

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

ELOUISE PEPION COBELL, et al.,	)	
	)	
Plaintiffs,	)	
	)	Case No. 1:96CV01285
v.	)	(Judge Lamberth)
	)	
GALE NORTON, SECRETARY	)	<u>NOTICE OF DEPOSITION</u>
OF THE INTERIOR, et al.,	)	
	)	
Defendants.	)	
_____	)	

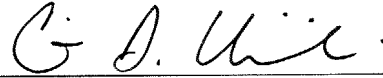
TO: Dennis M. Gingold, Esq.	Keith Harper, Esq.
Mark Kester Brown, Esq.	Native American Rights Fund
1275 Pennsylvania Avenue, NW	1712 N Street, NW
Washington, DC 20004	Washington, DC 20036-2976

PLEASE TAKE NOTICE that, pursuant to Federal Rules of Civil Procedure 30 and 45, the Secretary of the Interior and the Assistant Secretary-Indian Affairs will take the deposition upon oral examination of Ms. Mary Zuni of the Intertribal Monitoring Association, 2401 12th Street, NW, Suite 214s, Albuquerque, New Mexico 87104, on December 6, 2002 at 10:00 am at the office of the United States Attorney, 201 Third Street, NW, Suite 900, Albuquerque, New Mexico 87102.

The deposition shall continue from day to day until completed, and will be recorded stenographically.

Dated: November 26, 2002

ROBERT D. McCALLUM, JR.
Assistant Attorney General
STUART E. SCHIFFER
Deputy Assistant Attorney General
J. CHRISTOPHER KOHN
Director

A handwritten signature in cursive script, appearing to read "S. P. Spooner", written in black ink.

SANDRA P. SPOONER
Deputy Director
D.C. Bar No. 26149
JOHN T. STEMPLEWICZ
Senior Trial Counsel
GINO D. VISSICCHIO
Trial Attorney
Commercial Litigation Branch
Civil Division
P.O. Box 875
Ben Franklin Station
Washington, DC 20044-0875
(202) 514-7194

Issued by the
UNITED STATES DISTRICT COURT

FOR THE

DISTRICT OF

NEW MEXICO

ELOUISE PEPION COBELL et al.,

Plaintiffs,

SUBPOENA IN A CIVIL CASE

V.

CASE NUMBER: ¹ 1:96CV01285 (D.D.C.) (RCL)GALE A. NORTON, SECRETARY OF THE
INTERIOR et al.,

Defendants.

TO: Ms. Mary Zuni

Intertribal Monitoring Association

2401 12th Street, NW, Suite 214s

Albuquerque, New Mexico 87104

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

United States Attorney's Office, 201 Third Street, NW, Suite 900, Albuquerque, NM 87102

DATE AND TIME

Dec. 6, 2002, 10:00 am

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE

DATE AND TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

 Trial AttorneyAttorneys for Defendants Secretary of the Interior
and Assistant Secretary-Indian Affairs

DATE

Nov. 25, 2002

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Gino Vissicchio, US Department of Justice, P.O. Box 875, Ben Franklin Station, Washington, DC 20044 (202) 307-3242

Jan Elizabeth Mitchell, Assistant U.S. Attorney, 201 Third Street, NW, Suite 900, Albuquerque, NM 87102 (505) 346-7274

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

¹ If action is pending in district other than district of issuance, state district under case number.

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance,

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that,

subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on November 27, 2002, I served the foregoing Notice of Deposition by facsimile, in accordance with their written request of October 31, 2001 upon:

Keith Harper, Esq.
Native American Rights Fund
1712 N Street, NW
Washington, DC 20036-2976
202-822-0068

Dennis M Gingold, Esq.
Mark Brown, Esq.
1275 Pennsylvania Avenue, NW
Ninth Floor
Washington, DC 20004
202-318-2372

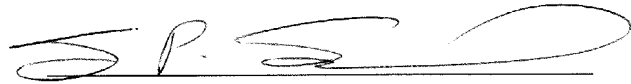
and by U.S. Mail upon:

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

and by U.S. Mail and by facsimile upon:

Alan L. Balaran, Esq.
Special Master
1717 Pennsylvania Ave., NW
12th Floor
Washington, DC 20006
202-986-8477

Joseph S. Kieffer, III, Esq.
Special Master-Monitor
420 7th Street, NW
Apt 705
Washington, DC 20004
202-478-1958

A handwritten signature in black ink, appearing to read 'S.P. Schmergel', written over a horizontal line.

Sean P. Schmergel