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MEMORANDUM FOR THE RECORD

Defendants.

JOHN T. STEMPLEWICZ
Senior Trial Counsel

JOHN J. SIEMIETKOWSKI
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DEPARTMENT OF THE TREASURY
BUREAU OF THE PUBLIC DEBT
WASHINGTON, DC 20239-0001

February 28, 2003

MEMORANDUM FOR: ROBERT D. McCALLUM, JR.
ASSISTANT 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: THIRTEENTH QUARTERLY REPORT
COBELL, ET AL. v. NORTON, ET AL.

Included with this cover memorandum is the "Thirteenth 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.

**THIRTEENTH 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

February 28, 2003

I. INTRODUCTION

This is the Department of the Treasury's ("Treasury") Thirteenth 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, 2002 through February 28, 2003. The Order states that "[e]ach quarterly report shall be limited, to the extent practical, to actions taken since the issuance of the preceding quarterly report." Cobell, et al. v. Babbitt, et al., 91 F. Supp. 2d 1, 59 (D.D.C. 1999).

During the trial in 1999 on issues related to the operation of the system for handling IIM assets, Treasury agreed to a series of eight stipulations designed to address matters involving IIM under Treasury's control. In its *Memorandum and Opinion: Findings of Fact and Conclusions of Law* ("Opinion"), also issued on December 21, 1999 [91 F. Supp. 2d 1 (D.D.C. 1999)], the Court held that Treasury committed a single breach of its trust responsibilities by destroying IIM trust materials "after their age exceeded six years and seven months, without regard to the fact that the United States (through its trustee-delegates) has not rendered an accounting of plaintiffs' IIM trust money." *Id.* at 50. The Court further stated in its Opinion: "It may very well be that the agreement reached in that instance [Stipulation paragraphs 4, 5 and 6, addressing record retention] would satisfactorily discharge Treasury's duty to retain these [IIM-related trust] documents beyond this litigation." *Id.* at 51. The Court held that Treasury's stipulations mooted the plaintiffs' concerns regarding non-segregability of IIM trust checks by payee name and the "front-end float" (Stipulation paragraphs 1, 2, 3, and 7). *Id.* at 34-35. Stipulation 8 addressed "back-end float."

In previous Quarterly Reports, Treasury reported on steps it had taken to address the single breach the Court had found with respect to Treasury and to report Treasury's progress on all of the Stipulations. Treasury restated in its Ninth Quarterly Report how and when Stipulations 1, 2, 3, 4, 5, 7 and 8 were completed. Pending approval of Treasury's proposed revised retention schedules (which Treasury submitted to the National Archives and Records Administration at the end of September 2000) and Treasury's proposed new retention order and proposed amendment of Stipulation 6 (which Treasury filed July 9, 2001), Treasury continues to take steps to ensure, on an ongoing basis, that records are retained as required by the Court's August 12, 1999 retention order and in fulfillment of Stipulation 6. In light of these actions, Treasury filed a motion with the Court on January 26, 2001 seeking a determination that the Secretary of the Treasury had rectified the single breach of his trust responsibilities found by the Court and seeking to be released from the quarterly reporting obligation. On September 28, 2001, the Court denied the motion, without opinion. Accordingly, this Thirteenth Quarterly Report sets forth the status of Stipulation 6 dealing with record retention.

The full text of Treasury's Stipulation is set forth as Attachment A.

II. STIPULATION 6 (RECORD RETENTION)

Stipulation 6 provides:

- 6. Until the new retention schedules are in effect, Treasury will preserve:**
- a. original checks, and digitized and microfilm copies of negotiated checks;**
 - b. check information from these same checks in electronic form (i.e., check serial number, date and amount);**
 - c. monthly reports of canceled checks (either in electronic form or hard copy as retained in the normal course of business); and,**
 - d. IIM deposit fund investment records (either in electronic form or hard copy as retained in the normal course of business), specifically requests for investment/redemption, transaction confirmations, and monthly account statements.**

