grab Howard, Tim, Mel, myself, Jennifer, and we'll get you, or try to get you the answer for whatever your particular question may be.

Thanks to everyone for coming. I know you all have busy schedules, and this is very important to us, and I'm sure it's very important to you. And when we did this and went through this presentation, it wasn't about OST, where we end up or don't end up. It was about what can we do best for the beneficiary tribal individual. So that's what we did when we structured this and looked for the various input in how we can continue, and I'm biased

on this, the high quality of service to the beneficiaries. Thank you.

MR. WINTER: I'm Rob Winter. I head up our credit functions with OST. Mr. Lords has pretty much said it all, I think. I just want to say that I'm proud to serve the beneficiaries for the last 18 years in taking the trust management from where it was when it was transferred to OST from OAS. We even have some of our probate staff here in the room, Cynthia and Erika. And so if you've got any questions regarding those subjects, we would be glad to answer any of them. Thank you.

MR. WARD: Good morning to y'all. Chad Ward, Sisseton-Wahpeton Oyate. Thank you for this presentation on OST and OAS. For us in Sisseton-Wahpeton, I guess one thing concerning is to put everything into one branch, as we depend on the Bureau for a lot of information now, and to put this under them, too, I think, would be a mistake to leave OST the way it is now. Have OST -- we depend on OST a great deal in terms of, at a moment's notice, when the tribal council, tribal executive's meeting, you know, balances into the accounts that the Tribe has with the money that has been collected. You know, we have the fortune of having

Tim Lake located right in the Tribal Administrative Building to get that information, as well as the technical assistance he has provided with the appraisals. You know, it's great to have the appraisals now back in the Aberdeen area where we can get those. We have a tremendous backlog of those as well.

Also, just like I said, I can't express in terms the amount of assistance we have been able to get from OST on a lot of questions, tribal members as well, just not the Tribe itself but tribal members themself.

When it comes to, you know, when Cobell came, a lot of them had concerns with the appraisal process. And that's where OST, you know, would sit down and speak with them. You know, we seen that firsthand. You know, have a lot of concerns on are they getting the value that they should be. What exactly is this map showing them. So for that, too, the tribal members were very grateful from our Tribe for that assistance as well. And then just the information, having someone there. You know, when we had questions on Cobell as far as the mass appraisals, how those worked. That was great, you know, because there was quite a bit of alarm that we

weren't going to get the value with the mass appraisal as we did with the individual.

And, also, the other thing I would say is transactions, being able to -- for the Tribe to acquire land from individuals, you know, whether that -- the tribal office or BIA office, you know, maybe didn't complete the process. It's great to have OST there to check and say, hey, this individual, he or she had sold land to the Tribe. They're still getting the income and the Tribe had already purchased that land.

So the information like that has been very helpful for us to have, you know, OST there to provide that for us. And so, for me, I would say that keeping it the way it is or keeping it separate would be crucial because BIA, in my opinion, already has their hands full with what they have. So I think OST should be left alone, a separate entity. Thank you.

MS. ANDREWS-MALTAIS: Thank you. Mike? Mike, would you like to introduce yourself for the folks here?

MR. SMITH: I'm a minor player in this thing. Good morning, everybody. My name is Mike Smith. I'm the Deputy Bureau Director for BIA from field

operations. Under BIA we have four deputies. One for Trust Services, one for Indian Services, one for the Office of Justice Services, which handles law enforcement and detention facilities and tribal courts. My position is primarily oversight and guidance, supervision of the 12 regional directors and a second line supervisor to the superintendents throughout the country.

We formulate policy. We hand out the directives. And we do a lot of data calls from the field. But that's not the only function. We do work pretty closely with the Assistant Secretary in the Office of the Special Trustee and other Bureaus within the Department. So we have a lot going as the gentleman said earlier.

I was born on the reservation at Fort Hall, Idaho. My mother's side, heritage there. She was a member of the Shoshone-Bannock Tribes. Sho-Ban as some people called them. I'm also an enrolled member of the Laguna Pueblo Tribe in New Mexico. And I've worked in seven of the regional offices, so I've been around quite a bit in operations and resources, both on the Indian Services side and the Trust Services side.

So hopefully we're still providing good

services to the Tribes, and we're always fighting for our share of the budget. We do a lot of budget formulation, justification, and execution at the central office. And our regional directors are well trained. They're experienced and knowledgeable, and I think you have a good regional director here, Tim, and hopefully things are going well in this region. Thank you.

MS. ANDREWS-MALTAIS: Thank you, Mike. Thank you, Mike. Sorry to put you on the spot. Anyway, if there are no other comments, or concerns, or questions, we'll be happy to conclude as well as allow folks to get back to their probably very busy schedules and mountain of work that they have, and I'll turn it back to Deb.

MS. DuMONTIER: Again, thank you for your participation, and we welcome your written comments, and also would like to thank our BIA Regional Director as well as our BIA Superintendents for attending today. And we will be here for a little while if you do have questions that you have for us. We do have our appraisal staff here as well as probate. Thanks for joining us today. Any questions that we may be able to answer for you. But thanks again for your participation, and safe

travels. And if you're going to attend the Great Plains Region, again, that will be October 4th in Rapid City, and we'll be getting that information out. We're not going to publish that in the Federal Register given the short notice, but we will be working with the tribal leadership to let them know about the opportunity. Okay. Thank you.

(Presentation Concluded.)

STATE OF SOUTH DAKOTA)
:SS CERTIFICATE
COUNTY OF LINCOLN)

I, Pat L. Beck, Registered Merit Reporter and Notary Public within and for the State of South Dakota:

DO HEREBY CERTIFY that I took the proceedings of the foregoing Presentation and the foregoing pages 1-42, inclusive, are a true and correct transcript of my stenotype notes.

I FURTHER CERTIFY that I am not an attorney for, nor related to the parties this action, and that I am in no way interested in the outcome of this action.

In testimony whereof, I have hereto set my hand and official seal this 23rd day of September, 2016.

_____

Pat L. Beck, Notary Public
Expiration Date: June 11, 2017
Iowa CSR: No. 1185