

RECEIVED  
U.S. DISTRICT COURT  
DISTRICT OF COLUMBIA

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA 2003 AUG 22 PM 5: 25

NANCY H.  
MAYER-WHITTINGTON  
CLERK

ELOUISE PEPION COBELL, et al., )  
 )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 )  
 GALE A. NORTON, Secretary of )  
 the Interior, et al., )  
 )  
 )  
 Defendants. )  
 )  
 \_\_\_\_\_ )

No. 1:96CV01285  
(Judge Lamberth)

**INTERIOR DEFENDANTS' REPLY IN SUPPORT OF  
MOTION TO DISQUALIFY SPECIAL MASTER BALARAN**

Interior Defendants respectfully submit the following Reply In Support of Motion to Disqualify Special Master Balaran ("Motion to Disqualify").<sup>1</sup>

The facts requiring disqualification are clear and incontrovertible. Native American Industrial Distributors, Inc. ("NAID"), a government contractor, sought to intervene in this litigation, alleging that the government had wrongfully concealed information from the Court and that the government had retaliated against NAID to obtain its silence. The Court denied the motion to intervene, but directed the Special Master to determine "whether there is any validity to NAID's contention that the Department of the Interior withheld information from the Court that should have been disclosed in the Eighth Quarterly Report . . . ." November 5, 2002 Order at 1.

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<sup>1/</sup> The Motion to Disqualify was filed on May 29, 2003. Plaintiffs' Opposition was not filed until August 18, 2003. Plaintiffs asked for an enlargement of time in which to file an Opposition on the day their Opposition was due, but Plaintiffs' request has not been granted. Interior's Motion for Expedited Consideration of the Motion to Disqualify, filed June 24, 2003, has also not been ruled upon.

On April 21, 2003, the Special Master issued an “Interim Report” purporting to find extensive misconduct by the government. The Special Master’s Report acknowledged that it was based on information “obtained outside of normal channels and to which the parties may have no familiarity.” Interim Report at 1 n.1.<sup>2</sup>

Upon receipt of the Special Master’s billing records, it became evident that the “channels” relied upon included Mike Smith, who, at the time of the intervention motion, had been Vice President of NAID and a complaining witness. The Special Master met repeatedly with Mr. Smith outside the presence of counsel and without the government’s knowledge. The Special Master ultimately went so far as to hire Mr. Smith secretly and have him draft portions of the Interim Report.

Plaintiffs do not take issue with these facts, which they largely ignore.

As set out at length in our motion, the Special Master’s extraordinary conduct requires recusal. That the Special Master should have issued a highly stigmatizing report based on extra-record evidence would be reason enough to question his impartiality. That he should have seen fit to employ as his associate and draftsman the very individual who had charged the government with bad faith and retaliation in the first place fundamentally undermines the appearance of impartiality and requires recusal under the standards established by the Code of Judicial Conduct and 28 U.S.C. § 455(a). Indeed, the Special Master’s employment of Mr. Smith and his decision to publicize his “interim report” based on extra-record evidence demonstrates a lack of

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<sup>2</sup> Plaintiffs make the extraordinary pronouncement that Interior “has not contested a single substantive finding contained in the Master’s Interim Report.” See Opp. at 6 n.10. In its Objection to the Interim Report, filed May 5, 2003, Interior contested, in great detail, the preliminary findings and conclusions in the Interim Report.

objectivity and an improper willingness to pre-judge the government's conduct, requiring recusal under 28 U.S.C. § 455(b).

Plaintiffs cite no authority and fail to come to grips with the extraordinary character of the Special Master's actions. They never explain how a judicial officer who evaluates one party's conduct with the extra-record assistance of an adversary witness could plausibly be permitted to remain in his position.

Instead, Plaintiffs suggest that the Special Master's conduct cannot furnish a basis for recusal because the government "consented" to his dealings with Mr. Smith. This line of argument cannot withstand even minimal scrutiny.

Plaintiffs' contention turns on the fact, noted in our motion to disqualify, that Mr. Smith, along with government counsel, was present at an in camera inspection at the Department of Interior on February 27, 2003 designed to identify documents relevant to the Special Master's investigation. See Motion at 6 n.6. (As noted in our motion, as an officer of NAID and a TAAMS Project Team member, Mr. Smith had previously seen all of the requested documents and it was hoped that his presence would facilitate identification of pertinent documents.) That the government permitted Mr. Smith to be present on this occasion in no way provided consent for the Special Master's extensive ex parte dealings with Mr. Smith.<sup>3</sup> The Special Master neither informed the government of these ex parte dealings nor requested its consent.

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<sup>3</sup> Plaintiffs repeatedly quote the statement in the Special Master's letter of June 24, 2003 that "at your invitation, Mike Smith and I examined NAID files . . ." Although the government did not object to Mr. Smith's presence during the examination, which was conducted in the presence of government counsel, the government would take issue with the statement insofar as it suggests that Mr. Smith was invited by the government. However, that point need not be resolved. Notably, that letter suggests no further involvement by Mr. Smith beyond his appearance at the examination; nor did subsequent communications.

Without explanation or citation, Plaintiffs state (Opp. at 5) that government counsel was not present at the February 27, 2003 inspection. That statement is wrong. The government consented to Mr. Smith's participation in one meeting attended by government counsel. Plaintiffs make no attempt to explain how consent to Mr. Smith's presence at a meeting with government counsel can be converted into consent to an extraordinary ex parte association of which the government was not aware until its receipt of the Special Master's billing records.<sup>4</sup>

Plaintiffs fundamentally misunderstand the role of a judicial officer in our adversary system when they suggest that the government seeks to prevent the Special Master from communicating "with those who have knowledge of the pertinent facts." Opp. at 7 n.11. This Court and its Special Master can obtain the testimony of witnesses in a proceeding on the record and in the presence of counsel. But a judicial officer cannot collaborate with a witness on an ex parte basis to judge the conduct of a party. That principle, evident enough in any event, is even more starkly clear when the witness is a former officer of a complaining party.

Plaintiffs note that the Special Master has, on occasion, engaged in limited ex parte communications with the government to assist him in various oversight functions, and that Plaintiffs have not objected to these contacts. But Plaintiffs do not suggest that this Court or its Special Master would be free to engage in a substantive evaluation of Plaintiffs' conduct based on off-the-record assistance of present or former government witnesses. Similarly, they do not suggest that the Special Master would be free to consult Plaintiffs' own witnesses on an ex parte basis to evaluate the government's conduct. That Mr. Smith was a witness for and former officer of another adversarial party does not alter the analysis.

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<sup>4</sup> Even after receipt of the Special Master's bills it was not immediately apparent that Mike Smith the NAID employee had been hired because the Special Master identified Mr. Smith only by his initials, "MSS."

