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

| | |
|---|---|
| **ELOUISE PEPION COBELL,** et al., | |
| Plaintiffs, | |
| v. | |
| **GALE NORTON**, Secretary of the Interior, et al., | Civil Action No. 96-1285 (RCL) |
| Defendants. | |

## JOINT MOTION FOR CONSENT ORDER

The plaintiff class, Mona Infield, and defendants (collectively, "the parties"), hereby jointly move for the Court to enter the proposed Consent Order.

## MEMORANDUM OF POINTS AND AUTHORITIES

The parties have entered into a Settlement Agreement (attached hereto) concerning the allegations of the plaintiff class and Mona Infield that Ms. Infield was subjected to retaliation by defendants and the Department of the Interior. The parties seek approval by the Court of the Settlement Agreement, the rescheduling of the trial date concerning the reprisal allegations, and a stay of proceedings as set forth in the proposed Consent Order.

The proposed Consent Order is attached hereto.

Respectfully submitted,

Dennis Gingold
P.O. Box 14464
Washington, DC 20044-4464
Telephone: (202) 661-6380

Henry A. Azar, Jr.
Scott H. Park
Robert S. Libman
U.S. Department of Justice
Civil Division
Federal Programs Branch
P.O. Box 883
Washington, DC 20044
Telephone: (202) 514-4964

11/5/02

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

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| **ELOUISE PEPION COBELL,** et al., | ) | |
| Plaintiffs, | ) | |
| v. | ) | |
| **GALE NORTON**, Secretary of the Interior, et al., | ) | Civil Action No. 96-1285 (RCL) |
| Defendants. | ) | |

**CONSENT ORDER**

Upon the representation of the parties that they have settled the allegations of the plaintiff class and Mona Infield that Ms. Infield was subjected to retaliation by defendants and the Department of the Interior ("the reprisal allegations"), and upon consideration of the Settlement Agreement between the parties, IT IS HEREBY

ORDERED that:

1. The Settlement Agreement is approved;

2. All further proceedings, including all discovery, concerning the reprisal allegations are hereby stayed until further Order, except that the December 18, 2002 trial date is hereby rescheduled for February __, 2002; and

3. Upon the parties' filing of a Stipulation of Dismissal with Prejudice, the Court will so order the dismissal of the reprisal allegations, and will issue an Order providing that the Court's

September 17, 2002 Order to Show Cause is vacated, and the need for the civil contempt trial concerning the reprisal allegations is obviated.

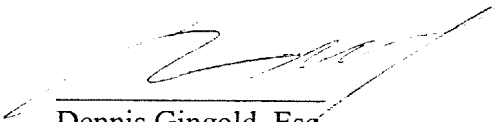
SO ORDERED:

Dated: _____

_____
ROYCE C. LAMBERTH
United States District Judge

Respectfully submitted,

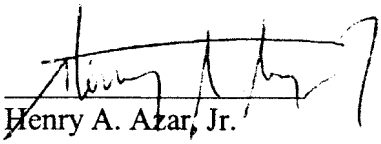
FOR PLAINTIFFS AND MONA B. INFIELD:



Dennis Gingold, Esq.
P.O. Box 14464
Washington, DC 20044-4464
Telephone: (202) 661-6380

November 5, 2002

FOR DEFENDANTS:



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November 5, 2002

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Washington, DC 20036

# SETTLEMENT AGREEMENT

The United States Department of the Interior ("Interior"), the class plaintiffs in Cobell, et al. v. Babbitt, et al., Civil Action No. 1:96CV01285 (D.D.C.) ("Cobell"), and Mona B. Infield ("Ms. Infield") hereby agree, in full and final settlement of the matters referred to herein, as follows:

1 (a). The term "Respondents" means Interior, Gale Norton, Secretary of the Interior, Neal McCaleb, Assistant Secretary of the Interior, and any current or former Interior or Department of Justice official, employee or attorney, in his or her official, individual, or any other capacity ("in any capacity").

(b) The term "Complainants" refers collectively to the plaintiff class and Ms. Infield.

(c) The term "information technology" refers to "any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission or reception of information."

(d) The term "pay period" refers to the bi-weekly periods of time for which federal employees are paid.

