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Description of document:	Office of the Special Trustee for American Indians (OST) Special Deposit Account (SDA) Project and the Youpee Escheat Account (Youpee) Project Presentation which describes the OST ESCHEAT Program, 2018
Requested date:	28-February-2019
Release date:	22-August-2019
Posted date:	23-September-2019
Source of document:	Freedom of Information Act Request Meleanie Bell Office of the Special Trustee for American Indians 1849 C Street NW Washington, DC 20240 Email: <a href="mailto:ost_foia@ost.doi.gov">ost_foia@ost.doi.gov</a>

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# United States Department of the Interior

OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS  
Washington, DC 20240

August 22, 2019

IN REPLY REFER TO:  
OS-2019-01232

The Office of the Special Trustee for American Indians, Freedom of Information Act (FOIA) Office received your FOIA request, February 28, 2019, on March 19, 2019 and assigned it control number OS-2019-01232. Please cite this number in any future communications with our office regarding your request. You requested, *"I request a copy of the overview description of OST ESCHEAT Program"*.

We are writing today to respond to your request on behalf of the Office of the Special Trustee for American Indians. We have enclosed the Special Deposit Account (SDA) Project and the Youpee Escheat Account (Youpee) Project Presentation that describes OST ESCHEAT Program, which is being released to you in its entirety.

You may appeal this response to the Department's FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA appeal **"no later than 90 workdays"** from the date of this letter. **Your appeal must be made in writing.** You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL." You must include an explanation of why you believe the Office of the Special Trustee for American Indians response is in error. You must also include with your appeal copies of all correspondence between you and Office of the Special Trustee for American Indians concerning your FOIA request, including your original FOIA request and Office of the Special Trustee for American Indians response. Failure to include with your appeal all correspondence between you and Office of the Special Trustee for American Indians will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer's sole discretion) that good cause exists to accept the defective appeal.

"For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. *See* 5 U.S.C. 552(c). This response is limited to those records that are subject to the requirements of FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist."

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act Appeals Officer needs additional information or clarification of your appeal.

DOI FOIA/Privacy Act Appeals Office Contact Information

Department of the Interior  
Office of the Solicitor  
1849 C Street, N.W.  
MS-6556 MIB Washington, DC 20240  
Attn: FOIA/Privacy Act Appeals Office  
Telephone: (202) 208-5339  
Fax: (202) 208-6677  
Email: FOIA.Appeals@sol.doi.gov

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requester and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road - OGIS College Park, MD 20740-6001  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Web: <https://ogis.archives.gov>  
Telephone: 202-741-5770  
Fax: 202-741-5769  
Toll-free: 1-877-684-6448

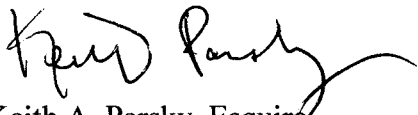
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Web: <https://ogis.archives.gov>  
Telephone: 202-741-5770  
Fax: 202-741-5769  
Toll-free: 1-877-684-6448

Please note that using OGIS services does not affect the timing of filing an appeal with the Department's FOIA & Privacy Act Appeals Officer. If you have any questions about our

response to your request, you may contact Meleanie Bell by phone at 202-208-5792, by fax at 202-219-0426, by email at [meleanie\\_bell@ost.doi.gov](mailto:meleanie_bell@ost.doi.gov), or by mail at Department of Interior, ATTN: OST (Meleanie Bell), 1849 C Street, NW, Room 3211, Washington, DC 20240.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith A. Parsky", with a long, sweeping horizontal stroke extending to the right.

Keith A. Parsky, Esquire  
OST FOIA Officer



# **U.S. Department of the Interior Office of the Special Trustee**

**Office of Historical Trust Accounting (OHTA)**

**Individual Indian Money (IIM) Division:**

**Cobell Settlement (Cobell)  
Special Deposit Account (SDA) Project  
Youpee Escheat Account (Youpee) Project**

**August 1. 2018**

**Keith Parsky, IIM Division Director  
OHTA**

# IIM Division: Historical Accounting

## DATA INTEGRITY AND COMPLETENESS:

**Historical Accounting:** Through OHTA's historical accounting projects conducted over the last 15 years, OHTA improved OST data contained in the Tribal and Individual Indian Money (IIM) Trusts. OHTA improved the quality and quantity of data through complex, document-driven historical accountings. Paper Ledger Era accounting is just what the title implies. OHTA's Historical accounting activities include imaging, coding and converting vast amounts Paper Ledger Era into historical data with Electronic Ledger capabilities. Electronic Ledger **KAP2a** is valuable for many operational uses, including in litigation, account identification, and resource allocation. OHTA enhanced the trust system by mapping all transactions into and out of accounts, using a new nomenclature adding Native American Beneficiary Numbers (NABN) to identify owners of accounts, and using a new nomenclature adding Native American Account Numbers (NAAN) to identify accounts and string government electronic systems from different time periods together (IIM: IRMS and TFAS, Tribal: Stratavision, TFAS). (Master Database)