Plaintiffs suggest that the Special Master should not be held to the same ethical standards as a judge because he was operating in an “investigatory” capacity in which he was asked to evaluate the validity of allegations that “Interior withheld information from the Court that should have been disclosed in the Eight Quarterly Report.” Opp. at 9 (quoting Nov. 5, 2002 Order at 1.)

Plaintiffs’ argument fails in all respects. As the D.C. Circuit recently reiterated, “[i]t is clear, notwithstanding the plaintiffs’ objections, that in this Circuit the ethical restrictions of § 455 apply to a special master.” Cobell v. Norton, 334 F.3d 1128, 1144 (D.C. Cir. 2003) (citing Jenkins v. Sterlacci, 849 F.2d 627, (D.C. Cir. 1988)). Far from endorsing the proposition that different standards should apply when a Master functions in an “investigatory” capacity, the Court made clear that the type of “investigative, quasi-inquisitorial, quasi-prosecutorial role” championed here by Plaintiffs “is unknown to our adversarial legal system.” Id. at 1142. The Special Master was charged with evaluating allegations of concealment by the government. That is a paradigmatic judicial function. A judicial proceeding that results in a public opinion charging a party with improper behavior can only take place within the recognized bounds of our adversary system.<sup>5</sup>

Finally, Plaintiffs’ suggestion that the Special Master was forced to employ Mr. Smith because of the government’s failure to produce documents is simply a red herring. If the Special Master had, in fact, been confronted with the kind of recalcitrance now posited by Plaintiffs, the Court could have considered appropriate means of securing compliance. Under no circumstances can a judicial officer simply proceed to gather documents on an extra-record basis in collaboration with an interested witness.

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<sup>5</sup> This Court’s November 5, 2002 Order nowhere authorized the Special Master to proceed as he did.

In any event, Plaintiffs' contention is without basis. Interior will not engage in a lengthy recitation here of the facts regarding the NAID document production.<sup>6</sup> However, the Special Master was twice given an opportunity to inspect, in camera, the entire collection of documents responsive to his requests. Moreover, as the Special Master's billing records make clear, his association with Mr. Smith continued long after the Special Master had availed himself of the opportunity to review the documents in camera and request their reproduction. Indeed, Mr. Smith's paid employment only commenced at the time of the in camera inspection on February 27, 2003.

The government filed its motion to disqualify on May 29, 2003. Since that time, the Special Master has embarked on new areas of inquiry. On June 5, 2003, the Special Master announced his intention to investigate the "leasing files" of the Minerals Management Service ("MMS"), and on July 31, 2003, propounded document production requests concerning MMS audit files.<sup>7</sup> Although, to the Interior Defendants' knowledge, the Court did not specifically authorize an investigation of MMS audit files by the Special Master, he claimed in his request

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<sup>6</sup> Interior provided a detailed description of the chronology and history of the document production for the NAID investigation in its Objections to the Interim Report. See Interior Defendants' Objections To "Interim" Report of the Special Master Regarding the Filing of Interior's Eighth Quarterly Report at 2-5. The only significant supplement to that description is that in compliance with a demand from the Special Master – made after the Motion to Disqualify had been filed – Interior provided copies of the entire balance of responsive documents on the NAID investigation to the Special Master for his in camera inspection on June 27, 2003. See Letter from Phil Seligman, Department of Justice, to Alan Balaran, Special Master (June 27, 2003) (attached as Exhibit 1).

<sup>7</sup> Letter from Alan L. Balaran, Special Master, to Amalia D. Kessler, Department of Justice (June 5, 2003) (attached as Exhibit 3); Letter from Alan L. Balaran, Special Master, to Amalia D. Kessler, Department of Justice (June 16, 2003) (attached as Exhibit 4); Letter from Alan L. Balaran, Special Master, to John Siemietkowski, Department of Justice (July 31, 2003) (attached as Exhibit 5).

that it is within his authority to oversee document retention and protection from destruction, as set forth in the Court's Order of August 12, 1999. Letter from Alan L. Balaran, Special Master, to Timothy E. Curley, Department of Justice (August 12, 2003) (attached as Exhibit 2). The Special Master's recent invoices reveal that he is also apparently working on matters related to the Phase 1.5 trial, matters outside his authority.<sup>8</sup>

It has been clear for months that the Special Master should be disqualified from further participation in this case. The government should not be required to proceed before a judicial officer who manifestly should be recused from further involvement in the case. We respectfully ask that the Court act on the disqualification motion at the first possible opportunity.

Dated: August 22, 2003

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  
JOHN T. STEMPLEWICZ  
Senior Trial Counsel  
PHILLIP M. SELIGMAN  
Trial Attorney  
Commercial Litigation Branch  
Civil Division

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<sup>8</sup> As set forth in his June and July invoices, the Special Master claimed a total of \$15,200 for 76 hours spent reviewing trial testimony. See Special Master's June and July 2003 Invoices (attached as Exhibit 6).

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Phil M. Seligman  
Trial Attorney

Tel.: (202) 307-1105 Facsimile: (202) 305-4933  
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June 27, 2003

**By Hand**

Alan L. Balaran, Special Master  
1717 Pennsylvania Ave., N.W., 13th Floor  
Washington, DC 20006

Re: Cobell v. Norton: Your Investigation of Allegations by Native American  
Industrial Distributors ("NAID")

Dear Mr. Balaran:

Enclosed are documents responsive to your request of October 7, 2002 for documents related to your investigation of claims made by NAID, as authorized in the November 5, 2002 Order of the Court. This is the second, and final, batch of responsive documents. The first batch was produced on April 4, 2003.

These documents are being provided for your in camera review. The documents are contained in twelve boxes with the following bates ranges:

BOX 01  
REVSM\_013 DOI WDC  
0002 000001 - 001114  
0003 000001 - 002446

BOX 02  
REVSM\_013 DOI WDC  
0003 002447 - 002857  
0004 000001 - 001943  
0005 000001 - 001239

BOX 03  
REVSM\_013 DOI WDC  
0005 001240 - 001825  
0006 000001 - 001863  
0007 000001 - 001076

BOX 04  
REVSM\_013 DOI WDC  
0007 001077 - 004657

BOX 05  
REVSM\_013 DOI WDC  
0007 004658 - 006385  
0008 000001 - 001710

BOX 06  
REVSM\_013 DOI WDC  
0008 001711 - 005192

BOX 07  
REVSM\_013 DOI WDC  
0008 005193 - 008695

BOX 08  
REVSM\_013 DOI WDC  
0008 008696 - 009043  
0009 000001 - 003039

**EXHIBIT 1**

Def's Reply in Support of Motion  
to Disqualify Special Master

BOX 09  
REVSM\_013 DOI WDC  
0009 003040 - 006032  
0010 000001 - 000409

BOX 10  
REVSM\_013 DOI WDC  
0010 000410 - 003039  
0011 000001 - 000944

BOX 11  
REVSM\_013 DOI WDC  
0011 000945 - 002123  
0012 000001 - 002199

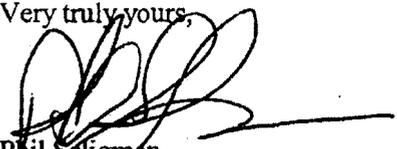
BOX 12  
REVSM\_013 DOI WDC  
0012 002200 - 002704

A privilege log for those documents for which Interior wishes to assert privilege will be provided to you later. At that time, non-privileged documents will be provided to Plaintiffs' counsel. In the meantime, as with the prior batch of responsive documents, we ask that Interior be given an opportunity to assert a claim of privilege before you disclose the information in any document.

