



United States Department of the Interior

BUREAU OF TRUST FUNDS ADMINISTRATION

Washington, DC

July 12, 2023

Honorable Darrell Seki Sr, Chairman
Red Lake Band of Chippewa Indians
PO Box 574
Red Lake, Minnesota 56671

RE: Tribal Trust Evaluation Draft Report No. 23-022T

Dear Chairman Seki:

Enclosed is the final Red Lake Band of Chippewa Indians' Tribal Trust Evaluation report. The trust evaluation was conducted by the Bureau of Trust Funds Administration, Office of Strategic Oversight and Performance, Division of Trust Evaluation and Review (DTER) on March 21, 2023, and covered the period of January 2021 through December 2022. The evaluation was conducted pursuant to 25 CFR § 1000.350. Our objective was to ensure that the trust functions, assumed by Red Lake Band of Chippewa Indians (Red Lake) under a Self-Governance compact, and Multi-Year Funding Agreements for Calendar Years 2017-2022, were performed in accordance with trust standards, as defined by Federal law.

Red Lake's overall performance rating is **"Satisfactory"** in the administration of Indian trust programs and functions. We identified one finding and provided one observation requiring management's attention.

We also provided three recommendations for the Bureau of Indian Affairs, Minnesota Agency to address.

I would like to thank you for your June 20, 2023 response. Edits were made to this final report to address some of your concerns. Hopefully, our recommendations will be of value to Red Lake's continued trust operations success going forward.

Please let me know if you have any questions.

Sincerely,

Elizabeth Wells Shollenberger
Director, Division of Trust Evaluation and Review

cc: Director, BTFA
Regional Director, Midwest Region, BIA
Director of Self-Governance, AS-IA
Director, Office of Strategic Oversight and Performance, BTFA
Deputy Regional Director, Trust Services, Midwest Region, BIA
Superintendent, Minnesota Agency, Midwest Region, BIA
Treasurer, Red Lake Band of Chippewa Indians
Self-Governance Coordinator, Red Lake Band of Chippewa Indians

Enclosure



U.S. Department of the Interior
Bureau of Trust Funds Administration
Division of Trust Evaluation and Review

TRIBAL TRUST EVALUATION REPORT DTER-23-022T

Red Lake Band of Chippewa Indians

July 12, 2023

SUMMARY OF RESULTS

This report presents the results of the Tribal Trust Evaluation of the Red Lake Band of Chippewa Indians (Red Lake) for the trust evaluation conducted by the Bureau of Trust Funds Administration (BTFA), Office of Strategic Oversight and Performance, Division of Trust Evaluation and Review (DTER). The evaluation commenced on March 21, 2023.

Based on the results of the evaluation, we concluded Red Lake's overall performance is rated as **"Satisfactory"** in the administration of the Secretary's trust responsibilities for the trust compacted programs in accordance with Federal trust standards; see Appendix 1, Methodology and Appendix 2, Indian Trust Rating Standards.

Our evaluation of Red Lake's performance of trust functions, however, did identify one finding and we provided one observation. The finding consists of a finding in Trust management, along with a recommendation for Red Lake to immediately address; see "Findings and Observations" section of this report for details. We also provided two Recommendations for the Bureau of Indian Affairs (BIA) Minnesota Agency to address; see the Secretarial Trust Responsibilities Section of this report.

Red Lake responded to the draft report on June 20, 2023, see Appendix 4 of this report.

SCOPE/OBJECTIVE

The scope of this evaluation covered the period of January 2021 through December 2022, and was limited to the evaluation of trust programs, services or functions performed by Red Lake under the Self-Governance Multi-Year Funding Agreement (MYFA) for Calendar Years (CYs) 2017-2022.

Our objective was to evaluate Red Lake's compliance with any trust provisions in the MYFA and ensure that the fiduciary trust functions performed by Red Lake are conducted in accordance with trust standards, as defined by Federal laws and regulations.

BACKGROUND

Red Lake, located in Red Lake, Minnesota, has a reservation land base of 849,535 acres, consisting of 842,671 tribal trust acres. In accordance with the MYFA, the Red Lake Band administers trust programs for Forestry, Wildland Fire, Natural Resources, and Certain Real Estate Services Categories.