By letter dated February 20, 2003, the National Archives and Records Administration (NARA) transmitted its response with respect to the proposed revised retention schedules that Treasury submitted to NARA at the end of September 2000, in fulfillment of Stipulation 5.¹ NARA's "appraisers agree that the dispositions and retention periods stated in the proposed schedules meet the business needs of Treasury and provide adequate retention periods to protect the legal rights of the American people and the U.S. government, as well as document government accountability." However, NARA has elected to "abstain[] from taking further actions on the proposed schedules at this time" in light of present circumstances in this litigation, including but not limited to that Treasury's "Motion for a [New] Treasury Department Document Retention Order and Replacement of Paragraph 6 of the Stipulation entered July 6, 1999" (which Treasury filed July 9, 2001) has not yet been ruled upon. Accordingly, NARA states that it will hold in abeyance the unapproved schedules "pending further developments in the *Cobell* case." Finally, NARA states it is of the opinion that Treasury "has met its obligations under the Court's Memorandum Opinion dated December 21, 1999, because Treasury has submitted to NARA schedules that meet NARA's requirements," and because NARA's appraisers "concur[] with the dispositions stated in the schedules." A copy of NARA's letter is set forth as Attachment B. Regardless of any future action NARA may take, Treasury's retention schedules will remain subject to the Court's August 12, 1999 Order Regarding Treasury Department IIM Records

¹ Stipulation 5 provided: "Following consultation with Interior, Treasury will evaluate and submit its proposed revised record retention schedules for IIM-related documents to the Archivist of the United States, pursuant to 44 U.S.C. chapters 29, 31 and 33, and the corresponding regulations... ."

Retention (“August 12, 1999 Order”), or any modifications of, or replacements to, that August 12, 1999 Order.

Treasury continues to preserve its IIM-related documentation pursuant to the August 12, 1999 Order. As previously reported in Treasury’s Seventh Quarterly report filed September 4, 2001, on July 9, 2001, the Department of Justice (“Justice”) filed the “Motion for a [New] Treasury Department Document Retention Order and Replacement of Paragraph 6 of the Stipulation Entered July 6, 1999” which is still pending. The proposed new retention order would exclude non-IIM records and certain duplicative IIM records, but otherwise would include all records that contain or could contain IIM information, including summary level information.

This quarter, Treasury issued additional reminders to ensure the retention of the records described in Stipulation 6. Among the reminders Treasury issued this quarter are letters reminding NARA (see Attachments G and J), a contractor (see Attachment D), banks (see Attachments C and E), and Secret Service (see Attachment F) to continue retaining pertinent records. In addition, FMS and BPD employees were again reminded to continue preserving records related to this litigation (see Attachments H and I), and retention instructions to pertinent Departmental Office (DO) employees continue to be posted on DO’s intranet site.

With respect to the 55 findings cited by GAO in its January 31, 2002 report titled “Financial Management Service: Significant Weaknesses in Computer Controls Continue” (GAO-02-317), only one finding remains outstanding, and it is not specific to IIM-related systems. Throughout this quarterly reporting period, Treasury kept the Special Master apprised of its progress. On February 27, 2002, Treasury filed a motion for a protective order in regard to (1) FMS’ position paper concerning the GAO report and (2) the attachments to the position paper. Pending a ruling on the motion, the Special Master directed the Plaintiffs, in a letter dated March 14, 2002, to keep the contents of the FMS position paper confidential. On November 27, 2002, the Special Master granted, in part, Treasury’s motion and issued a Protective Order and Opinion, providing that FMS’ March 1, 2002 position paper and one attachment (Attachment A) are “protected material” and imposing limitations on their disclosure. On December 10, 2002, Treasury, through the Department of Justice, filed a Motion to adopt the recommendations made in the Special Master’s November 27, 2002 Opinion.

In this Court’s September 17, 2002 Opinion and Order, the Court directed the Secretary of the Interior to file, by January 6, 2003, a plan for conducting a historical accounting of the Individual Indian Money (IIM) accounts as well as a plan for bringing the Department of the Interior (Interior) into compliance with the fiduciary obligations owed to the IIM beneficiaries. In that same order, the Court granted Treasury leave so that it might make a “pertinent submission” akin to the plan which Interior was ordered to file. As has been reported in the past twelve quarterly reports, Treasury has taken extensive steps to fulfill its trust-related obligations but does not have a separate “plan” from that of Interior, since the important role played by Treasury is a supporting one in assistance and furtherance of Interior’s primary role in IIM trust and IIM trust-related matters. However, Treasury in its filing of January 6, 2003 summarized for the Court the important actions it has taken to date to assist Interior, and the Government, in its ongoing efforts. The actions summarized include measures to ensure retention and enhance

retrieval of IIM records and to assist Interior, when requested, to locate documents Interior needs to do the accounting.