Please note that these documents are being produced to you in accordance with your direction, but over the objection of Interior Defendants. For the reasons stated in Interior Defendants' Objections to Interim Report of the Special Master Regarding the Filing of Interior's Eighth Quarterly Report, Interior Defendants' Supplemental Objections to the Interim Report, and the Motion to Disqualify, we do not believe that it is appropriate for you to continue your NAID investigation.

In any event, we ask that you do not provide these documents to Mike Smith, Jerry Moran, or any other current, or former, NAID employee. If you decide to hire someone, including anyone associated with NAID, to assist you with the remainder of your investigation, we request that Interior be given advance notice of such a decision and an opportunity to object.

Very truly yours,

  
Phil Seligman  
Trial Attorney  
Commercial Litigation Branch

enclosures

cc (without enclosures): Dennis M. Gingold, Esq. (by fax)  
Keith Harper, Esq. (by fax)

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
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TRANSMISSION OK

TX/RX NO	1698	
CONNECTION TEL		93182372
CONNECTION ID	DENNIS GINGOLD	
ST. TIME	08/27 12:44	
USAGE T	01'08	
PGS. SENT	3	
RESULT	OK	




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**FROM:** Department of Justice  
Civil Division

Fax No. (202) 353-3303  
Voice No. (202) 307-3013

**SENT BY:** Gwen Lewis for John O'Connor

**TO:** Dennis Gingold, Esq.

**FAX No.** (202) 318-2372

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO	1699	
CONNECTION TEL		98220068
CONNECTION ID	KEITH HARPER	
ST. TIME	06/27 12:45	
USAGE T	00'30	
PGS. SENT	3	
RESULT	OK	



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**FROM:** Department of Justice  
Civil Division

Fax No. (202) 353-3303  
Voice No. (202) 307-3013

**SENT BY:** John O'Connor

**TO:** Keith Harper, Esq.

**FAX No.** (202) 822-0068

LAW OFFICE

ALAN L. BALARAN, P.L.L.C.

ADMITTED IN DC AND MD

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August 12, 2003

VIA FACSIMILE

Timothy Curley, Esq.  
UNITED STATES DEPARTMENT OF JUSTICE  
P.O. Box 875  
Ben Franklin Station  
Washington, DC 20044-0875

RE: Cobell et al. v. Norton et al., Civil Action No. 96-1285  
MMS-Request for Documents

Dear Mr. Curley:

I have received your letter dated August 7, 2003 responding to my July 31, 2003 request for documents related to the auditing functions of the Minerals Management Service ("MMS"). This request, as you know, was a follow up to my letters of June 5 and 16, 2003 to Amalia Kessler stating my intention to examine MMS' audit files. Your letter seeks additional time to consider my requests and an extension until Friday, August 22, 2003 to respond.

By telephone conference this date, I granted your request for an extension of time. To avoid any misunderstanding, the extension I granted was to allow additional time to gather responsive documents – not to decide whether you would comply with my request in the first instance. My right to inspect MMS' audit files is squarely grounded in the August 12, 1999 Order which states, in pertinent part: "It is further ORDERED, that Alan L. Balaran, Special Master ("Special Master"), is hereby authorized to oversee the Interior Department's retention and protection from destruction of IIM Records . . ." This order was explicitly consented to by the Department of Justice, the Department of the Interior and the Department of the Treasury and, to my knowledge, has not been amended.<sup>1</sup>

<sup>1</sup> See August 5, 1999 Recommendation and Report of the Special Master Regarding Document Preservation and Protection (adopted by the Court on August 12, 1999) ("During the past month, the parties have engaged in extensive negotiations aimed at defining the respective obligations of the Department of the Interior and the Department of the Treasury vis a vis HIM-related records . . . . These negotiations have resulted in an agreement between the parties, the terms of which are set out in the Order Regarding Interior Department HIM Records Retention and the Order Regarding Treasury Department HIM Records Retention to which is appended a final list of the predecessors in interest ("Proposed Orders)").

Amplifying the August 12, 1999 Order, the Chief of Staff, Department of the Interior generated a memorandum which stated:

As the Order of July \_\_, 1999 directs, the Special Master appointed by the Court, Alan Balaran, is authorized to oversee and independently verify our compliance with our document retention responsibilities. Mr. Balaran may exercise his responsibilities by visiting any location where HIM records are maintained and inspecting the HIM records at that location. These inspections may occur with no advance notice. Please provide full cooperation should Mr. Balaran visit your office.

Memorandum Re: Retention of Documents and Data Relating to Individual Indian Money (IIM) Accounts Identified in Attachment A, at 2.

The March 2003 MMS Audit Report, which precipitated my request to examine MMS audit files, uncovered a missing file involving Navajo allotted leases that was subsequently "recreated." Pursuant to the above-cited August 12, 1999 Consent Order and attached memorandum, it is my intention to conduct a thorough examination to determine whether similar MMS documents have been lost or fabricated. If your request for an extension of time is to dispute my right to proceed, it is denied.

If your request for additional time is to secure responsive documents, then, as stated, you may have until close-of-business August 22, 2003.

Sincerely,



Alan L. Balaran  
SPECIAL MASTER

cc: Dennis Gingold, Esq.

LAW OFFICE

ALAN L. BALARAN, P.L.L.C.

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June 5, 2003

**VIA FACSIMILE**Amalia Kessler  
UNITED STATES DEPARTMENT OF JUSTICE  
Civil Division  
Commercial Litigation Branch  
P. O. Box 875  
Ben Franklin Station  
Washington, DC 20044-0875RE: **Cobell v. Norton Civil Action No. 96-1285**  
**Audit of the Minerals Management Service Audit**  
**Offices (No. 2003-I-0023) March 2003**

Dear Ms. Kessler:

In March 2003, the Department of the Interior Office of the Inspector General ("OIG") issued its Audit of the Minerals Management Service Audit Offices ("MMS Audit Report"). (An electronic copy of the MMS Audit Report will be transmitted for your review.) The stated objective of that report "was to determine whether MMS' internal quality control system provides reasonable assurance that MMS audits are performed in accordance with established policies, procedures, and the Government Auditing Standards (Standards)." See Memorandum from Anne Richards, Regional Audit Manager, Central Region to the Assistant Secretary for Land and Minerals Management.