The Master Database wholly contains the TFAS and TAAMS databases used by BIA and OST operations (current TFAS and TAAMS data are incorporated every month). The Master Database is used to begin work on historical accountings or litigation by OHTA.





# IIM Division: Cobell, SDA, Youpee

- **Cobell Settlement and Land Buy Back:** IIM Division provides data, analysis, and other support necessary to implement Cobell Settlement and assist Land Buy Back.
- **Special Deposit Accounts (SDA):** IIM Division performs analysis necessary to disburse undistributed SDA. SDAs were IIM accounts created as temporary holding accounts for the deposit of trust funds that could not be immediately credited to rightful owners for a variety of reasons (e.g., the proper payee could not be determined at time of payment, time constraints prevented distribution, or an unresolved issue affected the handling of funds deposited into the SDA).
- **Youpee Escheat Accounts:** IIM Division performs analysis necessary to disburse undistributed funds to the appropriate recipients. Youpee Accounts are IIM accounts that reflect income from land interests transferred to tribes under legislation that the Supreme Court found unconstitutional.
- **Tribal Historical Accounting (Tribal):** IIM Division performs historical accounting research and analysis for the OHTA Tribal Division providing litigation support in connection with relevant T- accounts, SDA and Youpee accounts.



# Cobell Settlement <sup>KAP3</sup>

p. 1

- On July 27, 2018, four (4) days ahead of the Court Ordered date of July 31 to wire funds to the Cobell Indian Education Scholarship Fund, OST delivered the amount of \$10,328,657.59.
- Also on July 27, 2018, OST sent the Cobell Claims Administrator, Garden City Group, (GCG) a wire in the amount of \$4,178,358.64
- The July 11, 2018 Court Order entered by Judge Hogan approved the transfers within 14 days or by the date of July 25, 2018 which the parties agreed and amended to a transfer date of July 31, 2018.





# Cobell Settlement

p.2

- OST/OHTA/FTI and CNT continue researching all remaining Cobell WAU to determine if funds need to be removed from the Cobell Scholarship account: because:
  - 1) The government or GCG has an address to which the funds could be mailed or
  - 2) The Cobell class member communicated with OST prior to the November 2017 cut-off date.
  - 3) The Cobell Class member account is still in Probate:
    - DOI/OST/OHTA prepared a database of Cobell Class Members with pending probates at DOI. The database shows which deceased Class Members have pending probates or closed probates, and provides documentation of the closed probates when the pending probates are closed.
    - ***This Court ordered database of Cobell Class Members with pending probates at DOI must continue to be updated by OHTA and will require the cooperation of the BIA Probate Division, the Office of Hearing and Appeals and the Office of the Special Trustee.***
    - OHTA created a single table of BIA's probate results and individual's noted as not existing in any system and updated the NABNs for these records.
      - Of the 1,185 records in this table there was a match for 661 records.
      - OHTA created a new analysis table of the unique records for deceased individuals from the unpaid file, probate results, and probate not in any system totaling **23,997 records**.
      - Created flag fields in this table to identify situations when a probate should or should not be present.



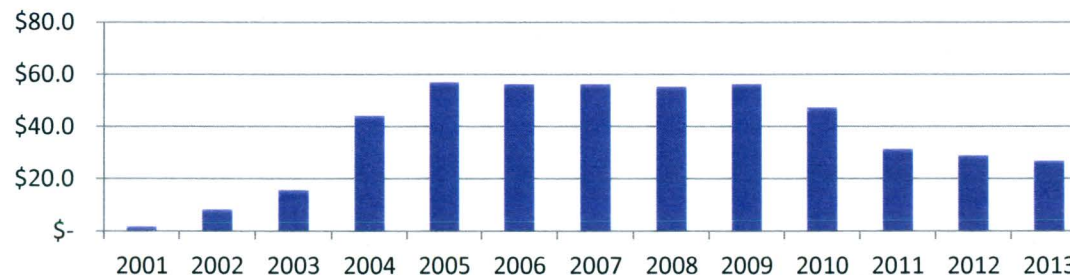


## SDA and Youpee Escheat Projects

- ▶ The 1994 Trust Reform Act codifies OST's fiduciary obligations which include the distribution of funds from Youpee Escheat and SDA. Failing to distribute these funds from Youpee and SDA due to budgetary concerns triggers a taking, shirks a trust responsibility, and invites litigation.
- ▶ The Cobell settlement did not resolve claims concerning Youpee or SDA. Youpee obligations arise from a Supreme Court decision. The existence of SDA triggered a "material weakness," in the Departmental audit for many years. **The existence of OHTA's SDA Program was used to convince auditors to remove the "material weakness."**
- ▶ The SDA work involves identifying the disposition of funds received on behalf of the owners of trust land who existed at the time of each collection, or the heirs of those landowners.
- ▶ Youpee Accounts reflect income from land interests transferred to tribes under legislation that the Supreme Court found unconstitutional.
- ▶ OHTA's expertise: Locating, extracting, compiling, analyzing and explaining trust related information in order to recommend resolutions fulfilling DOI's fiduciary trust responsibility.
  - Provides historical accountings of trust funds and natural resources
  - Helps to resolve pending litigation in coordination with SOL and DOJ.
  - Implements settlements such as Cobell and Tribal cases.
  - Resolves ownership and distributes residual balances in IIM Trust Fund Special Deposit Accounts (SDAs) and Youpee Escheat Accounts.

## Overview SDA/YOUPPEE- Status

- Low hanging fruit now completed.
- Complex Accounts: Progress requires long term effort.
- OHTA's Appropriations Breakdown (totals are for IIM, Tribal and SDA programs)



- Significant work remains.





# SDA/Youpee combined: Staffing

- OHTA's FY2014-2016 budget was approximately \$23M each fiscal year:
  - Since FY 2010, IIM Division budget was \$5M to finalize the Cobell Settlement and to continue SDA and Youpee projects.
  - In FY 2017, IIM Division budget was reduced to approximately \$3.5M, with \$2.6M going to SDA/Youpee
- Dwindling funding reduced staffing to 8 SDA FTE in FY 2013, Youpee had 12 FTE for a total of 20 FTE.
- In FY 2014, for budgetary reasons, it was necessary to combine the SDA and Youpee projects *total FTE dropped to 10*.
- In FY 2015, 2016 the SDA/Youpee team had total staff of 10 for both projects.
- In FY 2017, SDA/Youpee team reduced to 8 total contract staff for both projects.
- In FY 2018, a new contractor was awarded the SDA/Youpee work. ***This company agreed to do the same work for less money and offered more employees***, thus raising the total contract staff to 13 FTE. A contract protest kept this company from performing the work for (5) five months, until February 2018.





## 1999 Sec. Babbitt Youpee Order

IN THE MATTER OF ALL ESTATES IN WHICH PROPERTY ESCHEATED  
TO AN INDIAN TRIBE PURSUANT TO 25 U.S.C. 2206

### ORDER

On January 21, 1997, the United States Supreme Court issued a decision in *Babbitt v. Youpee*, 519 U.S. 234 (1997), in which it essentially held that the "escheat provision" of the Indian Land Consolidation Act, 25 U.S.C. 2206, as amended, is unconstitutional. On October 2, 1998, the Deputy Commissioner for Indian Affairs filed a Petition for Reopening All Estates in Which Property Escheated to an Indian Tribe Pursuant to 25 U.S.C. 2206 (the Petition) with the Office of Hearings and Appeals. By Order the same day, I took jurisdiction of the Petition and solicited comments on it and a Proposed Order for Reopening Escheated Estates. Both the Petition and Proposed Order were served upon the affected tribes.

To give full effect to the Supreme Court's holding in *Youpee* and to further the Department of the Interior's trust responsibility to the Indian people, I find that the public interest would be furthered by applying the *Youpee* decision retroactively to prior Departmental probate determinations consistent with the procedures set forth more fully below. I further determine that reopening these estates will prevent manifest injustice and that a reasonable possibility exists for correction of prior distribution of assets which occurred in reliance on the unconstitutional statute.

In furtherance of my Order dated October 2, 1998, in which I assumed jurisdiction to decide the Petition pursuant to 43 C.F.R. § 4.5(a), and further by virtue of the power and authority vested in me by Section 1 of the Act of June 25, 1910, as amended 25 U.S.C. 372 (1970), and other applicable statutes, it is hereby ORDERED:

The Petition for Reopening All Estates in Which Property Escheated to an Indian Tribe Pursuant to 25 U.S.C. 2206 is hereby granted. All prior Departmental probate determinations wherein land interests were ordered to be escheated to Indian tribes pursuant to 25 U.S.C. 2206 are hereby reopened.

