

**STATEMENT OF
LAWRENCE S. ROBERTS
PRINCIPAL DEPUTY ASSISTANT SECRETARY - INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS
ON
“IMPLEMENTATION OF THE DEPARTMENT OF THE INTERIOR’S
LAND BUY-BACK PROGRAM”**

DECEMBER 11, 2013

I. Introduction

Good afternoon, Chairwoman Cantwell, Vice Chairman Barrasso, and Members of the Committee. Thank you for the opportunity to provide the Department of the Interior’s (Department) statement at this oversight hearing on “Implementation of the Department of the Interior’s Land Buy-Back Program.”

In 2010, Congress enacted historic legislation to ratify and confirm a settlement between Plaintiffs and the Administration in the *Cobell* litigation. The Claims Resolution Act set the framework to help reverse the fractionation of Indian lands that was set in motion under repudiated policies of allotment and assimilation.

Approximately a year ago, the Department established the Land Buy-Back Program for Tribal Nations to work collaboratively with Indian country, both tribes and individuals, to realize the historic opportunity. Congress provided a \$1.9 billion Trust Land Consolidation Fund to compensate individuals who willingly choose to transfer fractional land interests to tribal nations for fair market value. Every acre purchased through this Land Buy-Back Program will be held in trust or restricted status for Tribes. This important work can succeed only with the collaborative involvement of tribal leaders and their communities. As sales occur, the Program will contribute part of the Fund (up to \$60 million) to the Indian Education Scholarship Fund. We are on track to send our first offers to purchase fractional interests by the end of 2013.

Fractionation of land ownership is a prevalent problem on many Indian reservations, locking up resources over many years. Fractionation is depicted in maps of Indian country that resemble a complicated jigsaw puzzle. It spurs the maintenance of elaborate records for tiny slivers of land interests and affects more than 150 reservations across Indian country where tracts of land often have hundreds, sometimes thousands, of owners. There are 2.9 million purchasable fractional interests owned by more than 243,000 individuals. Approximately 90 percent of the purchasable fractional interests are located within 40 reservations. Fractionated properties often go unutilized – hampering efforts to alleviate serious issues such as poverty and unemployment. The Buy-Back Program is one tool that that can help remedy the harms inflicted on tribal communities by the repudiated policy of allotment by restoring tribal lands to tribal ownership.

II. Implementation of the Claims Resolution Act.

The *Cobell* Settlement was approved with finality on November 24, 2012, following the exhaustion of appeals through the U.S. Supreme Court. Less than a month following final approval, the Department of the Interior established the Land Buy-Back Program for Tribal Nations and published an Initial Implementation Plan. The Department released an Updated Implementation Plan in November 2013, which incorporates suggestions and responds to comments received during government-to-government consultations conducted from January to March 2013.

In recognition of the size and importance of the Settlement, Secretary Salazar established the Buy-Back Program in the Office of the Deputy Secretary. The Department also established an Oversight Board, chaired by the Deputy Secretary, to ensure senior level attention, and to facilitate accountability and coordination across the Department. Included among the members of the Oversight Board are the Solicitor, the Assistant Secretary-Indian Affairs, the Director of the Bureau of Indian Affairs, and the Special Trustee for American Indians. The Buy-Back Program Manager is responsible for leading and coordinating the efforts of the various offices and bureaus with responsibility for assisting in implementing the Program. The Program Manager reports directly to the Deputy Secretary and meets regularly with the Oversight Board.

During the past year, the Department has focused on establishing procedures, processes, and the necessary infrastructure to effectively and efficiently implement the Buy-Back Program. Interior is fully utilizing the expertise, services, and systems within the Department, especially in the Bureau of Indian Affairs and the Office of the Special Trustee for American Indians. We are gaining significant efficiencies by automating and centralizing the land acquisition processes. Significant outreach, mapping and mineral evaluations have been completed or are ongoing at a number of locations. The Department utilized the expertise of the Appraisal Foundation, an independent-third party authorized by Congress to issue national appraisal standards and appraiser qualifications, to review the planned appraisal methods, and we have adopted the recommendations of the Foundation.

The Department will implement the Program in a flexible manner and continue to update its approach to reflect lessons-learned, best practices, and tribal involvement.