The single audit report for Fiscal Year (FY) 2021 for the period ending December 31, 2021, has not been completed. The single audit report for FY 2022 for the period ending December 31, 2022, is due September 30, 2023.

PRIOR TRUST EVALUATION

Red Lake was last evaluated in May 2021. In the prior report (Report No. 21-020T, dated August 12, 2021), we rated Red Lake's overall performance as "Satisfactory" in its administration of compacted trust programs. The report did not identify any findings. The report identified one observation pertaining to the completion and submission of the FY 2020 single audit report.

We would like to commend Red Lake for completing and submitting the FY 2020 single audit report within the extended time frame granted by the Office of Management and Budget issued Memorandum M-21-20, dated March 19, 2021, that extended the 9-months to an additional 6 months for fiscal years ended through June 30, 2021.

FINDINGS AND OBSERVATIONS

Our evaluation identified one finding in Red Lake's administration of its compacted trust programs and functions.

TRUST MANAGEMENT: Trust Management includes the overall compliance with the trust provisions in the MYFA, timely corrective action, and management's oversight responsibilities for establishing and maintaining internal controls in the administration of Indian fiduciary trust activities. We identified the following Trust Management finding.

Finding 1:

Red Lake has not completed the FY 2021 single audit, as required by 25 USC 5305(f) (1) and 2 CFR § 200.501(b) and the MYFA for CYs 2017-2022, Section 24. The single audit should have been completed and copies submitted to the Federal Audit Clearinghouse (FAC) by September 30, 2022, since Red Lake's FY ended on December 31, 2021. The single audit is due to the FAC no later than 9 months after the end of the FY.

Red Lake's Chief Financial Officer stated Red Lake had difficulty in submitting the audit on time during the pandemic because Red Lake had been overwhelmed with federal consultations, grant opportunities, and additional reporting and tracking requirements at a time when Red Lake was challenged by pandemic staffing and capacity limitations.

As a result of not completing the FY 2021 single audit, the Office of Self Governance (OSG) is unable assess the financial condition and capability of the Red Lake to fulfill compacted program obligations. Untimely submission of the FY 2021 single audit report may result in drawdown restrictions, withholding a percentage of federal funds or suspension of grant in accordance 2 CFR § 200.339 - Remedies for noncompliance.

On November 1, 2022, the OSG imposed sanctions on Red Lake during FY 2023 for not meeting the statutory and regulatory requirements for the annual submission of the single audit report. The OSG determined payments of all contract funds, including contract support costs, will be by way of monthly advance installments until the audit has been completed. Other payments methods will resume upon the OSG receiving notification that Red Lake has completed and submitted its single audit report for FY 2021. Moreover, the OSG reserves the right to impose additional sanctions, including withholding funds, if audits are not submitted in a timely manner.

Recommendation 1:

Red Lake must complete the FY 2021 single audit and submit the report to the FAC. Red Lake should also develop and implement a policy and procedures to ensure compliance with the development and submittal of the single audit. We also recommend Red Lake submit copies of the FY 2021 single audit to the Division of Internal Evaluation and Assessment (DIEA) office (previously named Office of Internal Evaluation and Assessment) as required by Section 24 of Red Lake's MYFA¹.

Red Lake's Response 1:

Red Lake expects to submit the FY 2021 single audit to the FAC and DIEA by August 15, 2023. Red Lake already has policies and procedures in place to ensure timely submission of the single audit, but circumstances beyond Red Lake's control, primarily from the federal government actions related to the pandemic, prevented timely submission. Red Lake stated that when all the current and prior circumstances confronting the Red Lake are considered, that the audit timeliness should be viewed as advisory. Red Lake stated that strict compliance with the completion of the substance of the audit is more important than strict (and blind) adherence to timeliness, and request that BTFA remove this finding.

DTER's Response 1:

DTER considered Red Lake's request to remove this finding; however, DTER is responsible for ensuring and evaluating the Tribes compliance with the trust provisions in the MYFA. Section 24, of the MYFA requires the Tribe to submit copies of the Single Audit report to the FAC. Further, OSG has imposed sanctions on the Tribe for failure to complete the Audit, which may in turn place the tribally assumed trust programs in jeopardy. Therefore, we cannot rescind this finding. Finding 1 remains open and Recommendation 1 unimplemented pending follow-up verification of completion and submission of the FY 2021 single audit.