The determinations made therein are modified to the extent that the appropriate Bureau of Indian Affairs official having jurisdiction over the affected land titles shall distribute any such escheated interests to the rightful heirs and

beneficiaries without regard to the provisions of 25 U.S.C. 2206, except that prior determinations where an Indian tribe has paid fair market value for any escheated interest under 25 U.S.C. 2206 will not be reopened or modified.

It is recognized that there will be cases that do not fall within the parameters of this Order and which will need to be treated on an ad hoc basis, such as cases where there was no determination of heirs, cases of will construction, and any other type of miscellaneous case where Bureau of Indian Affairs personnel are uncertain how to proceed. The Bureau of Indian Affairs shall refer such cases to the respective Administrative Law Judge for adjudication. To the extent not already delegated, I hereby delegate authority to the Administrative Law Judges to assume jurisdiction over, and enter determinations in, those cases pursuant to existing law.

The Director, Office of Hearings and Appeals, or his delegate will have jurisdiction to decide any objection to the implementation of this Order. Any objection to implementation of this Order shall be made in writing to: Director, Office of Hearings and Appeals U.S. Department of the Interior, 4015 Wilson Boulevard, Room 111 I/BT-3, Arlington, VA 22203.

Dated the 19<sup>th</sup> day of February 1999.

SECRETARY OF THE INTERIOR

Service list attached



## Youpee Escheat Account Disbursements

- **Youpee Accounts reflect income from land interests that transferred to tribes under legislation that the Supreme Court later deemed unconstitutional. The Youpee project began in April 2009, seeking to distribute a total of \$7.8 million (with interest) from 453 accounts involving over 300,000 transactions.**
  - In FY 2008 with 10 FTE dedicated solely to Youpee efforts a total of \$1,405,827 was disbursed.
  - In FY 2009 with 10 FTE dedicated solely to Youpee efforts a total of \$1,270,024 was disbursed.
  - In FY 2010 with 10 FTE dedicated solely to Youpee efforts a total of \$632,256 was disbursed.
  - In FY 2011 with 10 FTE dedicated solely to Youpee efforts a total of \$315,467 was disbursed.
  - In FY 2012 with 10 FTE dedicated solely to Youpee efforts a total of \$90,050 was disbursed.
  - In FY 2013 with 12 FTE dedicated solely to Youpee efforts, a total of \$101,712 was disbursed (\$49,786 in principal and \$51,926 in interest).
  - In FY 2014 with the shared team of 10 FTE, OHTA's Youpee project disbursed \$552,130 (\$259,642 in principal and \$292,488 in interest).
  - In FY 2015 with the shared team of 10 FTE, OHTA's Youpee project disbursed \$472,795 (\$209,319 in principal and \$263,476 in interest).
  - In FY 2016 with the shared team of 10 FTE, OHTA's Youpee project disbursed \$169,242 (\$75,541 in principal and \$93,701 in interest).
  - In FY 2017 with the shared team of 8 FTE, OHTA's Youpee project disbursed \$171,756 (\$68,073 in principal and \$103,683 in interest).
  - In FY 2018 with the shared team of 12 FTE, OHTA's Youpee project disbursed \$338,822.63 (\$121,596.45 in principal and \$217,226.18 in interest).

**Total disbursements for the Youpee project are now \$5,429,524 with the vast majority going to IIM accounts.**





## YOUPEE REGIONAL EXECUTION

- The remaining balance is \$4.1 million in 382 Youpee accounts across 43 Agencies.
- Goal is to distribute funds in suspense to rightful owners and their heirs with interest.
- Focus on higher balance accounts.
- Due to research and documentation requirements, and the sharing of FTE/travel budget with SDA, OHTA maximizes travel dollars by researching both types accounts when at the agencies.