(e) The term "reprisal allegations" refers to (a) Ms. Infield's complaint filed before the Office of Special Counsel, OSC File No. MA-00-1024; (b) Plaintiffs' Motion for Order to Show Cause Why Defendants and Their Employees and Counsel Should not be Held in Contempt and for Sanctions for Violating the Anti-Retaliation Order, filed August 15, 2000, in Cobell; and (c) any other allegation by plaintiffs or Ms. Infield that Interior or Respondents retaliated against Ms.

Infield because of her statements or actions supporting plaintiffs or criticizing Interior or Respondents. The term "reprisal allegations," as used in the Settlement Agreement, either standing alone or in connection with other terms, is not meant to encompass any issues, other than the reprisal allegations, that were raised by Ms. Infield during the course of Cobell (such as, for example, IT security issues).

f. The word "days" as it is used herein means calendar days, except that when an act is required to be performed on a certain day, and that day falls on a weekend or holiday, the day for such performance will be the immediately following business day.

2. Immediately upon the execution of this Settlement Agreement, counsel for the parties will execute, and cause to be filed, a joint application for approval by the Cobell Court of the Consent Order appended hereto. Except as specifically provided herein, the effective date of this Settlement Agreement is the date of signature of the Settlement Agreement by all signatories. Faxed signatures on the Settlement Agreement will be treated as original signatures for all purposes under the Settlement Agreement.

3. In consideration of the provisions of this Settlement Agreement and the terms of the Consent Order and of the Stipulation of Dismissal with Prejudice and Consent Order, Interior agrees to the following:

a. (i) Interior will make available to Ms. Infield a GS-14 supervisory position in the information technology field ("the IT position"). Such position will be located in Albuquerque through at least September 30, 2008.

(ii) Effective the second pay period following the entry of the Stipulation of Dismissal with Prejudice and Consent Order, Interior will assign Ms.

Infield to the Supervisory Computer Specialist position (GS-14), Division of Information Resources Management, Bureau of Indian Affairs. This position is described in the position description attached hereto as Exhibit 1. (The functional name of this position, as stated on the position description, is Supervisory IT Specialist.) This is a permanent position, and Interior has no plans to eliminate, outsource, transfer, or otherwise contract to a non-federal entity the functions of this position, and this position will remain in effect at least through September 30, 2004.

(iii) The provisions of Subparagraphs 3(a)(i) and (ii) are solely for the benefit of Ms. Infield. If Ms. Infield leaves the IT position before September 30, 2008, voluntarily or for disciplinary grounds that are either unchallenged by Ms. Infield or determined to be valid after all legal recourse is exhausted, Interior is released from the provisions of Subparagraphs 3(a)(i) and (ii). The provisions of Subparagraphs 3(a)(i) and (ii) of this Settlement Agreement will become effective within seven days of notification to defendants' counsel that plaintiffs' counsel has received the last of the payments required under this Settlement Agreement.

b. Interior will expunge from Ms. Infield's official personnel file any reference to any actions she took or was alleged to have taken in connection with the matters resolved by this Settlement Agreement. A copy of the Settlement Agreement will not be included in Ms. Infield's Official Personnel File.

c. Interior will pay reasonable out-of-pocket personal expenses and any overtime pay, incentive awards, and step increases to which Ms. Infield was entitled and did not receive as a result of alleged retaliation included within her complaint filed with the Office of Special Counsel, OSC File No. MA-00-1024.

d. Interior will restore to Ms. Infield any sick and annual leave to which Ms. Infield is entitled and did not receive as a result of the reprisal allegations.

e. Interior will pay to Ms. Infield and to class plaintiffs reasonable attorney's fees, expenses and costs (collectively, "attorney's fees") incurred as a result of the reprisal allegations, through the effective date of this Settlement Agreement.

f. The amount of payments pursuant to Paragraphs 3(c) and (e) above, and the number of hours to be restored pursuant to Paragraph 3(d) above, will be determined by the Special Master upon application to the Special Master by Complainants within 7 days of the effective date of this Settlement Agreement. Complainants will not be awarded attorney's fees in excess of $1 million for both Ms. Infield's and plaintiffs' attorney's fees combined under this Settlement Agreement. Defendants' response will be submitted to the Special Master within 25 days of such application. At their option, Complainants will have 5 days to reply to defendants' response, but there will be no supplemental or amended evidentiary submission by Complainants. The Special Master's determination will be binding and final and will not be appealed. The payments determined pursuant to Paragraphs 3(c) and (e) above will be made, and the hours restored pursuant to Paragraph 3(d) above will be restored, within 20 days of the issuance of the