As it has in the past, Treasury continues to stand by to search for any check records requested by Interior, and to coordinate with Interior to receive the necessary predicate information to conduct such searches. Treasury is working closely with Interior's Office of Historical Trust Accounting (OHTA) to produce check-related information pertinent to the Alaska Pilot project, from FMS' Check Payment and Reconciliation (CP&R) System, using necessary predicate information from Interior.

As set forth on page 79 of Interior's Eleventh Report to the Court, filed November 1, 2002, Interior's Office of Special Trustee (OST) has sought Treasury's cooperation to resolve the IIM trust fund imbalance between Interior and Treasury. By letter dated February 21, 2003, OST provided Treasury with background information and a proposal for eliminating the remaining difference of approximately \$2.5 million. Treasury is assisting Interior in resolving this difference, following discussions on February 27, 2003.

During the week of February 10, 2003, a representative of Treasury's Office of the Comptroller of the Currency (OCC) met with a representative of the Office of Trust Risk Management (OTRM), within Interior's Office of Special Trustee (OST), and provided the OTRM representative with advice and materials to use in developing a trust performance rating and review system. OCC will provide additional assistance to OTRM if requested.

On February 12-14, 2003, Treasury representatives attended an accounting conference provided by OHTA for personnel and contractors working on various aspects of the historical accounting.

On February 21, 2003, Treasury representatives inspected approximately 80 boxes of FMS' summary-level accounting records (Statements of Transactions, Statements of Differences, and supporting documentation) at the Washington National Federal Records Center in Suitland, Maryland, in order to verify that the volumes and date ranges of those records are as reflected on the SF 135's and to identify which boxes contain Interior-related records.

FMS plans to transfer some administrative functions related to Treasury's use of domestic, over-the-counter Treasury General Account banks (TGA banks) to the Federal Reserve. Such functions include, for example, establishing TGA accounts and monitoring activity in TGA accounts. When the functions are transferred, FMS will ship related administrative records to the St. Louis Federal Reserve Bank. FMS plans to retain direct responsibility for issuing, and supervising compliance with, its record retention instructions to the TGA banks.

INDEX TO ATTACHMENTS

*The Department of the Treasury's Thirteenth Quarterly Report
February 28, 2003*

Attachment A	The Department of the Treasury's Stipulation dated July 6, 1999
Attachment B	February 20, 2003 letter from NARA to the Commissioners of FMS and BPD regarding Treasury's proposed revised record retention schedules
Attachment C	Example of January 22, 2003 letter mailed by FMS to all (approximately 425) banks that act or have acted as Treasury's financial agents, reminding them to continue to retain, indefinitely, records associated with Interior's deposits to Treasury General Accounts at those banks
Attachment D	January 27, 2003 letter from FMS Contracting Officer Jams R. Hamrick to Didlake, Inc., reminding it to continue retaining closed check claims case records indefinitely
Attachment E	January 29, 2003 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 F	February 12, 2003 letter issued by FMS, reminding the United States Secret Service to continue preserving, until further notice, all Treasury checks that FMS forwards for investigation and related information and records
Attachment G	February 13, 2003 letter from FMS to NARA, reminding NARA to continue the "freeze" on FMS records at Federal Records Centers
Attachment H	Global e-mail issued February 14, 2003 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
Attachment I	Global e-mail issued February 27, 2003 to all BPD employees, and posted on BPD's intranet site, reminding employees to continue preserving IIM-related records indefinitely and sending all <u>Cobell</u> -related e-mail to BPD's dedicated mailbox
Attachment J	February 27, 2003 letter from BPD to NARA, reminding NARA to continue suspending destruction of BPD records at Federal Records Centers

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ELOUISE PEPION COBELL, et. al.,

Plaintiffs,

v.

BRUCE BABBITT, et al.,

Defendants.