Since MMS is responsible for the annual collection of \$6 billion in royalties and fees for minerals produced from federal, tribal and allotted lands, I became concerned upon reading a section of the MMS Audit entitled "Professionalism," where the OIG reported that it selected for review an audit involving Navajo Indian leases. According to the MMS Audit Report,

[w]hen MMS officials could not locate this audit file, instead of informing [the OIG] of that fact, they recreated and backdated the working papers. The recreated papers were dated to when MMS believed the work had been done rather than when the replacement working papers were actually created.

MMS Audit Report at 8. The OIG also reported that MMS "then granted a cash award, citing 'creativity,' to the auditor who reconstructed the working papers." Id. At 8.

The MMS Audit Report mentions two other instances of missing files pertaining to Indian leases; a statistical possibility that working papers for as many as 62 audits are missing; the existence of "incomplete files" for the audits performed by the same employees responsible for recreating and backdating the Navajo leases file; and 30 "incomplete sets" of files (lacking working papers or master indices). Id. at 9.<sup>1</sup>

Aside from the violation of Court orders implicated by the loss of Navajo leasing files containing trust information, MMS failed to inform the Court, the plaintiffs (or, I suspect, the Navajo allottees) that trust documentation was missing and/or that files containing IIM information were "incomplete."<sup>2</sup> Instead, MMS auditors "recreated" and "backdated" the records in an attempt to deceive the OIG. And one was awarded a cash bonus for his duplicity. Beyond this, trust information missing from these incomplete files and work papers are germane to the underlying litigation and thus discoverable by plaintiffs. Given the findings of the OIG, plaintiffs can not determine whether documents produced by the agency are "originals" or "recreations" generated by "creative" employees awaiting cash bonuses.

I am confident that had the OIG not uncovered this problem in the course of performing its audit, the loss of the Navajo trust information would not have come to light. I am therefore informing you of my intention to investigate MMS' leasing files to determine whether individual Indian trust information is properly maintained and safeguarded.

Thank you.

Sincerely,



Alan L. Balaran  
SPECIAL MASTER

Electronic attachment

cc: Dennis Gingold, Esq. (w/attachment)

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<sup>1</sup> These figures were based on statistical and judgment samples and not an exhaustive review of each file. Id. at 8-9.

<sup>2</sup> As the MMS Audit Report is dated March 2003, I suspect that the agency was aware that trust documentation was missing at the time the audit was undertaken in 2001.

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ALAN L. BALARAN, P.L.L.C.

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June 16, 2003

**VIA FACSIMILE**Amalia Kessler  
UNITED STATES DEPARTMENT OF JUSTICE  
Civil Division  
Commercial Litigation Branch  
P. O. Box 875  
Ben Franklin Station  
Washington, DC 20044-0875RE: **Cobell v. Norton Civil Action No. 96-1285**  
**March 2003 OIG Audit of MMS**

Dear Ms. Kessler:

Thank you for your letter this date in which you seek clarification of my June 5, 2003 correspondence concerning the March 2003 Department of the Interior Office of the Inspector General Audit Report. To be precise, it is my intention to ensure that all documents relevant to the Minerals Management Service's duties to IIM beneficiaries are retained and preserved in accordance with the agency's fiduciary duties. To the extent that some of those documents, such as those contained in leasing files, are maintained by organizations such as the Bureau of Indian Affairs or the Bureau of Land Management, they will be inspected as well.

Sincerely,

Alan L. Balaran  
SPECIAL MASTER

cc: Dennis Gingold, Esq. (w/attachment)

**EXHIBIT 4**Def's Reply in Support of Motion  
to Disqualify Special Master

LAW OFFICE

**ALAN L. BALARAN, P.L.L.C.**

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July 31, 2003

**VIA FACSIMILE**John J. Siemietkowski, Esq.  
UNITED STATES DEPARTMENT OF JUSTICE  
P.O. Box 875  
Ben Franklin Station  
Washington, DC 20044-0875

CORRECTED

RE: **Cobell et al. v. Norton et al.**, Civil Action No. 96-1285  
MMS-Request for Documents

Dear Mr. Siemietkowski:

On June 5 and 16, 2003, I informed Justice Attorney Amalia Kessler that, in view of the findings contained in the March 2003 Audit of the Minerals Management Service Audit Offices ("MMS Audit Report") generated by the Office of the Inspector General ("OIG"), it was my intention to examine MMS' audit files (as well as similar files in the custody and control of other agencies) to determine whether individual Indian trust information was being properly maintained and safeguarded. The MMS Audit Report, as you may recall, exposed an incident involving the loss of an audit file involving Navajo allotted leases; the subsequent attempt by MMS employees to "recreate" and "backdate" information contained in that file; and the subsequent cash incentive award given to one of those employees.

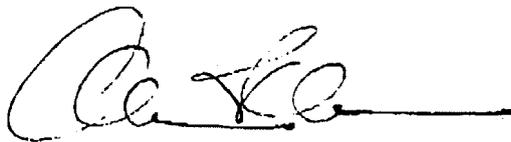
Accordingly, and pursuant to the August 12, 1999 consent order authorizing me to ensure that trust information is properly maintained and safeguarded, I am requesting production of the following documents no later than Monday, August 11, 2003:

1. A list of all oil and gas companies that have operated on Indian allotted lands since 1982; and
2. A complete set of compliance audit files ("audit files") generated by the Minerals Management of the Dugan Production Corporation including, but not limited to, audit requests or proposals; workplans; workpapers; correspondence; internal and external exhibits; and reports of findings, conclusions, and recommendations.

**EXHIBIT 5**Del's Reply in Support of Motion  
to Disqualify Special Master

Thank you in advance for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alan L. Balaran', with a horizontal line extending to the right from the end of the signature.

Alan L. Balaran  
SPECIAL MASTER

cc: Dennis Gingold, Esq.

LAW OFFICE

**ALAN L. BALARAN, P.L.L.C.**

ADMITTED IN DC AND MD

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E-MAIL abalaran@erols.com

Invoice submitted to:  
Cobell, et al. v. Norton, et al.  
United States District Court for the  
District of Columbia  
333 Constitution Avenue, NW  
Washington DC 20001

July 01, 2003

Invoice #42

Professional Services

			<u>Hrs/Rate</u>	<u>Amount</u>
6/2/2003	ALB	Draft Monthly Report	1.00 200.00/hr	200.00
	ALB	Review OSM request to move inactive non-Indian non-trust records and attachments	0.20 200.00/hr	40.00
	ALB	Review IT Security Reports and forward to parties and Court	1.40 200.00/hr	280.00
	AW	Review transcript of oral argument; summarize arguments in draft	2.50 150.00/hr	375.00
6/3/2003	ALB	Review attached documentation to 5/22 request to move BOR documents from Mid-Pacific Region, Phoenix Area office; Denver; Indian trust records from Albuquerque to Iron Mountain; OS NBC Denver	2.50 200.00/hr	500.00
	AW	Review oral argument transcript, draft summary of arguments for use in draft opinion	3.70 150.00/hr	555.00
	ALB	Review Brooks and Carr Bill of Particulars (II) and response thereto; generate outline for oral argument	2.70 200.00/hr	540.00
6/4/2003	ALB	Review Wewoka Chicksaw document production responsive to request No. 4; draft memo to file and questions related thereto	3.00 200.00/hr	600.00
	AW	Review briefs for Named Individual Cohen	5.20 150.00/hr	780.00

