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 A. NORTON, Secretary of the Interior, et al.,	)	
	)	
Defendants.	)	
	)	

INTERIOR DEFENDANTS' REQUEST FOR PRODUCTION OF DOCUMENTS, DATED FEBRUARY 21, 2003

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, the Secretary of the Interior and the Assistant Secretary- Indian Affairs ("Interior Defendants") hereby request that Plaintiffs' class representatives produce the documents requested herein for inspection and copying within thirty days after service, at the offices of the Department of Justice, 1100 L Street, N.W., Washington, DC 20005, or at such other place and time as the parties may agree, in accordance with the following definitions and instructions. Any written objections to this request for production shall be served within thirty days after service.

DEFINITIONS

In these document requests, the following definitions will apply:

A. "Document" or "documents" means any written or graphic matter of any kind or nature, however produced, reproduced, or recorded, whether handwritten, typed, drawn, sketched, printed, computer-generated, microfiched, microfilmed, or recorded by any physical, mechanical, electronic or electrical means whatever, whether produced, reproduced, or stored on paper, cards, disc, tape, film, electronic facsimile, computer storage, or any other media, whether

an original, master, or duplicate including without limitation, books, records, papers, film, videotape, sound recordings, pamphlets, brochures, circulars, advertisements, specifications, blueprints, maps, telegrams, notes, notebooks, work sheets, electronic mail transmissions, reports, diaries, or items similar to any of the foregoing. "Document" or "documents" shall further collectively include the original, duplicate original, and any or all copies or reproductions of the original document, to the extent that any or all copies are different in any way from the original document, whether by interlineation, receipt stamps, notation, indication of copies sent or received, or otherwise.

B. Words used in the singular shall be construed to include the plural, and vice versa. Words used with reference to a person of the male gender shall also be construed to refer to a person of the female gender, and vice versa.

C. "Identify" or "identity" shall have the following meanings:

(1) When used in reference to an organization, the response shall state the full name and present or last known address of the corporation, partnership, firm or other entity.

(2) When used in reference to an individual, the response shall state his or her full name, present or last known address, present or last known business affiliation and job description, any past or present affiliation with you, the manner in which he relates to any of the issues or facts in this litigation, and the source and extent of his or her knowledge about any of these facts or issues. If you do not know the present address or present employer of any such person, please so indicate and state his last known address and last known employer.

(3) When used in reference to a document, the response shall state the type of document (e.g., memorandum, letter, note, contract), its date, author(s), addressee(s) (if any), synopsis of content, and present location. In lieu of providing this information, you may attach a copy of the document to your answers.

(4) When used in reference to a source of information, the response shall identify

each individual providing information. The response shall also state whether the information has been reduced to writing or other tangible form. If so, this writing or other record shall be identified in the manner described in subparagraph (3) above.

D. "Describe" or "state" means the following: Describe fully by reference to underlying facts rather than ultimate facts or conclusions of law or facts, and particularize as to:

(1) the identity of each person involved in each such event, including, but not limited to persons employed by you and those persons purporting to act for you;

(2) the specific acts of each person participating in each such event;

(3) the date and time of each such event;

(4) the address and location of each such event; and,

(5) the identity of each person present during each such event.

E. Documents to be identified or facts to be stated are described as those which "relate to" any entity, a person, an action, a document, or an event. The term "relate to" means to name, to refer to either directly or indirectly, to comment upon, analyze, review, report on, form the basis of, be considered in the preparation of, result from, be in any way connected with, emanate from, or have any logical relation to the entity, person, document, event, or action.

F. "Person" or "individual" means any natural person, corporation, partnership, other business association or entity recognized by law, and the employees or independent contractors thereof, and any domestic or foreign government body, commission, board, agency, branch, department, component or element thereof.

G. "And" as well as "or" shall be construed in either the disjunctive or conjunctive

form as necessary to bring within the scope of the document request any information which may otherwise be construed outside its scope.

H. "You" or "your" means any of the Plaintiffs who are designated as class representatives in this lawsuit, and any agent of theirs.