¹ Section 24 in Red Lake Band of Chippewa Indians' MYFA for CYs 2017-2022 is as follows, "...the Tribe is required by 25 U.S.C. § 450c(f) to provide two copies of audit financial statements and single audit report to the Office of Internal Evaluation and Assessment..."

REAL ESTATE SERVICES: We verified with the BIA, Midwest Region that Red Lake is administering Certain Real Estate Services Categories pursuant to their MYFA. We identified one observation.

Observation 1:

In four of the residential leases reviewed², we determine that all the leases did not contain a cultural mandatory provision, as required by 25 CFR § 162.313 (c) (4). The missing mandatory provision is as follows:

- If historic properties, archeological resources, human remains, or other cultural items not previously reported are encountered during the course of any activity in the immediate vicinity of the properties, resources, remains, or items will cease and the lessee will contact BIA and the tribe with jurisdiction to determine how to proceed and appropriate disposition.

The lack of this provision increases the risk of damage to archeological resources and Indian cultural artifacts. Red Lake stated that residential leases usually pertain to land permits that are granted by the Tribal council. The identified leases were to obtain U.S. Department of Housing and Urban Development, Section 184 Indian Home Loans. To rectify the issue, Red Lake will insert a letter along with the leases to notify lessee of the missing mandatory language and make an amendment to the leases. Red Lake stated the construction on the homes has not yet started.

Recommendation 1:

We recommend Red Lake personnel update the residential lease templates to include the missing provisions. Additionally, the Red Lake personnel should develop procedures to ensure all required and mandatory provisions are included in residential leases.

Red Lake's Response 1:

Because the leases in question related to a small number of unique U.S. Department of Housing and Urban Development, Section 184 Indian Home Loans, the Tribe agreed to amend these leases to include a section on Historic Properties, Archaeological Resources, Human Remains, or Other Cultural Items. We provided a copy of the proposed amendment language to these

Additionally, Red Lake did not concur with the following DTER Statement in the draft report: *"We verified with the BIA, Midwest Region that Red Lake is administering the Real Estate Program pursuant to their MYFA, which includes Acquisitions & Disposals, Business Leasing, Residential Leasing, and Rights-of-Way."* See the Tribes full response in Appendix 4 of this report.

DTER's Response 1:

To address the Tribes non-concurrence with the draft report statement, which was confirmed with the Region, we removed and changed this language to reflect "Certain Real Estate Categories" as strictly stated in section 3, of the MYFA. However, we highly recommend the Tribe utilize section 2, of the MYFA to specifically enumerate what the "Certain Real Estate Categories" are that the Tribe is responsible for under the MYFA. This is in the best

² 409 4200341104, 409 4200341108, 409 4200355295, 409 4200355297

interest of the Tribe and the Secretary to ensure there is no confusion regarding the trust responsibilities for both parties under the agreement. Currently, the BIA takes the position that Red Lake is operating the full Real Estate Services program. Further, it is stated in the Tribes response that money is being moved from one trust activity to another. Section 3, does not allow the Tribe to move these trust monies around. It is in the best interest of the Tribe and the Secretary, to clarify the Tribe's trust responsibilities and the BIA's residual trust responsibilities. Therefore, we recommend the Tribe specifically enumerate all its trust responsibilities under (i.e., programs, services or functions) in section 2 of the MYFA.

Additionally, DTER commends and concurs with Red Lake's corrective actions to amend the small number of leases to include an archaeological and cultural provision to protect and safeguard their trust lands.

FORESTRY: We verified with the BIA, Midwest Region that Red Lake is administering the Forestry Program pursuant to their MYFA. Red Lake has an approved Forest Management Plan (FMP). The FMP was approved on August 27, 2015 and is current. We did not identify any findings.

WILDLAND FIRE: We verified with the BIA, Midwest Region that Red Lake is administering Wildland Fire pursuant to their MYFA. We did not identify any findings.

