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 SEVENTEENTH QUARTERLY REPORT FOR THE DEPARTMENT OF THE TREASURY

The Department of the Treasury has prepared its *Seventeenth 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 1, 2004

Respectfully submitted,

ROBERT D. McCALLUM, JR.
Associate Attorney General
PETER D. KEISLER
Assistant Attorney General
STUART E. SCHIFFER
Deputy Assistant Attorney General
J. CHRISTOPHER KOHN
Director
SANDRA P. SPOONER
D.C. Bar No. 261495
Deputy Director

/s/ Sandra P. Spooner

JOHN T. STEMPLEWICZ
Senior Trial Counsel
GLENN D. GILLETT
Trial Attorney
Commercial Litigation Branch
Civil Division
P.O. Box 875
Ben Franklin Station
Washington, D.C. 20044-0875
(202) 514-7162 (phone)
(202) 307-0494 (fax)

CERTIFICATE OF SERVICE

I hereby certify that, on March 1, 2004 the foregoing *Seventeenth Quarterly Report on Actions Taken By the Department of the Treasury to Retain IIM-Related Documents Necessary For an Accounting* was served by Electronic Case Filing, and on the following who is not registered for Electronic Case Filing, by facsimile:

Earl Old Person (*Pro se*)
Blackfeet Tribe
P.O. Box 850
Browning, MT 59417
Fax (406) 338-7530

/s/ Kevin P. Kingston
Kevin P. Kingston

DEPARTMENT OF THE TREASURY
BUREAU OF THE PUBLIC DEBT
WASHINGTON, DC 20239-0001

March 1, 2004

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: SEVENTEENTH QUARTERLY REPORT
COBELL, ET AL. v. NORTON, ET AL.

Included with this cover memorandum is the "Seventeenth 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.

SEVENTEENTH 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, 2004

This is the Department of the Treasury's ("Treasury") Seventeenth 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, 2003 to March 1, 2004. 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. Treasury also continues to supply payment information to support Interior's ongoing historical accounting projects.

On January 29, 2004, Treasury, through the Department of Justice, filed a "Notice Regarding Treasury General Counsel," notifying the Court that Treasury's new General Counsel will follow the same management approach that was followed by Treasury's previous General Counsel to ensure Treasury's continued compliance with its record retention and litigation responsibilities in this lawsuit.

During the past quarter, Treasury again issued reminders to ensure the retention of required records. Among the reminders Treasury issued are letters reminding NARA (see Attachments A and B), Secret Service (see Attachment C), banks (see Attachments D and E), and a contractor (see Attachment F) to continue retaining pertinent records. In addition, employees of Treasury's Departmental Offices (DO), Financial Management Service (FMS) and the Bureau of the Public Debt (BPD) were again reminded to continue preserving records related to this litigation, including copying or forwarding Cobell-related e-mail to their respective dedicated mailboxes (see Attachments G, H and I).

During this quarter, FMS provided OHTA with general information about disbursement processes for check and electronic funds transfers (EFTs), in response to questions from OHTA.

INDEX TO ATTACHMENTS

The Department of the Treasury's Seventeenth Quarterly Report
March 1, 2004

Attachment A	January 27, 2004 letter from BPD to NARA, reminding NARA to continue suspending destruction of BPD records at Federal Records Centers
Attachment B	February 5, 2004 letter from FMS to NARA, reminding NARA to continue the "freeze" on FMS records at Federal Records Centers
Attachment C	January 16, 2004 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 D	January 23, 2004 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 related to those lockbox accounts
Attachment E	Example of February 4, 2004 broadcast message sent by FMS to all CA$HLINK II users at the banks currently acting as Treasury's financial agents, reminding them to continue to retain, indefinitely, records associated with Interior's deposits to Treasury's General Account
Attachment F	February 12, 2004 letter from FMS Contracting Officer William T. Boyd to Didlake, Inc., reminding Didlake, Inc. to continue retaining closed check claims case records indefinitely
Attachment G	Directive issued January 22, 2004 by Treasury's General Counsel to all Departmental Offices Employees, reminding employees to continue retaining all records relevant to the individual Indian money trust and to use the dedicated Cobell mailbox to preserve Cobell-related e-mail
Attachment H	Global e-mail issued February 5, 2004 to all FMS employees, and posted on FMS' intranet site, reminding employees not to destroy any records without written approval from the Chief Counsel; 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 12, 2004 to all BPD employees, and posted on BPD's intranet site, reminding employees not to destroy any records without written approval from the Chief Counsel or his designee; to continue preserving IIM-related records indefinitely; and to continue sending all Cobell-related e-mail to BPD's dedicated mailbox

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

Attachment A

January 27, 2004

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

DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
HYATTSVILLE, MD. 20782

Attachment B

FEB - 5 2004

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 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

DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
P.O. BOX 1849
HYATTSVILLE, MD 20788

Attachment C

January 16, 2004

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 last 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, and August 26, 2003, 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

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

Attachment D
(1 of 2)

JAN 23 2004

Ms. Elaine Friedman, Vice Presideint
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$H-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 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) 874-6762. Thank you for your continued cooperation.