Special Master's determination. Interior will pay the amount determined pursuant to Paragraph 3(c) to Mona Infield. Interior will pay the amount determined pursuant to Paragraph 3(e) to Dennis Gingold, Esq., and the payment of attorney's fees may be made in two separate payments. All payments made under this Settlement Agreement will be made to the client trust fund account of Dennis Gingold, Esq. Complainants will provide to counsel for defendants the account information necessary for a wire transfer of these payments. Within three days of receipt of the last of the payments required under this Settlement Agreement, counsel for plaintiffs will so inform the Special Master.

4. a. Complainants and their heirs, administrators, successors, or assigns hereby release and forever discharge Interior, the defendants in the Cobell action and the Respondents, and their administrators or successors, and any department, agency, or establishment of any defendant and any officers, employees, agents, attorneys, or successors of any such department, agency, or establishment, in any capacity, through the date of the last of the payments required to be made under this Settlement Agreement, from any and all civil claims and causes of action which have been asserted, or could have been asserted (including all attorney's fees), in any court, before the Office of Special Counsel, or administratively, or otherwise, by reason of, as a result of, or with respect to, or in connection with, or which arise out of or relate to, or arise out of the litigation of, the reprisal

allegations. This release will become effective as of the date of the last of the payments required to be made under this Settlement Agreement.

b. Interior hereby releases and forever discharges Complainants and their agents and attorneys, through the effective date of this Settlement Agreement, from any and all civil claims and causes of action which have been asserted, or could have been asserted administratively, or otherwise, by reason of, as a result of, or with respect to, or in connection with, or which arise out of or relate to, or arise out of the litigation of, the reprisal allegations. This release will become effective as of the date of the last of the payments required to be made under this Settlement Agreement.

5. This Settlement Agreement is not and will not be construed as an admission by the defendants in the Cobell action, Interior, or other Respondents of the truth of any allegation or the validity of any claim asserted in the Cobell action or described in the preceding paragraph, or of the defendants' liability therein, nor is it a concession or an admission of any fault or omission in any act or failure to act, nor will this Settlement Agreement, nor any of the terms hereof, be offered or received in evidence or in any way referred to in any civil or administrative action or proceeding (other than such proceedings as may be necessary to consummate or enforce this Settlement Agreement), nor will they be construed by anyone for any purpose whatsoever as an admission or presumption of any wrongdoing on the part of the defendants in the Cobell action, Interior, or other Respondents.

6. The provision of attorney's fees, expenses, and costs in the Settlement Agreement is by agreement of the parties and will not serve as precedent, or otherwise be binding, in this or any

other case, beyond the implementation of this Settlement Agreement. Likewise, the Special Master's determination of attorney's fees and costs pursuant to the Settlement Agreement is by agreement of the parties and will not serve as precedent, or otherwise be binding, in this or any other case, beyond the implementation of this Settlement Agreement.

7. Nothing in this Settlement Agreement will be construed to satisfy, modify, or eliminate any substantive or procedural requirements for making or challenging employment decisions under applicable federal law, nor will any valid or unchallenged disciplinary action by Interior constitute a violation of this Settlement Agreement. All provisions of this Settlement Agreement are to be construed consistent with applicable law as it now applies or applies hereafter. Nothing in this Settlement Agreement will be construed to require the obligation of any funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341. In the event that, at any time before September 30, 2008, Interior does not pay Ms. Infield's salary and asserts that a shortfall in funds appropriated by Congress is the reason for its inability to do so, Ms. Infield may bring a claim of breach of this Settlement Agreement to the Special Master. After providing Interior with an opportunity to respond, the Special Master will consider whether a shortfall in appropriated funds exists and whether any unallocated funds held by Interior may legally be used to pay Ms. Infield's salary. The Special Master will issue a report and recommendation to the Court.

8. For one year after the effective date of this Settlement Agreement, the parties will submit to non-binding mediation by Special Master Alan Balaran all disputes arising out of either: (a) the implementation of this Settlement Agreement, or (b) any future allegation by Ms. Infield or the class plaintiffs that Ms. Infield has been or will be subjected to reprisal by Interior

in violation of any anti-retaliation Order issued by the Court in Cobell. Before filing any pleading or motion in Cobell or in any other judicial proceeding with respect to a dispute arising out of (a) or (b), the parties will first raise it with the Special Master for resolution, as follows. First, the party raising the issue will notify the other party in writing of the nature of the dispute and will propose a solution thereto. If the parties are unable to resolve the dispute themselves expeditiously, and not sooner than 10 days after the written notice described above has been provided, the party raising the issue will provide written notice of the dispute to the Special Master and serve a copy on the other party. If the parties are unable to resolve the dispute with the assistance of the Special Master, and not sooner than 10 days after providing written notice to the Special Master, the party raising the dispute may submit the matter to the Court for resolution. This provision does not alter or modify any procedural rights that Ms. Infield may have as a federal employee.

9. The terms of this Settlement Agreement constitute the entire agreement of the parties, and no prior statement, representation, agreement or understanding, oral or written, that is not contained herein, shall have any force or effect. Except as expressly provided herein, this Settlement Agreement cannot be modified except upon express written consent of the parties. This Settlement Agreement does not create, and is not to be read to create, any rights or privileges on behalf of any person or entity other than the parties hereto, except that the releases set forth in Paragraph 4 above apply according to the terms thereof.

10. The parties hereto agree that notice to the plaintiff class is unnecessary.

11. The signatories hereto represent that they have the requisite authority to enter into this Settlement Agreement.

12. Counsel for Ms. Infield and plaintiffs and counsel for defendants will, simultaneously with their execution of the Settlement Agreement, execute the Consent Order attached hereto and arrange for its immediate filing upon full execution of the Settlement Agreement.

13. Counsel for Ms. Infield and plaintiffs and counsel for defendants will, simultaneously with their execution of the Settlement Agreement, execute the Stipulation of Dismissal and Consent Order ("Stipulation") attached hereto. The Special Master will retain the Stipulation until he receives notification from plaintiffs' counsel of receipt of the last of the payments required under Paragraph 3(f). At that time, the Special Master will provide the Stipulation to counsel for defendants, who will promptly file it.

AGREED TO BY:

FOR MONA B. INFIELD:

Mona B. Infield

Mona B. Infield

November 5, 2002

FOR PLAINTIFFS AND MONA B. INFIELD:

Dennis Gingold, Esq.
P.O. Box 14464
Washington, DC 20044-4464
Telephone: (202) 661-6380

November 5, 2002

FOR THE DEPARTMENT OF THE INTERIOR:

Hugo Teufel III
Associate Solicitor
Department of the Interior

November 5, 2002

FOR DEFENDANTS IN THEIR OFFICIAL CAPACITIES:

Henry A. Azar, Jr.
Scott H. Park
Robert S. Libman
U.S. Department of Justice
Civil Division
Federal Programs Branch
P.O. Box 883
Washington, DC 20044
Telephone: (202) 514-4964

November 5, 2002

# POSITION DESCRIPTION *(Please Read Instructions on the Back)*

1. Agency Position No. 28100504

2. Reason for Submission: [ ] Redescription [✓] New [ ] Reestablishment [ ] Other

3. Service: [X] Hqqtrs. [ ] Field

4. Employing Office Location: Washington, DC

5. Duty Station: Albuquerque, NM

6. OPM Certification No.

Explanation *(Show any position replaced)*

EXHIBIT 1 TO MONA INFIELD-PLAINTIFFS-INTERIOR SETTLEMENT

7. Fair Labor Standards Act: [✓] Exempt [ ] Nonexempt

8. Financial Statements Required: [ ] Executive Personnel Financial Disclosure [ ] Employment and Financial Interests

9. Subject to IA Action: [ ] Yes [✓] No

10. Position Status: [✓] Competitive [ ] Excepted *(Specify in Remarks)* [ ] SES (Gen.) [ ] SES (CR)

11. Position is: [✓] Supervisory [ ] Managerial [ ] Neither

12. Sensitivity: [ ] 1-Non Sensitive [ ] 3-Critical Sensitive [ ] 2-Noncritical Sensitive [ ] 4-Special Sensitive

13. Competitive Level Code

14. Agency Use

| 15. Classified or Graded by | Official Title of Position | Pay Plan | Occupational Code | Grade | Initials | Date |
|---|---|---|---|---|---|---|
| a. U.S. Office of Personnel Management | | | | | | |
| b. Department, Agency or Establishment | | | | | | |
| c. Second Level Review | | | | | | |
| d. First Level Review | Supv IT Specialist (Policy and Planning) | GS | 2210 | 14 | | SEP 26 200 |
| e. Recommended by Supervisor or Initiating Office | | | | | | |