NATURAL RESOURCE DEVELOPMENT: Red Lake is currently performing Natural Resources activities under their MYFA, for the following:

Fish & Wildlife

The Sturgeon Management Plan and Red Lake Walleye Harvest Plan is to maintain and restock the lake sturgeon population. The Red Lake Band has developed and implemented the plan and maintains an inventory of fish. As a result, Brook Trout and Rainbow are well stocked throughout multiple lakes.

Environmental Management

Red Lake identifies the environmental requirements of activities and then determines the types of Assessment and Categorical Exclusion that apply to ensure compliance with the National Environmental Policy Act.

Water Management

The Water Resources Program is focused on surface water for the reservation. Red Lake ensures ground water and wells are monitored to maintain adequate levels of water flow and volume for water related resources such as wild rice and water levels for fisheries.

SECRETARY'S TRUST RESPONSIBILITIES

The BIA, Midwest Region, BIA, Minnesota Agency and the Bureau of Trust Funds Administration (BTFA) retain the residual trust functions. We identified two issues in the

performance of residual trust functions by the BIA, Minnesota Agency that impacts the trust performance of Red Lake.

Issue 1:

In four of the residential leases reviewed³, we determine that the lease did not contain a cultural mandatory provision, as required by 25 CFR § 162.313 (c) (4). The missing mandatory provision is as follows:

- If historic properties, archeological resources, human remains, or other cultural items not previously reported are encountered during the course of any activity in the immediate vicinity of the properties, resources, remains, or items will cease and the lessee will contact BIA and the tribe with jurisdiction to determine how to proceed and appropriate disposition.

Recommendation 1:

We recommend the BIA, Minnesota Agency Superintendent ensure all residential leases have the cultural mandatory language before approving the leases.

Issue 2:

In five of the five forestry timber sales contracts reviewed, the timber sales contracts were not recorded immediately after they were approved by the BIA Minnesota Agency, as required by 25 CFR § 150.6.⁴ The BIA, Minnesota Agency Superintendent approved the timber sales contracts between January 15, 2021 and April 4, 2021; however, they were recorded approximately a year later by the Midwest Region Land Titles and Records Office (LTRO) between January 12-January 19, 2022. This occurred due to the COVID pandemic and staff shortage at the Minnesota Agency.

The Forestry Program Assistant position has been vacant and as a result, a number of timber sales were not uploaded in TAAMS immediately so that the LTRO record them. The Minnesota Agency is in the process of filling the Forestry Program Assistant position. The position has been advertised and recently closed. In addition, there were some software glitches, software updates, and problems getting some vendors into the TAAMS system that caused further delay in the recordation of the transactions. The BIA, Minnesota Agency stated the software glitches and software update issues have since been rectified.

Recommendation 2:

We recommend the BIA, Minnesota Agency Superintendent fill the vacant Forestry Program Assistant position to ensure that the approved timber sales contracts are uploaded into TAAMS so that the BIA, Midwest Region LTRO, can record the contracts.

Issue 3:

There seems to be confusion regarding the Secretaries residual trust responsibilities in Real Estate Services. Because, Section 3, in the Red Lake MYFA merely states “Certain Real Estate Categories”, it was necessary for us to seek clarification from the Region on what

³ 409 4200341104, 409 4200341108, 409 4200355295, 409 4200 355297

⁴ F2409C1821, F2409C1824, F2409C1825, F2409C1826

these categories are. The Region stated that the Tribe is responsible for administering Acquisitions & Disposals, Business Leasing, Residential Leasing, and Rights-of-Way under their MYFA. We stated this in our draft report and Red Lake disagreed, stating in their response, that they are not performing all these functions; see Red Lake's response in full text, Appendix 4, of this report, where Red Lake states they are only responsible for "Certain Real Estate Categories."

Recommendation 3:

We recommend the Region, work with Red Lake to clarify what the "Certain Real Estate Categories" are, to ensure that there is no confusion as to what exactly, the residual trust responsibilities the Agency/Region assumes. Further, we recommend, the Region ensure that the Agency/Region roles and responsibilities are clearly enumerated in Section 4, of the MYFA.

METHODOLOGY

The Division of Trust and Review evaluated the trust functions administered by the Red Lake Band of Chippewa Indians (Red Lake), under a Self-Governance Compact, Multi-Year Funding Agreement (MYFA) for Calendar Years 2017-2022. Our evaluation was conducted in accordance with 25 CFR §§ 1000.355, 1000.361, and 1000.365, to ensure that the fiduciary trust functions performed by the Red Lake were conducted in accordance with trust standards as defined by Federal laws and regulations in the fulfillment of the Secretary's trust responsibilities to Individual Indians and Tribes.

This evaluation was conducted as a desk review starting March 21, 2023. We reviewed the compacted trust functions, programs, services or activities, as prescribed in the MYFA for Certain Real Estate Services, Forestry, Wildland Fire, and Natural Resources. We also assessed Tribal Trust Management.

To conduct this trust evaluation, we:

- Interviewed Red Lake, Bureau of Indian Affairs, and Bureau of Trust Funds Administration employees and officials regarding trust functions and the processing of trust transactions;
- Assessed program compliance with trust provisions of the MYFA;
- Reviewed Red Lake's system of internal controls and trust standards, including the adequacy of internal policies, procedures, and practices;
- Evaluated Red Lake's adherence to applicable laws, regulations, and court decisions;
- Examined Red Lake's policies and processes for maintaining and safeguarding trust records;
- Performed tests of the organization's trust transaction files;
- Reviewed information contained in Red Lake's most recent single audit report;
- Analyzed trust-related data from Innotrust; and
- Obtained a Tribal Representation Letter from Red Lake confirming that to the best of its knowledge and belief, Red Lake disclosed all necessary information.

Our evaluation included such tests and evaluation procedures that were considered necessary to accomplish the evaluation objectives. Because our review is limited, it would not necessarily disclose all compliance or internal control issues, or other deficiencies that may exist. However, we believe the evidence obtained provides a reasonable basis for our findings and conclusions.

INDIAN TRUST RATING STANDARDS

COMPOSITE RATING FACTORS:

Superior- The administration and executive management of Indian fiduciary trust activities is sound in every respect. Generally, all components are rated superior or satisfactory. Any weaknesses are minor and can be handled in a routine manner by management. The organization is in substantial compliance with laws, regulations, court decisions, and sound fiduciary principles.

Satisfactory- The administration and executive management of Indian fiduciary trust activities is fundamentally sound and considered satisfactory. Generally, no more than one component rating should be more severely rated than needs improvement. Only moderate weaknesses are present and are well within management's capabilities and willingness to correct. Indian trust activities are conducted in substantial compliance with laws, regulations, court decisions, and sound fiduciary principles.

Needs Improvement- The administration and executive management of Indian fiduciary trust activities exhibit some degree of concern in one or more of the component areas. A combination of weaknesses exists that may range from moderate to severe; however, the magnitude of the deficiencies generally does not cause a component to be rated more severely than needs improvement. Executive management may lack the ability or willingness to effectively address weaknesses within appropriate timeframes. Additionally, Indian trust functions may reveal some significant noncompliance with laws, regulations, court decisions, or sound fiduciary principles.

Unsatisfactory- The administration and executive management of Indian fiduciary trust activities generally exhibit unsafe and unsound practices or conditions, resulting in unsatisfactory performance. The problems range from severe to critically deficient and may be centered on inexperienced or inattentive management, weak or dangerous operating practices, or an accumulation of unsatisfactory features of lesser importance. The weaknesses and problems are not being satisfactorily addressed or resolved by management. There may be significant noncompliance with laws, regulations, court decisions, and sound fiduciary principles.

Imminent Jeopardy- The administration and executive management of Indian fiduciary trust activities is critically deficient in numerous major respects, with problems resulting from incompetent or neglectful administration, flagrant and/or repeated disregard for laws, regulations, court decisions, or a willful departure from sound fiduciary principles and practices. The volume and severity of problems are beyond management's ability or willingness to control or correct. Such conditions evidence a flagrant disregard for the interests of the beneficiaries. Continuous close examination attention is warranted and may include changing management or re-assumption of the organization's Indian trust activities.

DEFINITIONS:

Findings - Findings are deficiencies identified during an evaluation that require management's attention and corrective action. Deficiencies are practices that deviate from sound fiduciary principles and are likely to result in deterioration or harm to Indian trust assets if not addressed and/or result in substantive noncompliance with laws, regulations, or court decisions.

Observations - Observations are weaknesses of a less significant nature than findings, but denote issues that may merit management's attention. Any observations cited are to make management aware of certain situations and to help improve overall management of trust services. As appropriate, we have provided suggestions with the observations to enhance management practices or to improve operating proficiency.

**Red Lake Band of Chippewa Indians
Tribal Trust Evaluation
Current Corrective Action Plan
Report No. DTER-23-022T**

No.	Findings See Suggestions in Report (DTER Use)	Concur Yes/No (Tribe Use)	Corrective Action Response or Non- Concurrence (Tribe use)	Target Milestone Date (Tribe Use)	Actual Completion Date (DTER Use)	Status Open/Closed (DTER Use)
1	Red Lake Band of Chippewa Indians has not completed the Fiscal Year 2021 single audit, as required by 25 USC 5305(f) (1) and 2 CFR § 200.501(b) and the Multi-Year Funding Agreement for Calendar Years 2017-2022, Section 24.	No	Red Lake already has policies and procedures in place to ensure timely submission of the single audit, but circumstances beyond Red Lake's control, primarily from the federal government actions related to the pandemic, prevented timely submission. Red Lake believe that when all the current and prior circumstances confronting the Red Lake are considered, that the audit timeliness should be viewed as advisory. Red Lake believe that strict compliance with the completion of the substance of the audit is more important than strict (and blind) adherence to timeliness, and request that BTFA remove this finding.	Red Lake expects to submit the FY 2021 single audit to the Federal Audit Clearinghouse and Division of Internal Evaluation and Assessment by August 15, 2023.		Open

**Tribal Trust Evaluation
Red Lake Band of Chippewa Indians Response**

DTER-23-022T

Appendix 4

**RED LAKE BAND
of CHIPPEWA INDIANS
RED LAKE NATION HEADQUARTERS**



OFFICERS:

DARRELL G. SEKI, SR., Chairman
SAMUEL R. STRONG, Secretary
VERNELLE R. LUSSIER, Treasurer

DISTRICT REPRESENTATIVES:

GLENDIA J. MARTIN
EUGENE R. STANDINGCLOUD
ALLEN D. PEMBERTON
HAROLD E. GRAVES, JR.
ROBERT "BOB" SMITH
ROBERT L. MAY
MICHELLE (BARRETT) COBENAIS
HARLOW S. SPEARS

ADVISORY COUNCIL:

7 HEREDITARY CHIEFS

PO Box 550, Red Lake, MN 56671

Phone 218-679-3341 • Fax 218-679-3378

June 20, 2023

Elizabeth Wells Shollenberger Director
Division of Trust Evaluation and Review Bureau of
Trust Funds Administration Washington, D.C.

Dear Director Shollenberger,

We are in receipt of the Red Lake Band of Chippewa Indians' Tribal Trust Evaluation draft report for the period of January 2021 through December 2022. We have reviewed the draft report, and we concur with the Trust Management Finding. However, we do not concur with the draft report language concerning Real Estate Services.

1. Trust Management Finding

Red Lake acknowledges the importance of timely filing Single Audit Act reports.

During the period of the Trust Evaluation, we went to great lengths to explain to BTFA auditor Emmanuel Obadiah the extraordinary circumstances and burdens our Tribe (and many others) have experienced due to the pandemic and the federal governments' response to it. Red Lake's Treasurer, Vernelle Lussier, also stated Red Lake had difficulty in submitting the audit on time during the pandemic because Red Lake had been overwhelmed with literally hundreds of federal consultations, hundreds of pandemic-related grant opportunities, and additional burdensome reporting and tracking requirements at a time when Red Lake was challenged by pandemic staffing and capacity limitations. The Tribe also pointed out in the exit conference, that there is a double standard when it comes to submitting required documents on time. We provided just one example of many, where Federal Law requires that the President and OMB submit their annual budget to Congress by the first Monday in February. In President Biden's transition year, similar to what Red Lake faced last year, the President and OMB submitted the 2022 budget to Congress on May 28, 2021, about four months after the law requires. We believe that when all the current and prior circumstances confronting the Red Lake Band are considered, that the audit timelines should be viewed as advisory. We believe that strict compliance with the completion of the substance of the audit is more important than strict (and blind) adherence to timelines, and we request that BTFA remove this BTFA finding.

TRIBAL COUNCIL Organized April 18, 1918 (Revised Constitution & By-Laws, January G, 1959)
CHIEF' COUNCIL OF 1889: May-dway-gwa-no-nind, Nah-gaun-e-gwon-abe, Mays-co-co-caw-ay, Ahnah-me-ay-ge-shig
Naw-ay-tah-wowb: Nah-wah-quay-ge-shig

**Tribal Trust Evaluation
Red Lake Band of Chippewa Indians Response**

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Appendix 4

Letter to Elizabeth Wells Shollenberger Page two

Corrective action response:

Red Lake will submit the 2021 audit as soon as humanly possible. Red Lake already has policies and procedures in place to ensure timely submission of the annual audit, but circumstances beyond the Tribe's control, primarily from federal government actions related to the pandemic, prevented timely submission. As soon as the 2021 audit is complete, the Tribe will submit copies of the audit to both the FAC and the DIEA.

Target Milestone Date:

The Tribe expects to complete the 2021 audit and submit it to the FAC and DIEA by August 15, 2023.

2. Real Estate Services

The Tribe does not concur with the following statement on page 3 of the draft report under Real Estate Services:

"REAL ESTATE SERVICES: We verified with the BIA, Midwest Region that Red Lake is administering the Real Estate Program pursuant to their MYFA, which includes Acquisitions & Disposals, Business Leasing, Residential Leasing, and Rights-of-Way. We identified one observation."

The BIA has never provided sufficient funding to operate a full Real Estate Services program, so the Tribe did not assume the Real Estate functions of Acquisitions & Disposals, Business Leasing, Residential Leasing, and Rights of Way. The BIA provides the Tribe only \$85,369 for certain Real Estate Services activities, but the Tribe's most recent Real Estate operating budget was \$262,211, just to maintain the salaries and fringe benefits of the Realty Director and secretary position. So the Tribe receives less than one-third of the funding needed just for these two positions, and in order to pay these salaries, the Tribe had to take funds from other tribal programs, which are also severely underfunded by BIA. There was never funding provided for necessary staff to carry out the functions of Acquisitions & Disposals, Business Leasing, Residential Leasing, and Rights of Way. **In addition, the BIA retains approval and compliance authority over business and residential leases on Trust land.**

Red Lake did not assume Lease Compliance functions under self-governance because BIA retains approval and compliance authority over business and residential leases on Trust land. And thus, our current self-governance MYFA includes only "Certain Real Estate Services Categories." Our MYFA also states that any programs, services, functions, activities (PFSA) not listed as expressly transferred to the Tribe shall be assumed to be a retained function of the Secretary. **And because Acquisitions & Disposals, Business Leasing, Residential Leasing, and Rights of Way are not expressly listed as transferred to the Tribe, they are retained functions of the Secretary.** We request the above quoted language be struck from the report.

There was one Real Estate Services recommendation that the Tribe agreed to in our exit conference:

**Tribal Trust Evaluation
Red Lake Band of Chippewa Indians Response**

DTER-23-022T

Appendix 4

**Letter to Elizabeth Wells Shollenberger
Page three**

Recommendation 1: We recommend Red Lake personnel update the residential lease templates to include the missing provisions. Additionally, the Red Lake personnel should develop procedures to ensure all required and mandatory provisions are included in residential leases.

Because the leases in question related to a small number of unique U.S. Department of Housing and Urban Development, Section 184 Indian Home Loans, the Tribe agreed to amend these leases to include a section on Historic Properties, Archaeological Resources, Human Remains, or Other Cultural Items. We provided a copy of the proposed amendment language to these residential leases, to the BTFA after the exit interview.

We are available to discuss our present response at your convenience. You may reach me by telephone at (218) 679-1400, or by email at DSeki@redlakenation.org

Sincerely,



Darrell G. Seki, Sr.
Tribal Chairman
Red Lake Band of Chippewa Indians

cc: Eric Bruguier, Superintendent, Minnesota Agency, Midwest Region, BIA
Tammie Poitra, Regional Director, Midwest Region, BIA