Sincerely,

Alexa Urban

Alexa Urban, Director
Financial Services Division
Federal Finance

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

Attachment D
(2 of 2)

JAN 23 2004

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

Sincerely,

Alexa Urban, Director
Financial Services Division
Federal Finance

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

Attachment E

Please disseminate these record retention instructions to all appropriate personnel at your organization (including managerial and records management personnel).

As 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, August 15, 2002, January 22, 2003, and August 11, 2003, 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 these retention instructions create a problem for your operations, please send your concerns in writing to the Financial Services Division at 401 14th Street, S.W., Room 304B, Washington, DC 20227, as soon as possible.

If you have any questions, contact Leo Warring at (202) 874-7148 or Alexa Urban at (202) 874-6762.

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

Attachment F

February 12, 2004

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,

William T. Boyd
Contracting Officer

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

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

Attachment G

GENERAL COUNSEL

JUN 22 2004

IMMEDIATE ACTION

MEMORANDUM TO ALL DEPARTMENTAL OFFICES EMPLOYEES

FROM: ARNOLD I. HAVENS
GENERAL COUNSEL

SUBJECT: Document Retention Obligations in Cobell v. Norton (Individual Indian Money or "IIM" Litigation)

Previously, this Office has instructed Departmental Offices employees to preserve documents in the Cobell v. Norton litigation. This directive serves as a reminder to employees as to their obligations.

To ensure compliance with court orders in Cobell, Departmental Offices employees must preserve all documents and records, whether in paper, electronic, or other form, that are relevant to any aspect of the government's responsibilities with respect to the individual Indian money trust, regardless of NARA-approved record disposition schedules. Such responsibilities include, but are not limited to, management, administration, collection, disbursement, investment, and accounting of trust funds.

For purposes of preserving e-mails, I am requesting that you do the following:

1. Send a "cc" (not a "bcc") of all e-mails (including attachments) that you initiate, that relate in any way to the Cobell litigation, Individual Monies or Department of Interior investments on behalf of individual Indians, to the dedicated mailbox for Cobell-related e-mails and/or e-mails relating to Individual Indian Money accounts. The dedicated mailbox address is Cobell@do.treas.gov or just Cobell.

2. Forward any e-mail that you receive (including attachments and retaining forwarding history) that relate in any way to the Cobell litigation, Individual Monies or Department of Interior investments on behalf of individual Indians, to the dedicated mailbox for Cobell-related e-mails and/or e-mails relating to Individual Indian Money accounts, unless you can tell from the message that the e-mail has already been sent to the dedicated mailbox. The dedicated mailbox address is Cobell@do.treas.gov or just Cobell.

Please note that the Cobell mailbox has been copied on the e-mail message conveying this directive.

If you have any questions about this process or the retention of documents, please call Brian Ferrell, Chief Counsel, Bureau of the Public Debt, at 691-3715.

If you have any questions about the Cobell mailbox, please contact the HelpDesk at 622-1111.

Attachment H

Official FMS Business

[
]

To:	Office of the Commissioner Agency Services Debt Management Services Federal Finance Financial C Governmentwide Accounting Information Resources AC Management Regional Operations HQ Austir Birmingham Kansas City Philadelphia San Francisco
Date:	02/05/2004
From:	William Higgins
Subject:	Important message about Cobell to all FMS employees from the Commissioner

Date: February 5, 2004

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/or posted on FMS' intranet under "News" or "Hot Topics" and "Cobell Litigation." To view the memoranda and e-mails posted on FMS' intranet, double click on the icon for Netscape Navigator. This moves you to FMS' intranet. Under "News" or "Hot Topics," click on "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 Beth Kramer at (202) 874-7036, fax number (202) 874-6627. Do not attempt to give guidance on record retention matters to any FRB employee.

Thank you.

Click here for more information on Cobell Litigation

*** END OF ANNOUNCEMENT ***

Attachment I

Anne Meister

02/12/2004 10:23 AM

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

All BPD employees are again reminded 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. If you need additional guidance on this, please contact Jimmy Phillips.

The Federal Reserve Banks have also 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 inquiries from FRB personnel regarding record retention to Jimmy Phillips at (202) 691-3683, fax number (202) 219-4163. Do not attempt to give guidance on record retention matters to any FRB employee.

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

Thank you for your support on this extremely important matter.

Anne Meister
Deputy Commissioner