16. Organizational Title of Position *(if different from official title)*: Chief, Disaster Recovery Branch

17. Name of Employee *(if vacant, specify)*

18. Department, Agency, or Establishment: Department of the Interior, Bureau of Indian Affairs

a. First Subdivision: Office of Management and Administration

b. Second Subdivision: Office of Information Resources Management

c. Third Subdivision: Disaster Recovery Branch

d. Fourth Subdivision:

e. Fifth Subdivision:

19. Employee Review—This is an accurate description of the major duties and responsibilities of my position.

Signature of Employee *(optional)*:

20. Supervisory Certification. *I certify that this is an accurate statement of the major duties and responsibilities of this position and its organizational relationships, and that the position is necessary to carry out Government functions for which I am responsible. This certification is made with the knowledge that this information is to be used for statutory purposes relating to appointment and payment of public funds, and that false or misleading statements may constitute violations of such statutes or their implementing regulations.*

a. Typed Name and Title of Immediate Supervisor: Lonnie Dixon, Director, Office of Info Resources Management

Signature: [signature] Date: 9-25-02

b. Typed Name and Title of Higher-Level Supervisor or Manager *(optional)*:

Signature: Date:

21. Classification/Job Grading Certification. *I certify that this position has been classified/graded as required by Title 5, U.S. Code, in conformance with standards published by the U.S. Office of Personnel Management or, if no published standards apply directly, consistently with the most applicable published standards.*

Typed Name and Title of Official Taking Action: Allison S. Beard, Human Resources Specialist (Staffing & Classification)

Signature: Allison S. Beard Date: SEP 26 2002

22. Position Classification Standards Used in Classifying/Grading Position: Job Family Position Classification Standard for Administrative Work in the Information Technology Group, GS-2210, 05-2001; GSSG – HRCD-5, 06-98

Information for Employees. The standards, and information on their application, are available in the personnel office. The classification of the position may be reviewed and corrected by the agency or the U.S. Office of Personnel Management. Information on classification/job grading appeals, and complaints on exemption from FLSA, is available from the personnel office or the U.S. Office of Personnel Management.

23. Position Review

| | Initials | Date | Initials | Date | Initials | Date | Initials | Date | Initials | Date |
|---|---|---|---|---|---|---|---|---|---|---|
| a. Employee *(optional)* | | | | | | | | | | |
| b. Supervisor | | | | | | | | | | |
| c. Classifier | | | | | | | | | | |

24. Remarks

Positions in the Bureau of Indian Affairs are in the competitive service unless occupied under Schedule A 213.3112(a)(7). In such case the position is in the excepted service during the tenure of the excepted employee.

Full Performance Level: GS-14 ~~Sensitivity: 6 High Risk Public Trust~~

25. Description of Major Duties and Responsibilities *(See Attached)*

OFFICE OF INFORMATION RESOURCES MANAGEMENT
Supervisory IT Specialist (Policy and Planning)
GS-2210-14

## INTRODUCTION

The Bureau of Indian Affairs' mission is to enhance the quality of life, promote economic opportunity, and to carry out the responsibility to protect the trust assets of American Indians, Indian tribes, and Alaska Natives. We will accomplish this through the delivery of quality services, maintaining government-to-government relationships within the spirit of Indian Self-Determination.

The mission of the Office of Information Resources Management (OIRM) is to provide leadership and technical direction to all Bureau locations regarding Information Technology (IT) operations, controls, acquisition standards, architecture and platforms, local and wide area network communications, configuration, systems, software maintenance, customer support, applications design, documentation, application programming, acceptance testing and support of the Bureau missions.

This position contributes to the mission of OIRM by serving as the Chief of the Disaster Recovery Branch. The Disaster Recovery Branch is primarily responsible for Disaster Recovery for BIA computer systems, and supporting BIA Continuity of Operations Planning. This branch is also responsible for the creation and utilization of the Unisys Disaster Recovery environment that supports reconstitution of the Unisys environment in the event that a disaster occurs in either the production and/or test/development environments. The test/development and production environments are both located in the Reston, Va facility. The Director of OIRM supervises this position.

## MAJOR DUTIES

Exercises delegated managerial, supervisory and technical authority to manage the functions of the Disaster Recovery Branch.

Develops, plans, directs, reviews, evaluates and coordinates the IT functions associated with Disaster Recovery (DR) for BIA computer systems, and OIRM Continuity of Operations Planning (COO) including quarterly testing of DR capabilities.

Serves as an expert advisor on Disaster Recovery.

Develops, plans, directs, reviews, evaluates and coordinates the IT functions associated with the Unisys test environment enabling BIA to create required software changes in a safe environment and apply quality assurance tests to the changes to the code prior to implementation into the production environment.

Prepares briefings, memoranda, and technical reports for presentation on topics and activities related to branch functions.

Evaluates changing technological tools and system development concepts and approaches, and acquires and implements those that will improve the efficiency and effectiveness of the branch.

Serves as key consultant and authority to higher-level management and executive level on the computer disaster recovery support program. The incumbent is relied upon for substantive advice, new and innovative ideas, approaches and solutions to complex problems that effect major changes or improvements, typically requiring deep technical involvement in studies, development, implementation and coordination issues.

Provides oversight of the IT support for the Central Office West located in Albuquerque, NM.

Serves as the Contracting Officer's Representative and/or Contracting Officer's Technical Representative for contracting activity associated with Disaster Recovery, Continuity of Operations, and Unisys software testing. Determines whether contractor performed work meets standards necessary for authorization of payment.

Plans and recommends administrative actions associated with the Branch such as procurement, budget, and travel.

Sets goals for the Branch to effectively fulfill the objectives of OIRM and BIA. Develops long and short range plans of action including time frames, determines resource needs and allocates resources to staff, equipment and materials, establishes policies and procedures to accomplish the program functions and objectives. Responsible for continually evaluating effectiveness and efficiency of program, and determines trends to identify problem areas and resolve them.

Supervises IT professionals and administrative staff within the Disaster Recovery Branch, whose full performance levels range from GS-5 through GS-13.

Initiates personnel action requests for staffing such as promotions, reassignments, appointments, etc., position classifications, bonuses and awards for the Branch; makes an approves selections for positions within the Branch' hears and resolves formal individual or group grievances and serious employee complaints; effects disciplinary actions, identifies developmental needs and develops training plans to respond to needs' and approves or denies training requests.

Implements other provisions of personnel management programs such as affirmative action and equal opportunity action plans' career development plans' and safety practices.

Ensures that employees supervised adhere to Bureau and government-wide regulations covering pay, travel, sick and annual leave. Approves leave requests for subordinate employees. Establishes performance standards and conducts appropriate employee evaluations of performance.

Finds and implements ways to eliminate or reduce significant bottlenecks and barriers to production, promote team building, and improve business practices.

Participates as a member of the OIRM management team. Makes decisions on work problems presented by other team leaders within OIRM; develops operating procedures; and communicates information to higher and lower levels within the organization.

FACTORS

1. Knowledge Required

Managerial, technical knowledge and skills sufficient to plan, organize, direct staff, carry out, and evaluate for the BIA a comprehensive Disaster Recovery Plan, Continuity of Operations Plan, and Unisys disaster recovery environment. This knowledge and these skills include:

Mastery of advanced concepts, principles, procedures, methods and practices of computer applications systems in order to interact with the program users and to guide the analysis, development, testing, implementation, evaluation and maintenance of long- and short-range plans and objectives for complete Disaster Recovery activities for OIRM and BIA.

Comprehensive knowledge in the area of Disaster Recovery and Continuity of Operations methods and standards or industry best practices in these areas.

A broad knowledge of automated data processing methods, equipment types, analytical methods and procedures, systems applications, and management principles used in the IT field and how to apply them.

Comprehensive knowledge of Federal IT policies, standards and procedures; characteristics of current IT system hardware and software; and computer techniques, requirements, methods and procedures promulgated by Congress, the Department of Interior and the BIA to include familiarity with approaches used by IT organizations in other Federal agencies and/or the private sector in order to evaluate and advise executive and mid-level managers on assigned programs and activities.

