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

| | | |
|---|---|---|
| ELOUISE PEPION COBELL, et al., | ) | |
| | ) | |
| Plaintiffs, | ) | |
| | ) | Case No. 1:96CV01285 |
| v. | ) | (Judge Lamberth) |
| | ) | |
| GALE NORTON, SECRETARY OF THE INTERIOR, et al., | ) | NOTICE OF SUBPOENA |
| | ) | |
| | ) | |
| Defendants. | ) | |
| | ) | |

TO: Dennis M. