IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 1:96CV01285
	)	(Judge Lamberth)
GALE NORTON, Secretary of the Interior, et al.,	)	
	)	
Defendants.	)	
	)	

NOTICE OF FILING OF THE TWENTY-FIRST QUARTERLY REPORT FOR THE DEPARTMENT OF THE TREASURY

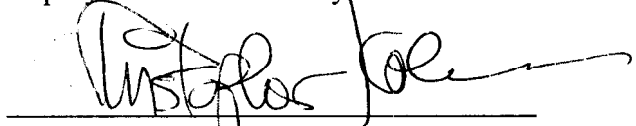
The Department of the Treasury has prepared its *Twenty-First Quarterly Report on Actions Taken By the Department of the Treasury to Retain IIM-Related Documents Necessary For an Accounting* and submits it to the Court in accordance with this Court's Order of December 21, 1999.

A copy of the report is attached hereto.

Dated: March 3, 2005

Respectfully submitted,

ROBERT D. McCALLUM, JR.
Associate Attorney General
PETER D. KEISLER
Assistant Attorney General
STUART E. SCHIFFER
Deputy Assistant Attorney General



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CERTIFICATE OF SERVICE

I hereby certify that, on March 3, 2005 the foregoing *Notice of Filing of the Twenty-First Quarterly Report For the Department of the Treasury* was served by Electronic Case Filing, and on the following who is not registered for Electronic Case Filing, by facsimile:

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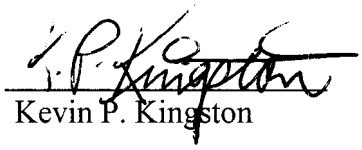

Kevin P. Kingston

Notices

1:96-cv-01285-RCL COBELL, et al v. NORTON, et al

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was received from Kohn, J. entered on 3/1/2005 at 4:59 PM EDT and filed on 3/1/2005

Case Name: COBELL, et al v. NORTON, et al
Case Number: 1:96-cv-1285
Filer: ALL FEDERAL DEFENDANTS
Document Number: 2857

Docket Text:
NOTICE *Notice of Filing of the Twenty-First Quarterly Report for the Department of the Treasury* by ALL FEDERAL DEFENDANTS (Attachments: # (1) Department of the Treasury's 21st Quarterly Report)(Kohn, J.)

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Document description: Main Document
Original filename:J:\C-Financial\Cobell\Current Filing\00_Notice_96cv1285_03012005.pdf
Electronic document Stamp:
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DEPARTMENT OF THE TREASURY
BUREAU OF THE PUBLIC DEBT
WASHINGTON, DC 20239-0001

March 1, 2005

MEMORANDUM FOR: ROBERT D. McCALLUM, JR.
ASSOCIATE ATTORNEY GENERAL
U.S. DEPARTMENT OF JUSTICE
CIVIL DIVISION

FROM: BRIAN L. FERRELL
CHIEF COUNSEL
BUREAU OF THE PUBLIC DEBT
DEPARTMENT OF THE TREASURY

SUBJECT: TWENTY-FIRST QUARTERLY REPORT
COBELL, ET AL. v. NORTON, ET AL.

Included with this cover memorandum is the "Twenty-First Quarterly Report on Actions Taken by the Department of the Treasury to Retain IIM-Related Documents Necessary for an Accounting" (the "Report"). The Report has been prepared by the Department of the Treasury pursuant to the Court Order and Opinion in *Cobell, et al. v. Babbitt, et al.* (D.D.C. CV No. 96-1285), filed December 21, 1999.

The Report includes information concerning the Financial Management Service, ("FMS"), Bureau of the Public Debt ("BPD") and certain Departmental Offices ("DO"). The Report was prepared based on information provided by a number of program offices from the above-described organizations. The preparation of the Report included circulation of drafts of the Report to program offices that are responsible for the actions described in the Report. Comments were received from those offices and incorporated in the Report.

Prior to submitting the Report to the Department of Justice, senior officials of FMS, BPD and DO reviewed a final draft of the Report.

The Department of the Treasury stands ready, in accordance with the Court's order, to respond to any questions or concerns the Court may have after reviewing the Report and attachments thereto.

TWENTY-FIRST QUARTERLY REPORT ON ACTIONS TAKEN BY THE DEPARTMENT OF THE TREASURY TO RETAIN IIM-RELATED DOCUMENTS NECESSARY FOR AN ACCOUNTING

Cobell, et al. v. Norton, et al.

D.D.C. CV No. 96-1285

March 1, 2005

This is the Department of the Treasury's ("Treasury") Twenty-First Quarterly Report, filed pursuant to the Court's December 21, 1999 Order ("Order") in the above-captioned case. It covers activities occurring over a three-month period from December 1, 2004 through February 28, 2005. The Order requires Treasury to report on the steps it has taken since the last quarterly report to rectify a single breach of its trust responsibilities, namely the destruction of IIM trust materials after their age exceeded six years and seven months. Cobell, et al. v. Babbitt, et al., 91 F. Supp. 2d 1, 50, 59 (D.D.C. 1999).

Treasury continues to preserve IIM-related documentation pursuant to the Court's August 12, 1999 Order, which defines the trust records that Treasury must retain. During the past quarter, Treasury again issued reminders to ensure the retention of required records. Among the reminders Treasury issued this quarter are letters reminding Secret Service (see Attachment A), NARA (see Attachments B and F), banks (see Attachments C and D), and a contractor (see Attachment E), to continue retaining pertinent records. In addition, employees of Financial Management Service (FMS) and the Bureau of the Public Debt (BPD) were again reminded to continue preserving records related to this litigation (see Attachments G and H), and retention instructions to pertinent Departmental Office (DO) employees continue to be posted on DO's intranet site.

In the June 1, 2004 status report, we reported that DO's IT staff had developed a technical solution to run the ESEUTIL and ISINTEG utility software on the Microsoft Exchange database containing DO's local area network (LAN) data. The purpose of running the utilities is to ascertain the effects of a hardware failure that occurred in May 2003. Before the ESEUTIL and ISINTEG utilities can be run, Treasury must load a copy of the Exchange database from a backup tape onto a storage area network (SAN). This process is called a "data restore." We also reported in September 2004 that Treasury had determined that its copy of the Microsoft Exchange database contains some classified information. The rules governing the handling of classified information strictly limit access to the backup tapes and Treasury IT staff's ability to use the SAN. DO's IT staff has developed a proposal to address this situation and coordinated with the Treasury officials responsible for ensuring compliance with the rules for handling classified information.

We are now able to report that we have concurrence from Treasury oversight officials on the plan to copy the data from the backup tapes onto a SAN and run the Microsoft Exchange utilities. Before running the utilities, Treasury must coordinate with another agency to use the "data restore" process. We will keep the Court apprised of our progress and the results of the utility analysis.

On December 7, 2004, representatives from BPD and FMS attended a conference entitled "Voices from the Desert: The Sedona Principles, the Courts, and Legal Issues Affecting Federal Agency Electronic Records Management."

INDEX TO ATTACHMENTS
The Department of the Treasury's Twenty-first Quarterly Report
March 1, 2005

Attachment A	February 2, 2005 letter issued by FMS, reminding the U.S. Secret Service to continue preserving, until further notice, all Treasury checks that FMS forwards for investigation and related information and records
Attachment B	February 8, 2005 letter from BPD to NARA, reminding NARA to continue suspending destruction of BPD records at Federal Records Centers
Attachment C	Examples of February 2005 Business Alert Message sent by FMS to all banks that act as Treasury's financial agents and February 2005 letter sent by FMS to all banks that formerly acted as Treasury's financial agents, reminding them to continue to retain, indefinitely, records associated with Interior's deposits to the Treasury General Account
Attachment D	February 9, 2005 letters mailed by FMS to the two banks (Mellon Bank and Bank of America) that administer lockboxes for IIM deposits, reminding them to continue preserving all records pertinent to those lockbox accounts
Attachment E	February 17, 2005 letter from FMS Contracting Officer Angelia Pope to Didlake, Inc., reminding Didlake, Inc. to continue retaining closed check claims case records indefinitely
Attachment F	February 22, 2005 letter from FMS to NARA, reminding NARA to continue the "freeze" on FMS records at Federal Records Centers
Attachment G	Global e-mail issued February 24, 2005 to all BPD employees, and posted on BPD's intranet site, reminding employees to continue preserving IIM-related records indefinitely and sending all Cobell-related e-mail to BPD's dedicated mailbox
Attachment H	Global e-mail issued February 25, 2005 to all FMS employees, and posted on FMS' intranet site, reminding employees to continue retaining records related to this litigation indefinitely and to continue utilizing the "Cobell Archive" mailbox to retain all IIM-related e-mail

DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
HYATTSVILLE, MD 20782

Attachment A

FEB -2 2005

Brian K. Nagel
Assistant Director,
Office of Investigations
U.S. Secret Service
950 H Street, N.W.
Washington, D.C. 20223

Re: Document Retention Order in Cobell, et al. v. Norton, et al.
Civ. No. 1-96CV01285 (D.D.C.)

Dear Mr. Nagel:

This is a reminder that Treasury remains subject to a continuing court order in the above-referenced lawsuit to retain, indefinitely, "all documents and data relating to Individual Indian Money trust funds and Individual Indian trust assets." Copies of the document retention order entered in the case on August 12, 1999 and Treasury's Stipulation filed with the court on July 6, 1999 were provided with some of our previous reminder letters to Secret Service, including our reminder letter dated August 26, 2003. Please let me know if you need copies of those documents.

As stated in our previous letters to Secret Service (dated January 14, 2000, October 13, 2000, February 28, 2001, August 29, 2001, August 28, 2002, February 12, 2003, August 26, 2003, January 16, 2004 and August 2, 2004), among the types of records that Treasury must preserve to comply with the court order and Stipulation are all Treasury checks and check-related records. Accordingly, please continue to preserve, until further notice, all Treasury checks that FMS forwards to your bureau for investigation and all information and records your bureau maintains relating to those checks. Please continue to take all steps necessary to determine and document that all such records in the possession of Secret Service are being preserved indefinitely.

If you have any questions concerning the Cobell document retention order and Stipulation, please contact Beth Kramer in the FMS Chief Counsel's office, at (202) 874-7036, or me, at (202) 874-7913.

Thank you for your continued cooperation and assistance.

Sincerely,

Ronald G. Cymbor, Director
Financial Processing Division

cc: Thomas Dougherty, Office of Chief Counsel, U.S. Secret Service – Fax #202/406-6544

Attachment B

DEPARTMENT OF THE TREASURY
BUREAU OF THE PUBLIC DEBT
PARKERSBURG, WV 26106-1328

February 8, 2005

National Archives and Records Administration
Life Cycle Management Division
Attention: Stephen Cooper
8601 Adelphi Road
College Park, MD 20740-6601

Re: Suspending Destruction

Dear Mr. Cooper:

As you are aware, the Bureau of the Public Debt (BPD), Department of the Treasury, has been under court order since August 1999 to preserve all documents relating to the pending litigation, Cobell v. Norton, et al., which challenges the government's management of the Individual Indian Monies (IIM).

The purpose of this letter is to remind you that BPD remains under court order to preserve records indefinitely for purposes of the Cobell litigation. Therefore, we request that the Federal Records Centers continue to implement the freeze on **all** records from BPD Record Groups 53 and 82 and preserve all such records until further notice.

Thank you for your cooperation in this matter.

Sincerely,

Vicki Thorpe, Manager,
Graphics, Printing, and Records Branch
Records Officer

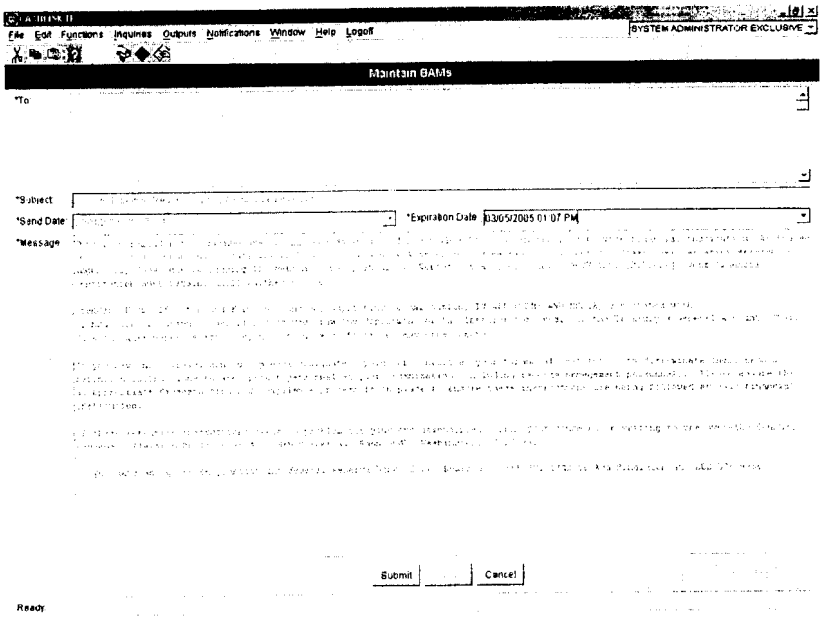
This is a reminder to continue preserving records in accordance with FMS' prior instructions to your financial institution. As stated in our initial letter dated July 9, 1999 and each reminder letter, including the most recent Broadcast Administrative Message on August 12, 2004, due to ongoing litigation [Cobell, et al. v. Norton, et al., Civ. No. 1-96CV01285 (D. D.C.)], your financial institution must retain, until further notice:

> Standard Form 215, Standard Form 5515 and any supporting documentation, IN ALL FORMS AND MEDIA, associated with transactions relating to deposits received from the Department of the Interior for credit to the Treasury's General Account (TGA). This includes paper, electronic, microfilm, microfiche, or any other media.

If you have not already done so, please designate a point of contact at your financial institution to disseminate these record retention instructions to appropriate personnel at your organization (including records management personnel). Please ensure that an appropriate dissemination and compliance process is in place to ensure these instructions are being followed at your financial institution.

If these retention instructions create a problem for your operations, please send your concerns in writing to the Over-the-Counter Revenue Collection Division at 401 14th Street, SW, Room 304D, Washington, DC 20227.

If you have any questions, contact the Federal Reserve Bank of St. Louis at 1-866-771-1842 or Ava Singleton on (202) 874-9986.



DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
WASHINGTON, D.C. 20227

February 08, 2005

Dear Sir or Madam:

This is a reminder to continue preserving records in accordance with FMS' prior instructions to your financial institution. As stated in our initial letter dated July 9, 1999 and each reminder letter, due to ongoing litigation [Cobell, et al. v. Norton, et al., Civ. No. 1-96CV01285 (D. D.C.)], your financial institution must retain, until further notice:

> Standard Form 215, Standard Form 5515 and any supporting documentation, IN ALL FORMS AND MEDIA, associated with transactions relating to deposits received from the Department of the Interior for credit to the Treasury's General Account (TGA). This includes any such records formerly maintained by the financial institutions shown on the attached list, now in your possession, custody or control. This includes paper, electronic, microfilm, microfiche, or any other media.

If you have not already done so, please designate a point of contact at your financial institution to disseminate these record retention instructions to appropriate personnel at your organization (including records management personnel). Please ensure that an appropriate dissemination and compliance process is in place to ensure these instructions are being followed at your financial institution.

If these retention instructions create a problem for your operations, please send your concerns in writing to the Over-the-Counter Revenue Collection Division (OTCD) at 401 14th Street, S.W., Room 304D, Washington, DC 20227, as soon as possible.

Thank you for your continuing cooperation in this matter. If you have any questions, the first point of contact is the Federal Reserve Bank of St. Louis at 1-866-771-1842. Should you have further questions, feel free to contact Ava Singleton on (202) 874-9986.

Sincerely,

Corvelli A. McDaniel, Director
Over-the-Counter Revenue Collection Division (OTCD)
A/C Federal Finance

DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
WASHINGTON, D.C. 20227

February 9, 2005

Attachment D
(1 of 2)

Ms. Elaine Friedman
Vice President
Mellon Bank
Mellon Client Service Center
Suite 1260
Pittsburgh, PA 15259-0001

Re: Minerals Management Service Lockbox Account
Agency Location Code 14170001, Lockbox Number 911-4258

Dear Ms. Friedman:

As you know, FMS remains under a continuing court order in Cobell, et al. v. Norton, et al. to preserve, indefinitely, all records relating to Individual Indian Money (IIM) trust funds and trust assets. Accordingly, please continue to retain all documentation pertaining to the above-referenced lockbox account until further notice. You have confirmed that the records for this account include:

Standard Form 215
Standard Form 5515
ACH Receiving Remittance/Payment Report
Demand Deposit Account Activity Statements
Any forms used to facilitate internal processing, such as the CA$HLINK II Deposit Report Form

You must retain the records for this account IN ALL FORMS AND MEDIA generated for the account. This includes paper, electronic, microfilm, microfiche, or any other media. If you create the same record in multiple media, you must retain the record in all media.

Please distribute this letter to appropriate bank personnel, including records management personnel. If you have any questions regarding these retention instructions, please contact me at (202) 874-6847. Thank you for your continued cooperation.

Sincerely,

Sheryl R. Morrow

Sheryl R. Morrow, Director
General Revenue Collection Division

DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
WASHINGTON, D.C. 20227

Attachment D
(2 of 2)

February 9, 2005

Mr. Stephen C. Herndon
Senior Vice President
Bank of America
Federal Government Banking Division
600 Peachtree Street, NE
Atlanta, GA 30308-2214

Re: Bureau of Indian Affairs - Palm Springs Lockbox Account
Agency Location Code 00004844, Lockbox Number 72758

Dear Mr. Herndon:

As you know, FMS remains under a continuing court order in Cobell, et al. v. Norton, et al. to preserve, indefinitely, all records relating to Individual Indian Money (IIM) trust funds and trust assets. Accordingly, please continue to retain all documentation pertaining to the above-referenced lockbox account until further notice. You have confirmed that the records for this account include:

Standard Form 215
Standard Form 5515
Check copies
Monthly Account Activity Reports (MAAR)
Monthly Account Analysis Statements (MAAS)
Standard Listing
Any forms used to facilitate internal processing, such as the Daily Balance Sheet

You must retain the records for this account IN ALL FORMS AND MEDIA generated for the account. This includes paper, electronic, microfilm, microfiche, or any other media. If you create the same record in multiple media, you must retain the record in all media.

As of this time, the Court has not acted on Treasury's July 9, 2001 Motion to replace the existing August 12, 1999 retention order in this case. Accordingly, notwithstanding that you began generating photocopies of checks associated with this account on October 1, 2001, you must continue retaining any duplicate copies on microfilm, unless and until FMS obtains court approval to retain only pre-October 2001 microfilm copies and post-September 2001 photocopies

Please distribute this letter to appropriate bank personnel, including records management personnel. If you have any questions regarding these retention instructions, please contact me at (202) 874-6847. Thank you for your continued cooperation.

Sincerely,

Sheryl R. Morrow

Sheryl R. Morrow, Director
General Revenue Collection Division

cc: Linda S. Corbett, Senior Vice President, Bank of America

DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
WASHINGTON, D.C. 20227

Attachment E

February 17, 2005

Didlake, Inc.
Attn: Ethel Hughes, Project Manager
3700 East-West Highway, Room B-014
Hyattsville, MD 20782

Re: FMS Contract Number TFMS-HQ-04-K-0001 (formerly FHQ99D51295)

Dear Ms. Hughes:

Please continue to ensure that appropriate personnel at your company who perform work for FMS under the referenced contract are aware of, and are complying with, FMS' longstanding instructions to retain, indefinitely, all check claims related records. Such records include microfiche copies of closed check claims case files, original documents contained in such files (including original TFS 1133 claim forms), and any supporting information or documentation associated with same.

Our letter to you dated August 7, 2001 included a copy of the retention order issued August 12, 1999 in the Cobell, et al. v. Norton, et al. litigation. If you need another copy of the retention order, please let me know.

Please make FMS aware of any concerns you may have regarding these instructions. You may contact the COTR, Marilyn Haynes, at (202) 874-8445 or Toya Reynolds, at (202) 874-6963, if you have any questions.

Thank you for your continued cooperation.

Sincerely,

Angelia Pope
Contracting Officer

cc: Marilyn Haynes, COTR
Beth Kramer, Office of Chief Counsel

DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
HYATTSVILLE, MD 20782

Attachment F

February 22 , 2005

Thomas E. Mills
Assistant Archivist for Regional Records Services
National Archives and Records Administration
Office of Regional Records Services
8601 Adelphi Road, Suite 3600
College Park, MD 20740

Dear Mr. Mills:

The purpose of this letter is to remind you that Financial Management Service (FMS), a bureau of the U.S. Department of the Treasury, remains under court order to preserve records indefinitely for purposes of the Cobell, et al. v. Norton, et al. litigation. Therefore, we request that the Federal Records Centers continue to implement the freeze on **all** records from FMS Record Groups 39, 50 and 425 and preserve all such records until further notice.

If you have any questions, you may contact Charles Brett at (202) 874-6156. Thank you for your cooperation in this matter.

Sincerely,

Sharon M. King, Director
Administrative Programs Division

Attachment G

Anne Meister/BPD

02/24/2005 06:31 PM

To All - BPD (Business use only!)
cc
Subject IMPORTANT REMINDER FOR ALL EMPLOYEES

I'd like to again remind all employees that BPD remains subject to a court order that governs the retention of records relating to the Individual Indian Money (IIM) trust fund and IIM trust assets. To ensure compliance with this court order, you should not destroy any records unless you receive written approval from the Chief Counsel or his designated representative. In addition, you should continue to copy or forward all e-mails relating to the IIM trust fund, IIM trust assets, and the Cobell litigation to the dedicated "IIM Mailbox" unless you can tell from the message that the initiator of the e-mail has already copied the "IIM Mailbox." To insert the mailbox address on an email, simply type "IIM Mailbox" and press the "Enter" key.

The Federal Reserve Banks have also been instructed not to destroy any fiscal agency records unless they have received specific permission in writing from Treasury authorizing the destruction. Please refer any inquiries from FRB personnel regarding record retention to Jimmy Phillips at (202) 504-3683, fax number (202) 504-3630. Don't attempt to give guidance on record retention matters to any FRB employee.

I appreciate your continued compliance with these instructions and encourage you to occasionally review the pertinent memoranda and e-mails, which are posted on PD Web under the Office of the Chief Counsel's (CC) website. Just double click on the office icon "CC" and double click on "Cobell v. Norton"which appears in the "Litigation" section.

Thanks again for the great support you have shown in helping Public Debt comply with a very challenging court order.

Anne Meister
Deputy Commissioner

Attachment H

Official FMS Business

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To:	Office of the Commissioner Agency Services Debt Management Services Federal Finance Financial Governmentwide Accounting Information Resources AC Management Regional Operations HQ Austi Birmingham Kansas City Philadelphia San Francisco
Date:	02/25/2005
From:	William Higgins
Subject:	Cobell and Tribal Trust Litigation - FMS Retention Requirements

Date: February 25, 2005

To: All FMS Employees

From: Richard L. Gregg
Commissioner

Subject: Cobell and Tribal Trust Litigation – FMS Retention Requirements

All FMS employees are again reminded that FMS remains subject to continuing court orders and Treasury directives, requiring us to retain and safeguard all documents, data and tangible things that relate to Individual Indian Money (IIM) and Tribal trust funds and assets, indefinitely. To ensure that we remain in compliance with the court orders and directives, **please continue to adhere to the following FMS requirements**:

1. Do not destroy any documents, data or tangible things unless you have received written approval from the Chief Counsel. Prepare a disposition request, following the instructions contained in the Chief Counsel's March 7, 2000 memorandum entitled "Process for Obtaining Disposition Approval" (posted on the FMS intranet on the "Cobell/Tribal Litigation" page).

2. Continue copying or forwarding all Cobell-related and Tribal-related e-mail and other electronic documents to their respective dedicated mailboxes ("Cobell Archive@fms" for Cobell-related e-mail/electronic documents and "Tribal Mailbox@fms" for Tribal-related e-mail/electronic documents). To insert a mailbox address on an e-mail, simply type "Cobell" or "Tribal" and press the "Enter" key.

3. Promptly forward any voicemail messages that relate to the Jicarilla Apache Nation or The Pueblo of Laguna Tribe to FMS' dedicated "Tribal" voicemail repository . Step-by-step instructions for forwarding voicemail messages to the repository are

provided in my March 26, 2004 memorandum (posted on the FMS intranet on the "Cobell/Tribal Litigation" page).

4. Do not archive (move) data from any FMS electronic production systems that contain litigation-related data, except pursuant to a written archive plan that has been approved by the Commissioner's Office. Please refer to the Deputy Commissioner's March 24, 2000 memorandum entitled "Maintenance of Data on FMS Systems" (posted on the FMS intranet on the "Cobell/Tribal Litigation" page) for more information about this requirement.

5. Do not attempt to give guidance on record retention matters to FRB personnel. Please refer all such questions to Terri Dawson at (202) 874-6877 or to Beth Kramer at (202) 874-7036.

I appreciate your continued compliance with these instructions and encourage you to review the pertinent memoranda posted on the FMS intranet. To locate the memoranda, double click on the icon for Netscape Navigator. This moves you to FMS' intranet. Under "News" or "Hot Topics," click on "Cobell/Tribal Litigation."

If you have questions or need assistance regarding any of these retention requirements, please do not hesitate to contact Terri Dawson at (202) 874-6877 or Beth Kramer at (202) 874-7036.

Thank you.

*** END OF ANNOUNCEMENT ***