Extensive knowledge of technological advancements in the IT field, and the ability to relate that knowledge to the needs of the Bureau and OIRM.

Extensive knowledge of sophisticated project planning and organization, scheduling, and control techniques (such as reporting requirements, budgeting, accounting, personnel management, property and supply) is required in order to assure successful integration of program efforts within the Branch and with other projects to meet the objectives of OIRM, thereby providing quality and effective support for the Bureau to satisfy its mission.

Knowledge of theories, concepts, principles and techniques of management and supervision sufficient to enable the incumbent to develop and implement management strategies and action to develop and maintain productivity and the harmonious working relations among employees to attain program objectives.

Skill in negotiating, problem solving and conflict resolution.

Demonstrated skill in oral and written communications in order to write and present meaningful and coherent reports, documentation and a variety of publications; and skills to effective interact with a cross section of Department, Bureau employees including program users and mid-level and executive-level management.

2. Supervisory Controls

The Director of OIRM provides administrative direction with assignments in terms of broadly defined programs goals and objective to be achieved with program resources.

Within broad direction, the incumbent independently plans and organizes the programs, plans, actions, and controls of the Branch's functions, determines the general approaches and methods to use, monitors, and evaluates program

accomplishments.

Results of work are considered technically authoritative and are normally accepted without change. Review concerns such matters of fulfillment of program objectives and program effectiveness.

3. Guidelines

Guidelines include laws; Executive Orders; Federal, Department and Bureau regulations, policies and instructions, manuals, and technical literature. Guidelines are often broadly stated and may not adequately deal with basic program development or technical problems to meet new policy goals and objectives. Precedents are lacking. The incumbent uses initiative and resourcefulness in extending or redefining guidelines, or deviating from traditional principles, practices and precedents to solve unique program and/or technical problems and develops local program instructions and guidance. The incumbent is intimately involved in the interpretation of Bureau and Department guidelines. The incumbent is recognized throughout the Bureau as an expert on Unisys disaster recovery for both the Production and test/development environments.

4. Complexity

Plans, evaluates and administers the DR, COO and Unisys disaster recovery environment for the BIA, complicated by broad program and technical problems, advising on changes to specific policies or practices, and developing and monitoring plans and actions to deal with these problems. Work entails long- and short-range program planning, directing day-to-day operations, in-depth systematic evaluation of progress, and recommending level of resources and overall organization of the program. Management of work relating to DR, COO and Unisys disaster recovery environment is complex de to: 1) the fact that the work involves several stages of an automated project, such as project plan development, program testing, and implementation, and 2) may include the requirement to develop unique major changes to current operating procedures. In addition, extensive coordination and support of other experts both inside and outside the Branch is required.

Decisions regarding what need to be done include major areas of uncertainty in approach, methodology or interpretation and process evaluation resulting from changes in program emphasis and direction, organizational changes, program conflicts with established policies/practices, etc.

Work requires a high degree of judgment in setting program priorities, recommending changes in program direction, recommending decisions with broad impact, and recommending

actions to correct conditions underlying problems. The work requires continuing efforts to analyze a wide variety of interrelated complex problems and to advise on the best course of action to eliminate barriers to program goals and objectives.

5. Scope and Effect

The purpose of this position is to plan, direct, evaluate and carry out DR, COO, and Unisys disaster recovery environment operations. The managerial work includes planning and organizing program resources, setting goals and evaluating results. The work involves a variety of unusual problems and requirements, and the formulation of alternative solutions in making studies, reports for management, and providing technical support. The work affects the entire BIA mission accomplishment.

6. Personal Contacts

Internal contacts are with mid-level and senior executive management, other branch chiefs, co-workers and subordinate personnel in OIRM and DOI. External contacts range from a cross section of program users within BIA to IT professionals inside and outside the government, including other government agencies.

7. Purpose of Contacts

The purpose of contacts is to identify and clarify automation needs and to consult on, justify, defend, negotiate, or settle highly significant problems and issues ranging from administrative to highly technical matters. These problems affect Bureau policy, set precedent, and involve large expenditures of resources. A considerable amount of tact and judgment is required of the incumbent in the communications, conferences, consultations, discussion, and negotiations resulting from the contacts.