I. "Communication" means any transmission of words or thoughts by a person or between or among two or more persons, including but not limited to spoken words, discussions, conferences, conversations, negotiations, agreements, understandings, interviews, inquiries, promises, correspondence, statements, whether oral or written, and whether transmitted in person or by electronic or other means, including but limited to radio, telphonic, fax, email or other means.

J. "Plaintiffs' Trust Compensation Plan" means the paper entitled "Plaintiffs' Plan for Determining Accurate Balances in the Individual Indian Trust," filed by Plaintiffs on January 6, 2003.

K. "Plaintiffs' Trust Management Plan" means the paper entitled ""Plaintiffs' Compliance Action Plan Together with Applicable Trust Standards," filed by Plaintiffs on January 6, 2003.

L. "Allotted Lands" has the meaning that Plaintiffs' ascribed to it when used in Plaintiffs' Trust Compensation Plan.

M. "Allotted royalties" has the meaning that Plaintiffs' ascribed to it when used in Plaintiffs' Trust Compensation Plan.

N. "Allotted revenue" has the meaning that Plaintiffs' ascribed to it when used in Plaintiffs' Trust Compensation Plan.

INSTRUCTIONS

A. If you contend that you are entitled to withhold from production a requested document, or any part thereof, on the basis of attorney/client privilege, the work product doctrine, or other grounds, you are to provide a list with the following information:

(1) Principals. The name and title of the author(s), sender(s), addressee(s), and recipient(s).

(2) Date. The date the document was originated.

(3) Publications. The date and title of each person to whom the contents of the document has been communicated (by copy, exhibition, reading, summarization, or otherwise).

(4) Descriptions. A description of the nature and subject matter of the document.

(5) Privilege. A statement of the privilege and the basis upon which it is asserted.

(6) Pages. The number of pages in the document.

(7) Custodian. The present custodian of the document.

Notwithstanding a claim that a document is privileged, any document so withheld must be produced with the portion claimed to be protected excised.

B. You are requested to produce all documents in your possession, custody or control in their original file folders and to identify the file from which each document came. All documents produced are to be clearly organized and labeled to correspond to each Request or as they are kept by you in the usual course of business, provided that you identify the individual file in which they were maintained.

C. If you object to or otherwise decline to produce any documents responsive to a document request, please provide all documents called for by that portion of the document

request to which you do not object or to which you do not decline to produce. If you object to a document request on the ground that it is too broad (i.e., that it calls both for documents which are within the scope of Rule 26 and documents which are not), provide the documents that you contend are within the scope of Rule 26. If you object to a document request on the ground that to provide the requested documents would constitute an undue burden, provide all requested documents that can be supplied without undertaking an undue burden. For those portions of a production request to which you object or otherwise decline to produce, state the reason for such objection or declination.

D. You are required to furnish all documents in your possession, custody or control, including those documents not merely in your custody but also those in the possession of your attorneys, agents, or other persons under your control.

E. If any document requested was formerly in your possession, custody, or control and has been lost or destroyed, you are requested to submit in lieu of each such document a written statement that: (i) describes in detail the nature of the document and its contents; (ii) identifies the person who prepared or authorized the document and, if applicable, the person to whom the document was sent; (iii) specifies the date upon which the document was prepared or transmitted or both; and, (iv) specifies, if possible, the date upon which the document was destroyed, and, if destroyed, the conditions of or reasons for such destruction and the persons requesting and performing the destruction.

F. Some specified requests for documents may be subsumed in the scope of other requests for documents. Documents responsive to requests so subsumed may be produced in response to the request with the broader scope.

G. In producing the requested documents, you do not need to produce any documents that were included as exhibits to Plaintiffs' Trust Compensation Plan or Plaintiffs' Trust Management Plan.

DOCUMENTS REQUESTED

REQUEST NO. 1: All documents relied upon by Plaintiffs in drafting Plaintiffs' Trust Compensation Plan that contain information that was included in Plaintiffs' Trust Compensation Plan.

REQUEST NO. 2: All documents relied upon by Plaintiffs in drafting Plaintiffs' Trust Compensation Plan that support Plaintiffs' contention that "even the Interior defendants have admitted that the historical accounting that the United States government owes to individual Indian trust beneficiaries is impossible" (Plaintiffs' Trust Compensation Plan at 7).

REQUEST NO. 3: All documents relied upon by Plaintiffs in drafting Plaintiffs' Trust Compensation Plan that support Plaintiffs' contention that "routinely BIA agency superintendents and field personnel have used Trust funds as slush funds" (Plaintiffs' Trust Compensation Plan at 11).

REQUEST NO. 4: All documents relied upon by Plaintiffs in drafting the "Oil and Gas" portion of Plaintiffs' Trust Compensation Plan that contain information related to Plaintiffs' plan to compute total revenues from reservations with Allotted Lands by "estimating historical production volumes and applying historical price estimates" (Plaintiffs' Trust Compensation Plan at 42).

REQUEST NO. 5: All documents relied upon by Plaintiffs in drafting the "Oil and Gas" portion of Plaintiffs' Trust Compensation Plan that contain information related to Plaintiffs' plan to compute total royalties "by applying historical royalty rates to total revenues" (Plaintiffs' Trust Compensation Plan at 42).

REQUEST NO. 6: All documents relied upon by Plaintiffs in drafting the "Oil and Gas" portion of Plaintiffs' Trust Compensation Plan that contain information related to Plaintiffs' plan to compute allotted royalties "by applying historical Allotted Land percentages to total royalties" (Plaintiffs' Trust Compensation Plan at 42).

REQUEST NO. 7: All documents relied upon by Plaintiffs in drafting the "Hard Rock

Minerals" portion of Plaintiffs' Trust Compensation Plan that contain information related to Plaintiffs' plan to compute total revenues from reservations with Allotted Lands by "estimating historical Hard Rock production and applying historical price estimates" (Plaintiffs' Trust Compensation Plan at 46).

REQUEST NO. 8: All documents relied upon by Plaintiffs in drafting the "Hard Rock Minerals" portion of Plaintiffs' Trust Compensation Plan that contain information related to Plaintiffs' plan to compute total royalties "by applying historical royalty rates to total revenues" (Plaintiffs' Trust Compensation Plan at 46).

REQUEST NO. 9: All documents relied upon by Plaintiffs in drafting the "Hard Rock Minerals" portion of Plaintiffs' Trust Compensation Plan that contain information related to Plaintiffs' plan to compute allotted royalties "by applying historical Allotted Land percentages to total royalties" (Plaintiffs' Trust Compensation Plan at 46).

REQUEST NO. 10: All documents relied upon by Plaintiffs in drafting the "Land Leases" portion of Plaintiffs' Trust Compensation Plan that contain information related to Plaintiffs' plan to estimate "total revenue by land use type (agricultural, grazing, business, and other)" (Plaintiffs' Trust Compensation Plan at 48).

REQUEST NO. 11: All documents relied upon by Plaintiffs in drafting the "Land Leases" portion of Plaintiffs' Trust Compensation Plan that contain information related to Plaintiffs' plan to estimate allotted revenue "by applying average Allotted Land percentages to estimated total revenues" (Plaintiffs' Trust Compensation Plan at 48).

REQUEST NO. 12: All documents relied upon by Plaintiffs in drafting the "Land Sales" portion of Plaintiffs' Trust Compensation Plan that contain information related to Plaintiffs' plan to compute "total revenue (value of Allotted Lands sold)" (Plaintiffs' Trust Compensation Plan at 49).

REQUEST NO. 13: All documents relied upon by Plaintiffs in drafting the "Land Sales" portion of Plaintiffs' Trust Compensation Plan that contain information related to Plaintiffs' plan to apply "an adjustment factor to account for an understatement in the data" (Plaintiffs' Trust Compensation Plan at 49).

REQUEST NO. 14: All documents relied upon by Plaintiffs in drafting the "Land Sales" portion of Plaintiffs' Trust Compensation Plan that contain information related to Plaintiffs' plan to estimate "total allotted acres" (Plaintiffs' Trust Compensation Plan at 49).

REQUEST NO. 15: All documents relied upon by Plaintiffs in drafting the "Land Sales" portion of Plaintiffs' Trust Compensation Plan that contain information related to Plaintiffs' plan to estimate "allotted acres sold based on the percent of allotted acres sold historically" (Plaintiffs' Trust Compensation Plan at 49).

REQUEST NO. 16: All documents relied upon by Plaintiffs in drafting the "Land Sales" portion of Plaintiffs' Trust Compensation Plan that contain information related to Plaintiffs' plan to estimate "the price per acre for Allotted Land Sales" (Plaintiffs' Trust Compensation Plan at 49).

REQUEST NO. 17: All documents relied upon by Plaintiffs in drafting the "Land Sales" portion of Plaintiffs' Trust Compensation Plan that contain information related to Plaintiffs' plan to estimate "revenues from Allotted Land sales as allotted acres sold times price per acre" (Plaintiffs' Trust Compensation Plan at 49).

REQUEST NO. 18: All documents relied upon by Plaintiffs in drafting Plaintiffs' Trust Compensation Plan that contain information related to Plaintiffs' determination "that the most appropriate index to compute interest on the monies generated from Allotted Lands was the long term corporate bond index" (Plaintiffs' Trust Compensation Plan at 51).

REQUEST NO. 19: All documents provided to Plaintiffs by the persons identified in response to Interrogatory No. 1 of Interior Defendants' Set of Interrogatories, Dated February 21, 2003, which contain information that was included in Plaintiffs' Trust Compensation Plan.

REQUEST NO. 20: All documents relied upon by Plaintiffs in drafting Plaintiffs' Trust Management Plan that contain information that was included in Plaintiffs' Trust Management Plan.

REQUEST NO. 21: All documents provided to Plaintiffs by the persons identified in response to Interrogatory No. 2 of Interior Defendants' Set of Interrogatories, Dated February 21, 2003, which contain information that was included in Plaintiffs' Trust Management Plan.

REQUEST NO. 22: All of the "over 100 books, reports, studies and periodicals" (Plaintiffs' Trust Compensation Plan at 41) that were relied upon by Plaintiffs in creating their "database of Allotted Lands" (Id.).

REQUEST NO. 23: All documents generated by PriceWaterhouseCoopers, or any other expert retained by Plaintiffs or their counsel, which are in the possession, custody, or control of Plaintiffs or their counsel, that show the amount of revenue that IIM lands held in trust by the Department of the Interior should have earned during the Department of the Interior's administration.

REQUEST NO. 24: All documents generated by PriceWaterhouseCoopers, or any other expert retained by Plaintiffs or their counsel, which are in the possession, custody, or control of Plaintiffs or their counsel, that refer or relate to the amount of revenue that the Department of the Interior has collected as a result of its administration of IIM trust assets.

REQUEST NO. 25: All documents generated by PriceWaterhouseCoopers, or any other expert

retained by Plaintiffs or their counsel, which are in the possession, custody, or control of Plaintiffs or their counsel, that refer or relate to the amount of revenue that the Department of the Interior has disbursed to individual Indian account holders as a result of the Department of the Interior's administration of IIM trust assets.

REQUEST NO. 26: All documents identified in response to Interrogatory No. 9 of Interior Defendants' Set of Interrogatories, Dated February 21, 2003.

February 21, 2003

Respectfully submitted,

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CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on February 21, 2003 I served the foregoing *Interior Defendants' Request for Production Of Documents, Dated February 21, 2003* by hand upon:

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By U.S. Mail upon:

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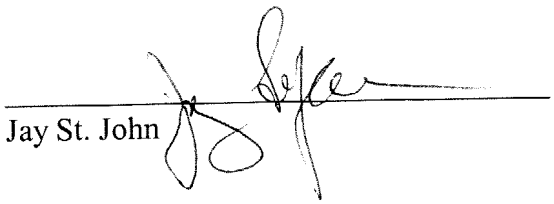

Jay St. John