Civil Action

Case No. 96-185 (RCL)

STIPULATION

In a good faith effort at resolving the dispute between the parties and consistent with its statutory and regulatory authority, the Department of the Treasury has engaged in a comprehensive assessment as to how to address the issues between Treasury and the plaintiffs. Thus, defendant Department of the Treasury hereby stipulates and agrees to the following:

RECORDS RETRIEVAL: DEVELOPMENT OF NEW SYSTEMS

1. Treasury's current system does not allow Treasury to search and retrieve IIM checks drawn on the Treasury for individual payees without predicate information (i.e., check symbol, serial number) from Interior.
2. New System for Negotiated Checks - Within one year of the filing of this stipulation, Treasury will install a new system to retrieve by payee name (and potentially an additional unique identifier such as an alpha-numeric designation from Interior) information from IIM checks negotiated after the new system becomes operational.
3. New System for Checks Issued, but not Negotiated - Provided that the Office of Trust Fund Management (OTFM) provides payee names and potentially an additional unique

identifier to Treasury (as it presently provides other information on disbursed checks), Treasury will install, within one year of the filing of this stipulation, a new system to retrieve by payee name (and potentially an additional unique identifier such as an alpha-numeric designation from Interior) information for IIM checks issued by OTFM after the new system becomes operational. This system will provide information on checks that have been issued but not negotiated.

RECORD RETENTION

4. Treasury will consult with the Department of the Interior to identify IIM-related documents maintained or created by Treasury necessary to meet the government's trust obligations.
5. Following consultation with Interior, Treasury will evaluate and submit its proposed revised record retention schedules for IIM-related documents to the Archivist of the United States, pursuant to 44 U.S.C. chapters 29, 31 and 33, and the corresponding regulations. The revised schedules will address the existing undifferentiated check records as well as differentiated records once IIM check information is segregated. See ¶¶ 2-3.
6. Until the new retention schedules are in effect, Treasury will preserve:
 - a. original checks, and digitized and microfilm copies of negotiated checks;
 - b. check information from these same checks in electronic form (i.e. check serial number, date and amount);
 - c. monthly reports of canceled checks (either in electronic form or hard copy as retained in the normal course of business); and,

- d. IIM deposit fund investment records (either in electronic form or hard copy as retained in the normal course of business), specifically requests for investment/redemption, transaction confirmations, and monthly account statements.

AVAILABILITY OF DEPOSITS FOR INVESTMENT

7. Although current OTFM practices with respect to timing of investment conform to industry standards, Treasury will nevertheless, within fifteen (15) days of the filing of this stipulation, allow OTFM, on the morning of the next business day, to invest "as of" the prior business day, all deposits that were available to Treasury the prior business day but were not included in that day's OTFM overnight investment request.

STUDY TO DETERMINE CHECK NEGOTIATION PRACTICES

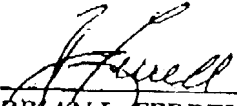
8. Treasury will undertake a study, which it anticipates completing within one year of the filing of this stipulation, to determine the average time between the date of OTFM check issuance and the date of presentation of those checks to the Federal Reserve for payment. The results of this study could be used in analyzing the feasibility and desirability of possible modifications to the existing practices for disbursement of IIM checks or the disinvestment of funds.

Dated: July 6, 1999

Respectfully submitted,

LOIS J. SCHIFFER
Assistant Attorney General

TOM C. CLARK II, Calif. Bar No. 109098
Senior Counsel
U.S. Department of Justice
Environment & Natural Resources Division
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 514-3553


BRIAN L. FERRELL
Trial Attorney
U.S. Department of Justice
Environment & Natural Resources Division
P.O. Box 663
Washington, D.C. 20044-0663
(202) 305-0428

OF COUNSEL:

Edith R. Blackwell
Connie Lundgren
Michael S. Carr
Department of the Interior
Office of the Solicitor

Francine Kerner
Department of the Treasury
Office of the General Counsel

National Archives at College Park



ATTACHMENT B

8601 Adelphi Road College Park, Maryland 20740-6001

February 20, 2003

By Facsimile 202-874-6743

Commissioner Richard Gregg
Financial Management Service
U.S. Dept. of the Treasury
401 14th Street, SW
Room 548
Washington, D.C. 20227

By Facsimile 202-219-4163

Commissioner Van Zeck
Bureau of the Public Debt
U.S. Dept. of the Treasury
999 E. Street, NW
Room 500
Washington, D.C. 20239-0001

Dear Messrs. Gregg & Zeck:

Following up on the meeting held at the offices of the Bureau of the Public Debt on January 22, 2003, I am now in a position to provide an official response on behalf of the National Archives and Records Administration (NARA) to six pending requests for disposition authority submitted by components of the Department of the Treasury, in connection with ongoing proceedings in *Cobell, et al. v. Norton, et al.*, No. 1:96CV01285 (RCL) (D.D.C.). We understand that as part of the *Cobell* "Memorandum Opinion: Findings of Fact and Conclusion of Law," dated December 21, 1999, the Court ordered Treasury to submit proposed revised document destruction schedules to the Archivist of the United States. Pursuant to the deadline set by the Court, on September 28, 2000, Treasury submitted Job Nos. N1-425-01-1, N1-425-01-2, N1-425-01-3, N1-425-01-4 for Individual Indian Money (IIM) records of the Financial Management Service; Job No. N1-53-01-2 for IIM records of the Bureau of the Public Debt (BDP); and Job No. N1-56-01-1 for the IIM records of the Department of the Treasury, Office of Market Finance.

As you are aware, during the past several years, as part of a Targeted Assistance partnership between NARA and the Department of the Treasury, NARA has undertaken to provide inventorying and scheduling training to Treasury staff. NARA staff also met with Treasury officials to discuss the function of the records at issue in the schedules, and to examine such records, so that NARA could appraise the value of the records. The above-referenced schedules are the final versions after NARA completed its appraisal of the records and its review and revision of prior submitted drafts. NARA appraisers agree that the dispositions and retention periods stated in the proposed schedules meet the

appraisers agree that the dispositions and retention periods stated in the proposed schedules meet the business needs of Treasury and provide adequate retention periods to protect the legal rights of the American people and the U.S. government, as well as document government accountability.

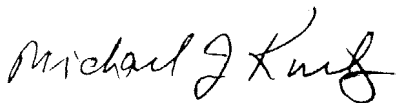
During the appraisal and public comment period, the Department of the Treasury, Department of Justice, and NARA developed a "note" or legend, to be placed on the cover page to each schedule, which prohibits Treasury from implementing the schedules until the conclusion of the *Cobell* litigation or until the Court or Special Master orders that specific records may be destroyed. Essentially, the note constitutes a schedule-specific "*Cobell* freeze" on further disposition of all existing records covered within the scope of these schedules, subject only to exception with Court approval.

Notwithstanding the proposed "note," however, NARA believes that the state of the *Cobell* litigation is presently in sufficient flux so as to warrant NARA abstaining from taking further actions on the proposed schedules at this time. We say this for at least three reasons. First, the Special Master has not yet ruled on Treasury's "Motion for a Treasury Department Document Retention Order and Replacement of Paragraph 6 of the Stipulation Entered July 6, 1999," with accompanying proposed "Order Regarding Document Retention by Treasury," both dated July 9, 2001. Second, we understand that the Court denied Treasury's "Motion for A Determination That Treasury Has Rectified The Single Breach of Trust Responsibilities Found By The Court And Request For Relief From Quarterly Reporting Obligation," leaving Treasury a continuing active participant in the case. And third, we believe, based on our understanding of the publicly available filings in the case connected with the upcoming Phase 1.5 evidentiary proceeding, that Treasury will likely be called upon to amplify on its past filings in supplying additional useful documentation to the Court on how it proposes to prospectively manage its IIM-related records.

Accordingly, NARA's Life Cycle Management Division intends to hold in abeyance the above-described unapproved schedules, pending further developments in the *Cobell* case, with our further intent being that the schedules will be submitted to the Archivist for approval at an appropriate time in the future. In the meantime, it remains NARA's opinion that the Department of the Treasury has met its obligations under the Court's Memorandum Opinion dated December 21, 1999, because Treasury has submitted to NARA schedules that meet NARA's requirements and NARA concurs with the dispositions stated in the schedules.

If you have any questions or comments, please contact Paul M. Wester, Jr., Director, Life Cycle Management Division, at 301-837-3120, or at paul.wester@nara.gov.

Sincerely,



MICHAEL J. KURTZ
Assistant Archivist for
Records Services - Washington, D.C.



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

ATTACHMENT C

January 22, 2003

Dear Sir:

Please continue to follow the instructions stated in FMS' letters to your financial institution dated July 9, 1999, August 2, 1999, December 16, 1999, September 7, 2000, February 15, 2001, August 17, 2001, February 15, 2002, and August 15, 2002, regarding document retention. 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 process is in place and is being followed at your financial institution.