8. Physical Demands

No unusual physical effort is involved. The work is mostly sedentary. Travel is required to effectively support and consult with Bureau IT installation managers, to attend meetings, symposia, standardization committees, seminars, etc., as well as to other field locations throughout the Bureau.

9. Work Environment

The work area is adequately lighted, heated, and ventilated. The work environment involves everyday risks or discomforts

that require normal safety precautions. Some employees may occasionally be exposed to uncomfortable conditions in such places as computer production facilities.

OTHER

The incumbent is required to operate a government owned or lease motor vehicle in performance of work, therefore, is expected to qualify for government driver's license.
Incumbent may be required to work irregular tour of duty with occasional overtime.

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

| | | |
|---|---|---|
| **ELOUISE PEPION COBELL,** et al., | ) | |
| Plaintiffs, | ) | |
| v. | ) | |
| **GALE NORTON**, Secretary of the Interior, et al., | ) | Civil Action No. 96-1285 (RCL) |
| Defendants. | ) | |

## JOINT MOTION FOR CONSENT ORDER

The plaintiff class, Mona Infield, and defendants (collectively, "the parties"), hereby jointly move for the Court to enter the proposed Consent Order.

## MEMORANDUM OF POINTS AND AUTHORITIES

The parties have entered into a Settlement Agreement (attached hereto) concerning the allegations of the plaintiff class and Mona Infield that Ms. Infield was subjected to retaliation by defendants and the Department of the Interior. The parties seek approval by the Court of the Settlement Agreement, the rescheduling of the trial date concerning the reprisal allegations, and a stay of proceedings as set forth in the proposed Consent Order.

The proposed Consent Order is attached hereto.

Respectfully submitted,

Dennis Gingold
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Washington, DC 20044-4464
Telephone: (202) 661-6380

Henry A. Azar, Jr.
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**UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF COLUMBIA**

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| **ELOUISE PEPION COBELL,** et al., | ) | |
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| Defendants. | ) | |

## CONSENT ORDER

Upon the representation of the parties that they have settled the allegations of the plaintiff class and Mona Infield that Ms. Infield was subjected to retaliation by defendants and the Department of the Interior ("the reprisal allegations"), and upon consideration of the Settlement Agreement between the parties, IT IS HEREBY

ORDERED that:

1. The Settlement Agreement is approved;

2. All further proceedings, including all discovery, concerning the reprisal allegations are hereby stayed until further Order, except that the December 18, 2002 trial date is hereby rescheduled for February __, 2002; and

3. Upon the parties' filing of a Stipulation of Dismissal with Prejudice, the Court will so order the dismissal of the reprisal allegations, and will issue an Order providing that the Court's

September 17, 2002 Order to Show Cause is vacated, and the need for the civil contempt trial concerning the reprisal allegations is obviated.

SO ORDERED:

Dated: _____

_____
ROYCE C. LAMBERTH
United States District Judge

Respectfully submitted,

FOR PLAINTIFFS AND MONA B. INFIELD:

_____
Dennis Gingold, Esq.
P.O. Box 14464
Washington, DC 20044-4464
Telephone: (202) 661-6380

November __, 2002

FOR DEFENDANTS:

_____
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November __, 2002

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

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| **ELOUISE PEPION COBELL,** et al., | ) | |
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| Defendants. | ) | |

**STIPULATION OF DISMISSAL WITH PREJUDICE AND CONSENT ORDER**

Pursuant to the Settlement Agreement between the parties concerning the allegations of the plaintiff class and Mona Infield that Ms. Infield was subjected to retaliation by defendants and the Department of the Interior ("the reprisal allegations"), the reprisal allegations are hereby dismissed with prejudice.

Respectfully submitted,

FOR PLAINTIFFS AND MONA B. INFIELD:

_____

Dennis Gingold, Esq.
P.O. Box 14464
Washington, DC 20044-4464
Telephone: (202) 661-6380

Date: _____

FOR DEFENDANTS:

_____

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Date: _____

IT IS SO ORDERED. It is further ORDERED that the Court's September 17, 2002 Order to Show Cause is hereby vacated, and the need for the civil contempt trial concerning the reprisal allegations is obviated.

Dated: _____

_____
ROYCE C. LAMBERTH
United States District Judge

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