

THE SECRETARY OF THE INTERIOR
Washington

ORDER NO. 3292

SIGNATURE DATE: December 8, 2009

Subject: Individual Indian Trust Management

Sec. 1 **Purpose.** This Order identifies the actions the Department shall take, upon final approval by the U.S. District Court for the District of Columbia of the Settlement Agreement in *Cobell v. Salazar*, No. 96-CV-01285-JR, and enactment of the legislation set forth in the Settlement Agreement as necessary to authorize or confirm specific aspects of the Settlement. The actions taken under this Order shall address the Department's future responsibility for management and administration of trust assets maintained for individual Indian trust beneficiaries.

Sec. 2 **Background.** The proper management and administration of the Individual Indian Money ("IIM") accounts and trust assets (collectively the "trust administration system") are among the Department's most significant fiduciary duties. The Department's current management of the trust administration system involves a number of bureaus and offices, including the Bureau of Indian Affairs, the Minerals Management Service, the National Business Center, the Bureau of Land Management, and the Office of the Special Trustee for American Indians. It also involves a variety of procedures and has been the subject of complaints regarding, among other things, its responsiveness and customer service. The complex nature of the trust administration system and the complaints raised by some individual beneficiaries raise concerns. To address these issues, the Department requires a thorough evaluation of the existing management and administration of the trust administration system to support a reasoned and factually based set of options for potential management improvements. It also requires a review of the manner in which the Department audits the management of the trust administration system, including the possible need for audits of management of trust assets.

Sec. 3 **Authority.** This Order is issued under the authority of Section 2 of the Reorganization Plan No. 3 of 1950 (64 Stat. 1262), as amended, and the American Indian Trust Fund Management Reform Act of 1994, 25 U.S.C. §§ 4001 – 4061.

Sec. 4 Establishing the Secretarial Commission on Indian Trust Administration and Reform.

a. Immediately upon both the Final Approval of the Settlement Agreement in *Cobell v. Salazar*, No. 96-CV-01285-JR, and enactment of legislation necessary to authorize and fund such Settlement, the Department shall take steps to establish the Secretarial Commission on Indian Trust Administration and Reform ("Commission") in accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The Commission shall complete its work within 24 months from the date of its establishment.

b. Following the solicitation of nominations and in consultation with trust beneficiaries, the Secretary shall appoint the Commission Chair and four (4) members who, collectively, shall have experience and/or expertise in trust management, financial management, asset management, natural resource management, Federal agency operations and budgets, as well as experience as account holders and in Indian country.

c. In coordination with the Department, the duties of the Commission shall include:

(1) Conducting a comprehensive evaluation of the Department's management and administration of the trust administration system, including a review of the report of the consultant hired in accordance with subparagraph d;

(2) Reviewing the Department's provision of services to trust beneficiaries;

(3) Receiving input from the public, interested parties, and trust beneficiaries, which should involve conducting a number of regional listening sessions;

(4) Considering the nature and scope of necessary audits of the Department trust administration system;

(5) Recommending options to the Secretary to improve the Department's management and administration of the trust administration system based on information obtained from these activities, including whether any legislative or regulatory changes are necessary to permanently implement such improvements; and

(6) Considering the provisions of the American Indian Trust Fund Management Reform Act of 1994 providing for the termination of the Office of the Special Trustee for American Indians, and making recommendations to the Secretary regarding any such termination.

d. To support the operation of the Commission after its establishment and to provide the Department with additional information regarding its management of the trust administration system, the Department shall use available funding to hire a management consultant. The consultant shall provide a comprehensive assessment of the Department's operation of the trust administration system, including:

(1) Evaluating the strengths and weaknesses of both the monetary and non-monetary trust asset management activities of each entity involved in the Department's administration of trust asset management programs;

(2) Identifying options for transferring, consolidating, or otherwise managing the trust fund and assets in an optimal manner to enhance accountability, responsiveness, efficiency and customer service;

(3) Reviewing the Department's prior reform efforts for effectiveness and to determine whether additional reforms are necessary; and

(4) Considering the adequacy of the Department's current trust administration system audit functions and recommending options for improvement and possible expansion of such audits.

Sec. 5 Audit Requirements. Upon implementation of any management reforms resulting from this Order, and after considering the recommendations of the Commission, the Department shall conduct an audit of the effectiveness of such reforms. The Department shall consider the recommendations of the Commission regarding the need for and scope of any subsequent audits.

Sec. 6 Implementation. The Deputy Secretary is responsible for ensuring implementation of this Order, including any necessary delegation of authority and transfer of resources. The Assistant Secretary – Indian Affairs, the Assistant Secretary – Land and Minerals Management, the Assistant Secretary – Policy, Management and Budget, and the Special Trustee shall provide necessary support, including implementing specific reforms within their subordinate bureaus and offices.

Sec. 7 Effective Date. This Order is effective immediately and shall remain in effect until it is amended, superseded, or revoked, whichever comes first. The termination of this Order shall not nullify implementation of the requirements, responsibilities, and organizational changes set forth herein.

/s/ Ken Salazar
Secretary of the Interior

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