## Special Deposit Accounts (SDAs)

- **SDAs are “special deposit accounts” that were used to temporarily hold receipts pending determination of the appropriate recipient(s). In FY 2004 when OHTA began working to disburse undistributed SDA funds, there were 50 SDA employees.**
- In FY 2011, with a team of 18 FTE, OHTA helped OST disburse a total of \$1.6 million (\$457,047 in principal and \$1,152,388 in interest).
- In FY 2012, with a team of 12 FTE, OHTA helped OST disburse \$737,060 (\$180,131 in principal and \$556,929 in interest).
- In FY 2013, with a team of 8 FTE, OHTA helped OST disburse \$349,298 (\$93,223 in principal and \$256,076 in interest).
- In FY 2014, with a shared team of 10 FTE, OHTA helped OST disburse \$233,782 (\$81,974 in principal and 151,808 in interest).
- In FY 2015, with a shared team of 10 FTE, OHTA helped OST disburse \$531,830 (\$76,632 in principal and \$455,198 in interest).
- In FY 2016, with a shared team of 10 FTE, OHTA helped OST disburse \$1,098,112 (\$176,603 in principal and \$921,509 in interest).
- In FY 2017, with a shared team of 8 FTE, OHTA helped OST disburse \$852,163 (\$24,429 in principal and \$827,735 in interest).
- In FY 2018, after contract protests held up work for (5) months, with a team of 12 FTE, OHTA helped OST with Cobell settlement matters and disbursed a total as of September 17, 2018 during FY 2018 of \$73,882 as a reduction in 12/31/02 principal and raised the post 12/31/02 interest to \$66,886. OHTA's SDA Project has disbursed a total of \$140,768 thus far in FY 2018.
- **OHTA's SDA Project has zeroed out 7,577 of the 17,780 SDA, and has remaining 7,459 Low Dollar SDA, meaning that the OHTA SDA Project has remaining 2,745 SDA with \$8,511,785 in 12/31/02 principal dollars.**





## SDA Disbursements by type

Resolved SDA Dollars	Transfers to IIM Accounts	Transfers to Tribal Accounts	Transfers to 3 <sup>rd</sup> parties, non-Indians	Totals
8/31/17 Total	\$21,404,261	<b>\$19,591,065</b>	\$23,224,874	\$64,220,200
% Dollars Distributed	35%	29%	36%	100%



# SDA POSTINGS TO DATE

## OHTA SDA Postings

1/1/2003 through 9/10/2017 (Note 3)

Posted Dollars  
(Note 3)

Reduction in the 12/31/2002 OHTA SDA  
balance

\$51,912,741

Interest posted from 1/1/2003 through date of  
each distribution

9,207,200

**Total OHTA SDA Postings**

61,119,941

OST Adjustment for Negative Balance SDA

3,100,884

**Total Postings**

\$64,220,825

**OHTA SDA Postings**



# REMAINING SDA

- The remaining 2,745 SDA: 'Paper Ledger Era', complex, requiring extensive research, or are lacking readily accessible documentation required to make determinations about the ownership of the funds.
- Approximately 70% of accounts have balances of less than \$500.00: **Low Dollar SDA Special Project**
- Disburse SDA funds (principal plus interest) to the historical owners (or their heirs) of the land on which the SDA funds were earned, *not current owners*.
  - **Each SDA may involve several owners at the time a principal receipt was collected**
  - **The SDA work involves identifying the landowners who existed at the time of each principal collection, as well as their heirs, where appropriate.**
- Each SDA account is "closed" only after *all* funds have been distributed. For the aforementioned reasons, identifying and locating the rightful owner(s) is very expensive.



# Role of BIA

- ▶ OHTA has received substantial assistance from BIA staff – In Washington, at Agencies, and from LTROs – Locating documents to support IIM and Tribal accountings.
- ▶ Ownership and Realty records will continue to be critical for Cobell settlement work, SDA Cleanup, Youpee Escheat and other Land Based IIM account historical accounting work.
- ▶ OHTA has not and will not remove any original records from BIA Agencies, the Office of Trust Records, the new American Indian Records Repository, or other record locations.
  - Copies are used to produce coded images for historical accounting.
  - Images are used in a computer application to document transactions.





## Combined Project Totals (Current Contract)

- FY 2014: \$552,130 (Youpee) plus \$233,781 (SDA) = total disbursements \$785,911
- FY 2015: \$472,795 (Youpee) plus \$531,830 (SDA) = total disbursements \$ \$1,004,625
- FY 2016: \$169,242 (Youpee) plus \$1,247,895 (SDA) for total disbursements of \$1,417,137
- FY 2017: \$171,756 (Youpee) plus \$852,165 (SDA) for total disbursements of \$1,023,921



# Questions?

For More Information Please  
Contact:

**Keith A. Parsky, OHTA**  
**Individual Indian Money**  
**Trust, Division Director**  
**Keith\_Parsky@ost.doi.gov**  
**(202) 208-3521**

*Thank you!*

