



National Congress of American Indians

# NCAI News

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Contact: Liz Hill  
(202) 466-7767

## U.S. Department of Interior (DOI) to Create New Trust Management Bureau Tribal Consultation Absent

(Washington, D.C.) At a Senate briefing on Thursday, Nov. 15, the National Congress of American Indians (NCAI) confirmed reports the organization received late on the evening of Nov. 14 that Secretary of Interior Gale Norton is going forward with the creation of a new agency to be called the Bureau of Indian Trust Assets Management (BITAM). Secretary Norton, through a secretarial order, plans to strip the Bureau of Indian Affairs (BIA) of its trust management responsibility and transfer those duties to the BITAM.

Of great concern is the complete lack of Tribal consultation on the part of the Department of Interior in making their decision to reorganize. "Though the Secretary has espoused the "C's" of communication, coordination, and consultation, her Department and its leadership have repudiated the tenets it has claimed to embrace in the proposal of this reorganization," said NCAI President Susan Masten.

"Without consultation with the Tribes, the process is not well thought out, and does not represent Tribal priorities," said Masten. "Dialogue is the cornerstone of democracy – would anyone go about reorganizing the Department of Agriculture, for example, without consultation with the country's farmers? This move is a throwback to the old days when the BIA functioned in a mode of high-handedness and paternalism."

Tribal leaders have expressed openness to the idea of reforming trust management, but such a sweeping change—a scheme developed in under a week—with no details on how the agency will function raises red flags for the Tribes. "I want to stress that any trust reform will require both Tribes and the federal government to come together to negotiate how trust responsibilities will change," said Masten. "Deliberate and thoughtful consultation must take place. The finalization goal of 30 days set by the Secretary is not enough. Six months may not be enough."

The move comes in response to litigation of the *Cobell* class-action suit, and as an alternative to a court-appointed receiver over the management of Individual Indian Money (IIM) accounts. However, the reorganization will remove all trust management from the BIA, including tribal trust management, probate, and trust management contracts and compacts, and will change the nature of the relationship between Tribal governments and the federal government.

"The Department of Interior has been consistently criticized in its trust reform efforts for making cosmetic changes while ignoring the real problems of accountability, systems and trust property management," said Masten. "The DOI has a well documented track record of repeatedly making short-term decisions in response to court-imposed deadlines while failing to develop a rational long-term plan for structural trust reform – at first glance, this new plan seems like more of the same; the Department may look like it is taking significant action, but as currently framed, the overhaul amounts to little more than window dressing. Substantive change has been left undone."

"Moreover, the reorganization will eat up years of time and precious resources while the real issues go unaddressed," said Masten. "The Department clearly does not have the existing resources to establish a new agency."

Deputy Secretary J. Steven Griles and Assistant Secretary McCaleb have requested time at NCAI's 58<sup>th</sup> Annual Session, which will be held Nov. 25-30, in Spokane, Wash., to develop a dialogue on the issue. More than 2,500 American Indians are expected to attend the conference, which is this year's largest national gathering of Tribal leaders.

"It is NCAI's opinion that for real change to occur at DOI there must be a shift in the paradigm of management," said Masten. "Decisions cannot be made with regard to short-term political interests, but must conform to long-term management goals – a political appointee has no ability to change this paradigm."