**EXHIBIT 6**

Def's Reply in Support of Motion  
to Disqualify Special Master

		<u>Hrs/Rate</u>	<u>Amount</u>
6/4/2003	ALB Draft summary of arguments related to two of the Named Individuals	3.30 200.00/hr	660.00
	ALB Status Conference with J. Kerr	1.00 200.00/hr	200.00
6/5/2003	ALB Review OIG Report regarding MMS Audits/Review OIG Investigative Report; Draft Letter to Kessler regarding MMS Documents	3.30 200.00/hr	660.00
	ALB Draft Letter to Gillett regarding SAG invoice; review Gillett correspondence; t/conference w/Kerr regarding same	0.30 200.00/hr	60.00
	ALB Review Cason testimony Transcript; Draft Letter to Spooner requesting telephone conference	1.60 200.00/hr	320.00
6/6/2003	ALB Draft summary of arguments -- Named Individuals Cohen, Blackwell	3.20 200.00/hr	640.00
	ALB Review Emergency Motion of Babbitt, Cohen and E. Blackwell to Stay Contempt Proceedings	0.30 200.00/hr	60.00
	ALB Review Himmelhoch and McCarthy filings regarding Bills of Particulars II	2.50 200.00/hr	500.00
6/7/2003	ALB Review Transcript of first day's opening and first second and third days of Homan testimony	4.50 200.00/hr	900.00
	ALB Draft summary of arguments; review additional briefs	3.70 200.00/hr	740.00
6/8/2003	ALB Review Days 4 and 5 of Homan direct and cross	3.70 200.00/hr	740.00
	ALB Draft opinion regarding e-mail contempt issues	8.70 200.00/hr	1,740.00
6/9/2003	ALB Review Wewoka Chickasaw production responsive to requests No. 2 & 7	3.50 200.00/hr	700.00
	ALB Review end of Homan testimony and Fitzgerald testimony (days 7 & 8)	4.20 200.00/hr	840.00
	ALB Draft summary of arguments for use in draft regarding final two Named Individuals	2.30 200.00/hr	460.00
6/10/2003	ALB Review Hammond and Fasold (days 9-12)	5.60 200.00/hr	1,120.00
6/11/2003	ALB Telephone conference w/Cason, Gillett & Spooner regarding OSM	0.40 200.00/hr	80.00

		<u>Hrs/Rate</u>	<u>Amount</u>
6/11/2003	AW Research -- criminal contempt	2.00 150.00/hr	300.00
6/12/2003	AW Research-criminal contempt	3.00 150.00/hr	450.00
6/13/2003	ALB Review Notice of Filing by DOI of Federal Register Notices Related to the Collection of Indian Trust Related Records from Third Parties	0.40 200.00/hr	80.00
6/14/2003	ALB Review testimony of John Wright, Landy Stinnett and Alan Graham McQuillan (through day 15)	4.80 200.00/hr	960.00
	ALB Edit opinion regarding e-mail contempt issues	3.80 200.00/hr	760.00
	AW Legal Research --criminal contempt	2.70 150.00/hr	405.00
	ALB Review Plaintiffs' Motion for Enlargement of time to file opposition to disqualify	0.10 200.00/hr	20.00
	ALB Review Brief regarding admissibility of depositions of defendants' experts as party admissions	0.30 200.00/hr	60.00
6/15/2003	ALB Draft letter to Gillett regarding visit to OSM after reviewing invitation	0.20 200.00/hr	40.00
	ALB Draft Letter to Gillett responding to his letter of June 11 regarding OSM	0.40 200.00/hr	80.00
	ALB Review request to move NBC and NPS records and attached documentation	1.00 200.00/hr	200.00
	ALB Review Duncan testimony (days 16, 17 and 18)	3.70 200.00/hr	740.00
	ALB Edit e-mail contempt opinion	2.50 200.00/hr	500.00
	AW Legal Research -- civil contempt	3.00 150.00/hr	450.00
6/16/2003	ALB Draft Letter to Kessler responding to letter seeking clarification of scope of MMS documents request	0.50 200.00/hr	100.00
	ALB Review oral argument requesting judgment; and Langbein testimony (direct and cross)	3.00 200.00/hr	600.00
	ALB Finalize e-mail contempt analysis	5.50 200.00/hr	1,100.00

		<u>Hrs/Rate</u>	<u>Amount</u>
6/16/2003	AW Legal Research -- civil contempt	2.30 150.00/hr	345.00
	ALB Review Defendants' Opposition Brief regarding admissibility of depositions of defendants' experts as party admissions	0.20 200.00/hr	40.00
6/17/2003	ALB Draft Letter to Siemietkowski regarding Treasury's e-mail systems (requesting update)	0.10 200.00/hr	20.00
	ALB Draft Letter to Gillett regarding rules of engagement and Ty Gast e-mail	1.00 200.00/hr	200.00
	ALB Review transcript testimony of Associate Deputy Secretary Cason and Michelle Herman (days 21-24)	4.00 200.00/hr	800.00
	ALB Draft opinion regarding e-mail contempt issues	2.00 200.00/hr	400.00
	ALB Status Conference with J. Kerr	1.50 200.00/hr	300.00
6/18/2003	ALB Review testimony of Brunner and Rosenbaum (through day 26 (before Angel))	4.60 200.00/hr	920.00
	ALB Finalize contempt opinion	3.80 200.00/hr	760.00
	AW Legal Research -- civil contempt	1.80 150.00/hr	270.00
6/19/2003	ALB Cite check contempt opinion; review law review article concerning issues relevant to respondeat superior/contempt	4.20 200.00/hr	840.00
	AW Legal Research -- fraud on court; orders	2.50 150.00/hr	375.00
6/20/2003	ALB Review documents produced responsive to Wewoka/Chickasaw requests 2, 3, 4 and written responses to 8 & 9	2.50 200.00/hr	500.00
	ALB Review Angel testimony (up to day 29)	5.00 200.00/hr	1,000.00
	ALB Status Conference with J. Kerr	0.70 200.00/hr	140.00
6/21/2003	ALB Review OSM Pittsburgh revisit report; forward to counsels	1.20 200.00/hr	240.00
	ALB Review Wewoka Chickasaw documents responsive to May 13 requests no. 2 & 4	3.80 200.00/hr	760.00