If these retention instructions create a problem for your operations, please send your concerns in writing to Manager, Banking Operations Branch at 401 14th Street, S.W., Room 436, Washington, DC 20227, as soon as possible.

Thank you for your continuing cooperation in this matter. If you have any questions, you may contact Doris Hyman at (202) 874-7132 or me at (202) 874-6762.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alexa Urban".

Alexa Urban, Director
Financial Services Division
A/C Federal Finance



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

ATTACHMENT D

January 27, 2003

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

Re: FMS Contract Number 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 me, at (202) 874-7271, if you have any questions.

Thank you for your continued cooperation.

Sincerely,

A handwritten signature in black ink, reading "James R. Hamrick", is positioned below the word "Sincerely,".

James R. Hamrick
Contracting Officer

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



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

ATTACHMENT E

(1 of 2)

JAN 29 2003

Ms. Elaine Friedman, Vice President
Mellon Bank
Mellon Client Service Center
Suite 1260
Pittsburgh, PA 15262-0001

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


Dear Ms. Friedman:

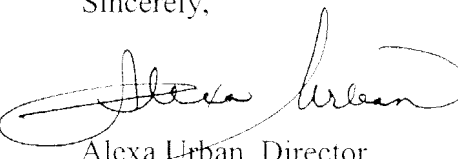
As you know, FMS remains under a continuing court order in Cobell, et al. v. Norton, et al. to preserve, indefinitely, all records relating to Individual Indian Money (IIM) trust funds and trust assets. Accordingly, please continue to retain all documentation pertaining to the above-referenced lockbox 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 CASH-LINK
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 created 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) 874-6762. Thank you for your continued cooperation.

Sincerely,


Alexa Urban, Director
Financial Services Division
Federal Finance



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

ATTACHMENT E

(2 of 2)

JAN 29 2003

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. ^{Steve} 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

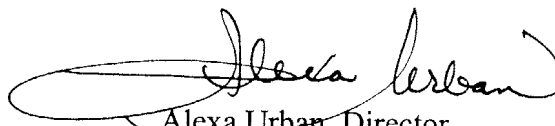
You must retain the records for this account IN ALL FORMS AND MEDIA generated for the account. This includes paper, electronic, microfilm, microfiche, or any other media. If you create the same record in multiple media, you must retain the record in all media.

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.

Page 2

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) 874-6762. Thank you for your continued cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Alexa Urban", with a large, sweeping loop at the end.

Alexa Urban, Director
Financial Services Division
Federal Finance

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



DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
HYATTSVILLE, MD 20782

ATTACHMENT F

February 12, 2003

George Rogers
Assistant Director,
Office of Investigations
U.S. Secret Service
950 H Street, N.W.
Washington, D.C. 20001

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

Dear Mr. Rogers:

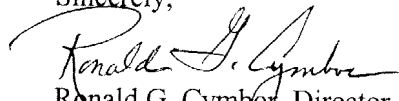
This is a reminder that Treasury remains subject to a continuing court order in the above-referenced lawsuit to retain, indefinitely, "all documents and data relating to Individual Indian Money trust funds and Individual Indian trust assets." Copies of the document retention order entered in the case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

As stated in our previous letters to Secret Service dated January 14, 2000, October 13, 2000, February 28, 2001, August 29, 2001, and August 28, 2002, among the types of records that Treasury must preserve to comply with the court order and Stipulation are all checks and check-related records. Accordingly, please continue to preserve, until further notice, all checks that FMS forwards to your bureau for investigation and all information and records your bureau maintains relating to those checks. Please 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. Cymbo, Director
Financial Processing Division

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



DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
HYATTSVILLE, MD 20782

ATTACHMENT G

February 13, 2003

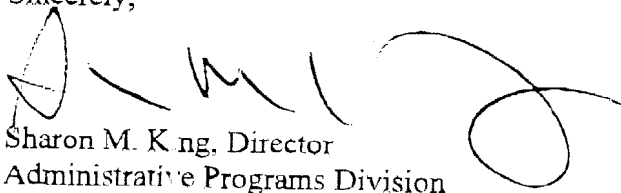
Thomas E. Mills
Assistant Archivist for Regional Records Services
National Archives and Records Administration
Office of Regional Records Services
8601 Adelphi Road, Suite 3600
College Park, MD 20740

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 Jean Sadlowe at (202) 874-8954. Thank you for your cooperation in this matter.