We have made progress over the last year in preparing to implement this unique and massive effort. We have discussed much of the progress in past public announcements and calls with tribal leaders. Through this process, we have:

- Communicated with 50 tribes (28 with jurisdiction over the most fractionated reservations).
- Met with 9 tribes at or near their reservations.
- Published an initial implementation plan which has been revised in response to consultation with affected tribes.
- Established capabilities, systems, and relationships to award cooperative agreements.
- Created and published cooperative agreement guidance and award templates in close coordination with tribal leaders and legal representatives.

- Began to evaluate nine cooperative agreement applications.
- Awarded a cooperative agreement to the Oglala Sioux Tribe, which has jurisdiction over the Pine Ridge Reservation (one of the most fractionated reservations).
- Obtained review of the Program's appraisal methodology by The Appraisal Foundation (TAF).
- Completed mass appraisal efforts on two reservations, resulting in fair market values for thousands of fractionated tracts.
- Completed direct appraisals for tribal priorities at one reservation
- Developed capabilities to create, print, mail, and scan landowner purchase offers at a substantial scale.
- Completed parcel mapping for 18 locations.
- Launched a substantive website, www.doi.gov/buybackprogram, to provide information about Program, especially for tribes and individual landowners.
- Hired 42 full-time employees and gained access to contractor staff for mapping, land research, and database support.
- Expanded our Trust Beneficiary Call Center to answer questions and register "interested sellers."
- Engaged in regional consultations and other tribal events, including: Minneapolis (January 2013); Rapid City (February 2013); Seattle (February 2013); Coalition of Large Tribes (COLT) Meeting (February 2013); Tribal Land Staff Conference, 3rd Annual (April 2013); Gathering of Nations (GON) Powwow (April 2013); Affiliated Tribes of Northwest Indians (ATNI) Meeting (May 2013); Landowner Trainings at Cheyenne River, Rosebud, and Pine Ridge (May 2013); COLT Meeting (June 2013); National Congress of American Indians (NCAI) Mid-Year Conference (June 2013); Montana-Wyoming Tribal Leaders Meeting (July 2013); Tribal/Interior Budget Council (TIBC) Meeting (July 2013); United Tribes Leadership Summit (September 2013); and ATNI Mid-Year Convention (September 2013).

We have also established important policies such as purchase ceilings on each reservation to ensure that each affected tribe can benefit from the program and also set minimum payments for land and mineral interests.

We recently published a solicitation to work with tribes with more fractionated reservations that is open now through March 14, 2014. Tribes with jurisdiction over these reservations are encouraged to submit cooperative agreement applications or expressions of interest to participate in the Program. We will continue to review applications on a rolling basis. By using this approach, tribes will help determine the timing and sequencing of Program implementation. And the Department will also consider other factors, such as degree of ownership overlap, geographic diversity, appraisal complexity, tribal interest and capacity, and cost and time efficiency.

Tribal leadership and involvement are crucial to the success of the Program. The Department hopes to enter into cooperative agreements with many tribes to implement the Program through a federal-tribal partnership, which will promote tribal sovereignty, minimize administrative costs, and improve overall Program effectiveness and efficiency. The Department has worked actively with tribes and has incorporated their valuable feedback into Program processes and policies.

The Program benefits greatly from the open dialogue, questions, and interactions with tribal leaders and landowners.

Tribal leaders have overwhelmingly expressed the desire that the Department expend the Land Consolidation Fund on as many reservations as possible. Although the Land Consolidation Fund is substantial, it is unlikely to have sufficient capital to purchase all fractional interest across Indian country. The Department's Plan seeks to bridge the potential gap between the expressed desires of tribal leaders and the available funds by establishing flexible purchase ceilings to purchase interests at as many locations as possible. Flexible purchase ceilings are intended to achieve broad use of the Fund and ensure that it is not expended in only a limited number of locations. The Department will minimize administration costs (capped at 15%) to maximize the acres consolidated.

III. Conclusion

The Claims Resolution Act has provided a unique opportunity for Interior and tribes, working together with substantial resources, to solve a long-standing and serious problem. The Program ultimately will strengthen tribal sovereignty by transferring lands to tribes to spur economic development and unlock the potential of tribal lands. As we move forward together, we will strive to implement the program in a fair and equitable a manner that maximizes the use of funds to consolidate tribal lands through voluntary purchases from allottees. We appreciate the Committee's interest in the Program and look forward to tailoring the implementation to meet the unique needs of each Tribal Nation.