			<u>Hrs/Rate</u>	<u>Amount</u>
6/21/2003	ALB	Review Notice of Filing of Fourteenth Quarterly Report for Treasury	0.60 200.00/hr	120.00
6/22/2003	ALB	Review Newell testimony (days 21 and 22)	3.50 200.00/hr	700.00
	ALB	Finalize contempt opinion	3.80 200.00/hr	760.00
6/23/2003	ALB	Review Letter from M. Clark regarding Wewoka Chickasaw; draft letter to Seligman requesting final delivery of documents for Wewoka as well as NAID	0.50 200.00/hr	100.00
	ALB	Review Interior defendants' motion to reconsider admissibility of defense exhibits 105-111	0.20 200.00/hr	40.00
	ALB	Review testimony of Hermann and Brunner	3.30 200.00/hr	660.00
6/24/2003	ALB	Review Seligman response to Wewoka/NAID document request; draft letter in response setting production deadlines	1.00 200.00/hr	200.00
6/25/2003	ALB	Review Letter from J. Siemietkowski regarding supplemental production of documents regarding OST IT Security since 8/01	0.10 200.00/hr	20.00
	ALB	Review DOI's expedited consideration to disqualify	0.10 200.00/hr	20.00
	ALB	Review testimony of Rosenbaum	4.60 200.00/hr	920.00
	ALB	Review MMS public documents regarding oil and gas leases to generate list for production	4.60 200.00/hr	920.00
6/26/2003	ALB	Draft Letter to Gillett requesting status regarding OSM/Pittsburgh	0.30 200.00/hr	60.00
	ALB	Review Zimmerman resume; interview; draft Letter to Gillett regarding OIRM visit and appending resume of Zimmerman -- physical security expert	0.80 200.00/hr	160.00
6/27/2003	ALB	Draft Letter to Seligman regarding receipt of NAID documents and responding to his concerns regarding investigation; undertake cursory review of production	2.40 200.00/hr	480.00
	ALB	Review Plaintiffs' Consolidated Motion for a TRO and PI regarding IIM Data	0.20 200.00/hr	40.00
6/28/2003	ALB	Review MMS public documents regarding oil and gas leases to generate list for production	4.50 200.00/hr	900.00

	<u>Hrs/Rate</u>	<u>Amount</u>
6/29/2003 ALB Review request to move BOR and F&W records and attachments thereto; draft letter to Vissicchio consenting to request	0.60 200.00/hr	120.00
6/30/2003 ALB Review request to move two sets of National Park Service records, four sets of Office of Surface Mining records, three sets of Fish and Wildlife records and fifty-one sets of National Business Center records and attachments; send letter of approval to Vissicchio	0.70 200.00/hr	140.00
ALB Review Notification of Proposed Records Movement	1.20 200.00/hr	240.00
ALB Review SAIC/DOJ March 2003 Scan Data Report	0.70 200.00/hr	140.00
ALB Draft letters to Vissicchio regarding various request to move documents; review requests and attachments; focus on MMS request for 5 inactive trust boxes and request inventories	0.70 200.00/hr	140.00
For professional services rendered	<u>186.80</u>	<u>\$35,925.00</u>
Previous balance		\$48,453.55
6/10/2003 Payment - thank you		( <u>\$48,453.55</u> )
Total payments and adjustments		( <u>\$48,453.55</u> )
Balance due		<u><u>\$35,925.00</u></u>

LAW OFFICE

ALAN L. BALARAN, P.L.L.C.

ADMITTED IN DC AND MD

1717 PENNSYLVANIA AVE., N.W.  
THIRTEENTH FLOOR  
WASHINGTON, D.C. 20006  
TELEPHONE (202) 466-5010  
FAX (202) 986 8477  
E-MAIL [albaran@erols.com](mailto:albaran@erols.com)

Invoice submitted to:  
Cobell, et al. v. Norton, et al.  
United States District Court for the  
District of Columbia  
333 Constitution Avenue, NW  
Washington DC 20001

August 04, 2003

Invoice #44

Professional Services

			<u>Hrs/Rate</u>	<u>Amount</u>
7/1/2003	ALB	Review FIMO Report; draft letter to Curley requesting redaction; draft memo to file regarding loss of trust data	1.50 200.00/hr	300.00
	ALB	Review Status report regarding system closures	0.30 200.00/hr	60.00
	ALB	T/conference w/J. Warshowsky (DOJ) regarding possible meeting w/Cason	0.30 200.00/hr	60.00
	ALB	Review Warshowsky letter with attached summary of Inovis server situation	0.30 200.00/hr	60.00
	ALB	Draft Monthly Report; review attachments for inclusion	1.00 200.00/hr	200.00
	ALB	Review Spooner letter regarding request for meeting; draft response thereto; review reply	0.70 200.00/hr	140.00
	ALB	Review documentation and begin inventory of documents provided in response to NAID request	2.50 200.00/hr	500.00
	AW	Legal Research	3.00 150.00/hr	450.00
	ALB	Draft Letter to Curley regarding FIMO document destruction report; memo to file regarding report and list principal players	1.30 200.00/hr	260.00

		<u>Hrs/Rate</u>	<u>Amount</u>
7/2/2003	ALB Review Praecipe and Opposition thereto to dismiss claims against 22 Named Individuals against whom plaintiffs did not file Bills of Particulars on time. Draft opinion recommending that motion for order to show cause be vacated.	2.20 200.00/hr	440.00
	ALB Review Newell and Lassiter testimony	1.50 200.00/hr	300.00
	ALB Review Status of IT shutdowns in response to TRO; t/conference w/Kerr regarding same and discussion concerning OIRM Herndon physical walkthrough	0.60 200.00/hr	120.00
	ALB Review log of record move notifications graciously provided by G. Vissicchio	0.20 200.00/hr	40.00
	AW Draft report on motion for contempt	2.40 150.00/hr	360.00
7/3/2003	AW Legal Research	2.50 150.00/hr	375.00
	AW Draft report on contempt motion	4.40 150.00/hr	660.00
	ALB Review Swimmer testimony	3.50 200.00/hr	700.00
7/4/2003	AW Draft report on contempt motion	4.00 150.00/hr	600.00
	AW Legal Research	3.83 150.00/hr	574.50
7/5/2003	AW Draft report on contempt motion	8.70 150.00/hr	1,305.00
7/6/2003	AW Legal Research	3.50 150.00/hr	525.00
	AW Draft	3.30 150.00/hr	495.00
	ALB Review Swimmer testimony	4.50 200.00/hr	900.00
7/7/2003	ALB Review letters by Spooner and Gillett; respond accordingly	0.40 200.00/hr	80.00
	ALB Review testimony of Ross Swimmer	2.30 200.00/hr	460.00

		<u>Hrs/Rate</u>	<u>Amount</u>
7/7/2003	ALB Review U.S. Department of the Treasury E-Mail Archival Solution Review; draft letter to parties	0.30 200.00/hr	60.00
	AW Conference with Special Master on draft	0.80 150.00/hr	120.00
	ALB Draft Letter to Siemietkowski regarding Treasury Report from SAG; conference w/SAG regarding same	1.00 200.00/hr	200.00
	ALB Draft Letter to Gillett regarding OSM-Pittsburgh	0.10 200.00/hr	20.00
7/8/2003	ALB Review Swimmer testimony; extract issues related to leases and "fair market value"	4.50 200.00/hr	900.00
	ALB Review Memorandum of Points and Authorities in Opposition to Plaintiffs' Motion for an Order to Show Cause why Interior Defendants Should not be Held in Contempt re:IT Security Matters	1.30 200.00/hr	260.00
	ALB Review Interior Defendants' Motion and Memorandum to File Under Seal Discussion and Documents relating to Protected Information	1.00 200.00/hr	200.00
	ALB Review Gillett letter regarding scheduling of IT site visits	0.10 200.00/hr	20.00
	ALB Review Siemietkowski's letter regarding Solicitor's office discovery of additional BIA e-mail server	0.20 200.00/hr	40.00
7/9/2003	JW Began inputting data from Box 1 of NAID Production	9.00 60.00/hr	540.00
	ALB Draft Letter to S. Spooner regarding meeting to discuss TRO issues	0.10 200.00/hr	20.00
	ALB Review Duncan testimony	3.00 200.00/hr	600.00
	ALB Draft and Revise Site Visit Report regarding document retention at Appraisal Office	4.50 200.00/hr	900.00
7/10/2003	JW Continue inputting data from Box 1 of NAID Production	5.00 60.00/hr	300.00
	JW Inputting information of NAID Production from Word document into Excel spreadsheet	3.00 60.00/hr	180.00
	GB Input Data from Box 2 of NAID production.	6.00 60.00/hr	360.00
	ALB Draft and Revise Site Visit Report regarding document retention at Appraisal Office	5.60 200.00/hr	1,120.00

		<u>Hrs/Rate</u>	<u>Amount</u>
7/11/2003	JW Inputting information of NAID Production from Word document into Excel spreadsheet	2.00 60.00/hr	120.00
	GB Input Data from Box 2 of NAID production.	7.50 60.00/hr	450.00
	ALB Draft and Revise Site Visit Report regarding document retention at Appraisal Office	4.00 200.00/hr	800.00
	ALB Review Incident response plan provided to Justice by OSM	0.30 200.00/hr	60.00
	ALB Review Notice of Intention of the Office of Solicitor to Connect Interim Network to Internet and attached declaration of N. Colodney	0.20 200.00/hr	40.00
7/12/2003	ALB Draft and Revise Site Visit Report regarding document retention at Appraisal Office	6.50 200.00/hr	1,300.00
7/13/2003	ALB Organize and review NAID information produced by Interior for Final Report	5.40 200.00/hr	1,080.00
7/14/2003	JW Input data from Box 1 of NAID Production	8.75 60.00/hr	525.00
	JW Input data from Box 1 of NAID Production	8.75 60.00/hr	525.00
	GB Input Data from Box 2 of NAID production.	6.00 60.00/hr	360.00
	AW Legal research	3.00 150.00/hr	450.00
	AW Draft report on contempt motion	1.70 150.00/hr	255.00
	AW Draft report on contempt motion	2.50 150.00/hr	375.00
	ALB Organize and review NAID information produced by Interior for Final Report	6.30 200.00/hr	1,260.00
7/15/2003	ALB Conference with DOJ, DOI, SOL and Ps regarding weekly meetings and penetration testing; memo to file	1.50 200.00/hr	300.00
	JW Input data from Box 1 of NAID production into Excel Spreadsheet	2.25 60.00/hr	135.00
	JW Reviewed spreadsheet with Box 2 inventory of NAID Production	0.25 60.00/hr	15.00

		<u>Hrs/Rate</u>	<u>Amount</u>
7/15/2003	JW Researched issues related to San Juan Basin pipelines	2.50 60.00/hr	150.00
	JW Continued researching issues related to San Juan pipelines	1.25 60.00/hr	75.00
	JW Input data from Box 1 of NAID Production	1.75 60.00/hr	105.00
	GB Input Data from Box 2 of NAID production.	6.50 60.00/hr	390.00
	ALB Organize and review NAID information produced by Interior for Final Report	5.50 200.00/hr	1,100.00
	ALB Review Plaintiffs' Motion to Compel Compliance with May 21, 2003 Memorandum and Order	0.20 200.00/hr	40.00
7/16/2003	ALB Review Transcript of 5/16 IT meeting; draft memo to file	2.10 200.00/hr	420.00
	ALB T/conference w/counsel regarding upcoming IT meeting	0.30 200.00/hr	60.00
	ALB Review Rules of Engagement; discuss w/J. Kerr	0.70 200.00/hr	140.00
	ALB Edit Site Visit Report	2.80 200.00/hr	560.00
	JW Continue researching issues relating to San Jaun Basin pipelines	1.00 60.00/hr	60.00
	JW Completed inputting data from box 1 of NAID production	7.00 60.00/hr	420.00
	GB Input Data from Box 2 of NAID production.	7.25 60.00/hr	435.00
	ALB Review Plaintiffs' Counterdesignations of Deposition Testimony and Defendants' Response thereto	1.50 200.00/hr	300.00
7/17/2003	JW Began inputting data from Box 3 of NAID Production	8.50 60.00/hr	510.00
	GB Input Data from Box 2 of NAID production.	8.00 60.00/hr	480.00
	ALB Draft Letter to Warshawsky in response to request for 24/7 extension of IRMS activity and review of original request and attached documentation	0.80 200.00/hr	160.00

		<u>Hrs/Rate</u>	<u>Amount</u>
7/17/2003	ALB Draft Letter to Warshawsky regarding meeting concerning Draft Rules of Engagement (responding to letter of July 16)	0.70 200.00/hr	140.00
	ALB Organize and review NAID information produced by Interior for Final Report	4.20 200.00/hr	840.00
7/18/2003	JW Continue inputting data from Box 3 of NAID Production	7.00 60.00/hr	420.00
	GB Input Data from Box 2 of NAID production.	6.50 60.00/hr	390.00
	AW Legal Research	2.30 150.00/hr	345.00
	AW Draft report on contempt	5.80 150.00/hr	870.00
	ALB Review Cobell v. Norton (Circuit Opinion)	1.50 200.00/hr	NO CHARGE
	ALB Review response to Court's Inquiries During Closing Arguments	0.20 200.00/hr	40.00
7/19/2003	ALB Organize and review NAID information produced by Interior for Final Report	5.30 200.00/hr	1,060.00
7/20/2003	ALB Organize and review NAID information produced by Interior for Final Report	6.60 200.00/hr	1,320.00
7/21/2003	GB Continue inputting Data from Box 2 of NAID production.	7.00 60.00/hr	420.00
	JW Input data from Box 3 of NAID production	8.00 60.00/hr	480.00
	AW Draft report on contempt motion	3.80 150.00/hr	570.00
	ALB Review Opposition to Plaintiffs' Motion to Compel Compliance with this Court's May 21, 2003 Memorandum and Order; Motion	0.30 200.00/hr	60.00
	ALB Draft and Finalize Contempt Report and Recommendation against Named Individuals	5.50 200.00/hr	1,100.00
7/22/2003	GB Continue inputting Data from Box 2 of NAID production.	7.00 60.00/hr	420.00
	JW Input data from Box 3 of NAID production	8.50 60.00/hr	510.00

		<u>Hrs/Rate</u>	<u>Amount</u>
7/22/2003	AW Draft report on contempt motion	1.60 150.00/hr	240.00
	ALB Draft Letter to J. Warshawsky responding to letter of 7/16 concerning meeting of 7/21	0.80 200.00/hr	160.00
	ALB Draft and Finalize Contempt Report and Recommendation against Named Individuals	6.30 200.00/hr	1,260.00
7/23/2003	JW Continue inputting data from Box 3 of NAID production.	8.50 60.00/hr	510.00
	GB Continue inputting Data from Box 2 of NAID production.	7.50 60.00/hr	450.00
	AW Draft report on contempt motion	2.00 150.00/hr	300.00
	ALB Review Jacobs' Motion for Leave to File Amicus Curiae Pro Se and Defendants' Opposition Thereto	0.60 200.00/hr	120.00
	ALB Draft letter to Warshawsky regarding McDivitt Declaration	0.20 200.00/hr	40.00
	ALB Draft and Finalize Contempt Report and Recommendation against Named Individuals	3.00 200.00/hr	600.00
7/24/2003	GB Continue inputting Data from Box 4 of NAID production.	3.50 60.00/hr	210.00
	JW Continue inputting data from Box 3 of NAID Production	6.50 60.00/hr	390.00
	JW Edit Site Visit Report to the Eastern Region Navajo Office	2.00 60.00/hr	120.00
	ALB Review Request to Move three sets of Fish and Wildlife Service Inactive Non-Indian/Non-Trust records	0.60 200.00/hr	120.00
7/25/2003	GB Continue inputting Data from Box 4 of NAID production.	6.50 60.00/hr	390.00
	JW Make corrections to Site Visit Report	1.00 60.00/hr	60.00
	JW Input data from Box 3 of NAID production	7.00 60.00/hr	420.00
	ALB Review Interior's Supplemental Opposition to Plaintiffs' Motion for Preliminary Injunction	1.00 200.00/hr	200.00

			<u>Hrs/Rate</u>	<u>Amount</u>
7/25/2003	ALB	Review Petitioners' Motion for Scheduling Order to Govern further Proceedings	0.30 200.00/hr	60.00
	ALB	Review Notice of Filing/Motion and Memorandum to File Under Seal Discussion and Documents Relating to Protected Information	0.30 200.00/hr	60.00
	ALB	Conference w/D. Riess -- collect correspondence regarding IT security; transcript of 7/15 meeting for court's review	0.60 200.00/hr	120.00
7/26/2003	AW	Draft report on contempt motion	2.00 150.00/hr	300.00
	ALB	Review Interior's Motion for Leave to File Supplemental Opposition to Plaintiffs' Motion for PI and Supplemental Opposition; Interior's Statement of Supplemental Authority for Motion to Disqualify Special Master Balaran	0.50 200.00/hr	100.00
	ALB	Draft and Finalize Contempt Report and Recommendation against Named Individuals	6.50 200.00/hr	1,300.00
7/27/2003	AW	Draft report on contempt motion	4.50 150.00/hr	675.00
	ALB	Draft and Finalize Contempt Report and Recommendation against Named Individuals	5.00 200.00/hr	1,000.00
	ALB	Draft and Finalize Contempt Report and Recommendation against Named Individuals	5.00 200.00/hr	1,000.00
7/28/2003	ALB	Review request to move records by BIA; MMS; Fish and Wildlife; NPS and BOR	2.20 200.00/hr	440.00
	GB	Continue inputting Data from Box 4 of NAID production.	7.50 60.00/hr	450.00
	JW	Completed inputting data from Box 3 of NAID production	8.50 60.00/hr	510.00
	AW	Draft report on contempt motion	4.20 150.00/hr	630.00
	ALB	Review Court's opinion regarding preliminary injunction	1.50 200.00/hr	300.00
7/29/2003	GB	Continue inputting Data from Box 4 of NAID production.	7.50 60.00/hr	450.00
	JW	Begin inputting data from Box 5 of NAID production	8.00 60.00/hr	480.00
	AW	Draft report on contempt motion	3.00 150.00/hr	450.00

		<u>Hrs/Rate</u>	<u>Amount</u>
7/29/2003	ALB Draft and Finalize Contempt Report and Recommendation against Named Individuals	6.30 200.00/hr	1,260.00
7/30/2003	GB Continue inputting Data from Box 4 of NAID production.	5.00 60.00/hr	300.00
	ALB Review Filing of Redacted Version of July 25, 2003 Letter with Attachments to Daniel Reiss	0.70 200.00/hr	140.00
	ALB Draft and Finalize Contempt Report and Recommendation against Named Individuals	4.20 200.00/hr	840.00
	JW Continue inputting data from Box 5 of NAID production	8.00 60.00/hr	480.00
7/31/2003	GB Continue inputting Data from Box 4 of NAID production.	7.50 60.00/hr	450.00
	AW Draft report on contempt	2.50 150.00/hr	375.00
	ALB Draft Letter to Siemietkowski requesting MMS Documents	0.30 200.00/hr	60.00
	JW Continue inputting data from Box 5 of NAID production	8.00 60.00/hr	480.00
8/1/2003	ALB Review Notice of Filing of Interior's 14th QR - Review sections related to IT; Records; Training; Appraisals etc.	2.70 200.00/hr	540.00
	GB Continue inputting Data from Box 4 of NAID production.	7.50 60.00/hr	450.00
	JW Continue inputting data from Box 5 of NAID production	8.50 60.00/hr	510.00
8/3/2003	ALB Draft Monthly Report; review timesheets for assistants; cite check and put exhibits together for site visit report; cite check Conternpt decision	4.60 200.00/hr	920.00
	For professional services rendered	500.48	\$58,964.50
	Additional Charges :		
7/11/2003	Copying cost for MMS articles and public documents		268.07
7/15/2003	Copying		268.07
7/30/2003	Court Report and Transcript for Wewoka/Chickasaw Depositions		1,096.24

CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on August 22, 2003 I served the foregoing *Interior Defendants' Reply in Support of Motion to Disqualify Special Master Balaran* by facsimile in accordance with their written request of October 31, 2001 upon:

Keith Harper, Esq.  
Native American Rights Fund  
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