Sincerely,


Sharon M. King, Director
Administrative Programs Division



Official FMS Business

blank

To: Office of the Commissioner Agency Services Debt Management Services Federal Finance Financial Operations Governmentwide Accounting Information Resources Management Regional Operations H
Birmingham Kansas City Philadelphia San Francisco

Date: 02/14/2003

From: William Higgins

Subject: Important message about Cobell to all FMS employees from the Commissioner

Date: February 14, 2003

To: All FMS Employees

From: Richard L. Gregg
Commissioner

Subject: Cobell Litigation – Records Retention Requirements

All FMS employees are again reminded that FMS remains subject to a continuing court order, requiring us to retain and safeguard all records that relate to the Individual Indian Money (IIM) trust fund and IIM trust assets, indefinitely. Do not destroy any records unless you have followed the below-described "Process for Obtaining Disposition Approval" and received written approval from the Chief Counsel. Continue to copy or forward all Cobell-related e-mail to the dedicated "Cobell Archive@fms" mailbox in accordance with the memoranda identified below. I appreciate your continued compliance with these instructions and encourage you to review the pertinent memoranda and e-mails, which are described below and posted on FMS' intranet under "News" or "Hot Topics" and "Cobell Litigation."

Process for Obtaining Disposition Approval (for documents not pertaining to any pending litigation): The internal process for reviewing and approving non-litigation-related records for disposition is outlined in a memorandum issued March 7, 2000 by Chief Counsel Debra N. Diener. This process applies to all types of records, in all media. Each Assistant Commissioner area must seek written approval from the Chief Counsel to dispose of any records, by submitting a memorandum to the Chief Counsel through the Assistant Commissioner for Management. This process is not to be used for IIM records or any other litigation-related records. If you have any questions about the process, or need assistance to determine whether particular records are litigation-related, please contact Beth Kramer in the Office of Chief Counsel, at (202) 874-7036, fax number (202) 874-6627.

Use of E-Mail Mailbox: Please continue copying or forwarding all Cobell-related e-mail and other electronic documents to the dedicated "Cobell Archive@fms" mailbox, in accordance with the guidance issued by the Deputy Chief Information Officer on July 2, 1999 and May 30, 2000. To insert the mailbox address on an e-mail, simply type "Cobell" and press the "Enter" key. If you need additional guidance on this, please contact Beth Kramer.

Archiving Electronic Records: As provided in a memorandum entitled "Maintenance of Data on FMS Systems" issued by Deputy Commissioner Kenneth R. Papaj on March 3, 2000 (revised and reissued

March 24, 2000), no IIM data or other litigation-related data is to be removed from any FMS electronic production system, except pursuant to an approved archive plan and schedule that ensures the data's preservation and retrievability. Proposed archive plans should be submitted to the Commissioner's Office for approval, through the Assistant Commissioner for Management and the Chief Counsel.

Federal Reserve Bank Records: The Federal Reserve Banks have been instructed not to destroy any fiscal agency records unless they have received specific permission in writing from FMS or the Bureau of the Public Debt authorizing the destruction. Please refer any record retention-related inquiries from FRB personnel to Rita Bratcher at (202) 874-8462, fax number (202) 874-1859. Do not attempt to give guidance on record retention matters to any FRB employee.

Pertinent Memoranda and E-mails Available on FMS' Intranet: The following memoranda and e-mails describe the types of records FMS must retain indefinitely for the Cobell litigation, the processes for requesting approval to dispose of records and to archive data from electronic production systems, and the requirements for using the "Archive Cobell" mailbox to preserve Cobell-related electronic records:

1. Commissioner Richard L. Gregg's August 30, 1999 memorandum directing all FMS employees to preserve indefinitely all documents and data relating to IIM trust monies. This memorandum includes the court's August 12, 1999 retention order and a list of the types of records FMS must preserve. *Note that the records FMS must retain for the Cobell litigation include not only IIM-related records but certain entire categories of records that FMS agreed to retain, regardless of whether they are IIM-related (for example, all Treasury checks).*
2. The Deputy Chief Information Officer's July 2, 1999 guidelines for utilizing the "Archive Cobell" mailbox.
3. The Deputy Chief Information Officer's May 30, 2000 e-mail, which reiterates the policy for using the "Archive Cobell" mailbox. It also provides guidance for using the mailbox with Lotus Notes e-mail.
4. Deputy Commissioner Kenneth R. Papaj's March 3, 2000 memorandum (revised and reissued March 24, 2000) to Assistant Commissioners, entitled "Maintenance of Data on FMS Systems."
5. Chief Counsel Debra N. Diener's March 7, 2000 memorandum to Assistant Commissioners, outlining the requirements for seeking approval to dispose of documents not pertinent to pending litigation.

To locate these documents, double click on the icon for Netscape Navigator. This moves you to FMS' Intranet. Under "News" or "Hot Topics," click on "Cobell Litigation." If you have any questions, please contact Debra Diener, Chief Counsel, at (202) 874-6824 or Beth Kramer at (202) 874-7036.

Thank you.

*** END OF ANNOUNCEMENT ***

ATTACHMENT I

Anne Meister

02/27/2003 01:22 PM

To: All - BPD (Business use only!)
cc: IIM Mailbox@BPD
Subject: IMPORTANT REMINDER

Once again, many thanks for all your diligence in preserving records that could potentially contain information relevant to the Cobell litigation.

You've seen the **Important Reminder** below before, but I am asking you to please take a few minutes once again to refresh yourselves on our obligations to preserve records.

The rule of thumb here is -- **when in doubt, don't throw it out!** Never assume that you know what might or might not be potentially relevant to this litigation. First, check with your supervisor, manager, or Jimmy Phillips.

Important Reminder to Preserve IIM-related records:

All BPD employees are again reminded of the continuing need to retain indefinitely and safeguard all records in our possession or under our control that relate to Individual Indian Money (IIM) trust monies. I cannot overemphasize to each of you the importance of this.

Van's instructions of September 1, 1999, are still in effect. Please review these on PDWeb at the following address: <ftp://ntpdweb/occ/litigation/cobell/cobmem3.pdf>

To further emphasize, instructions to preserve IIM-related e-mails also remain in effect. Please continue to send a "cc" (not a "bcc") of all e-mails (including attachments) that you initiate where they relate in any way to the Cobell litigation, Individual Indian Monies or Department of Interior investments on behalf of individual Indians to "IIM Mailbox." Also, forward all e-mails that you receive (including attachments and retaining forwarding history) that relate in any way to the Cobell litigation, Individual Indian Monies or Department of Interior investments on behalf of individual Indians, to "IIM Mailbox" unless you can tell from the message that the initiator of the e-mail has already copied the "IIM Mailbox."

The Federal Reserve Banks are under orders not to destroy any fiscal agency records unless they have received specific permission in writing from Public Debt or FMS authorizing the destruction. If you should get a call from FRB personnel related to this issue immediately refer the inquiry to Jimmy Phillips at (202) 691-3683. Do not attempt to give guidance on document retention matters to any FRB employee.

If you have *any* questions about the subject of this e-mail message, you should also contact your supervisor or Jimmy Phillips.

Thank you again for your care and attention to this important litigation-related responsibility.

Anne



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

ATTACHMENT J

February 27, 2003

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

Re: Suspending Destruction

Dear Mr. Veach:

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

CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on February 28, 2003 I served the foregoing *Notice of Filing of the Thirteenth Quarterly Report for the Department of the Treasury* by facsimile in accordance with their written request of October 31, 2001 upon:

Keith Harper, Esq.
Native American Rights Fund
1712 N Street, N.W.
Washington, D.C. 20036-2976
(202) 822-0068

Dennis M Gingold, Esq.
Mark Kester Brown, Esq.
1275 Pennsylvania Avenue, N.W.
Ninth Floor
Washington, D.C. 20004
(202) 318-2372

By U.S. Mail upon:

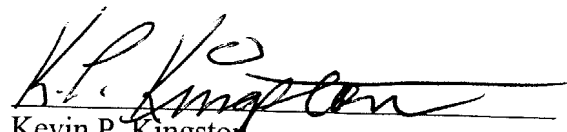
Elliott Levitas, Esq.
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309-4530

By facsimile and U.S. Mail upon:

Alan L. Balaran, Esq.
Special Master
1717 Pennsylvania Avenue, N.W.
13th Floor
Washington, D.C. 20006
(202) 986-8477

By Hand upon:

Joseph S. Kieffer, III
Special Master Monitor
420 7th Street, N.W.
Apartment 705
Washington, D.C. 20004
(202) 478-1958


Kevin P. Kingston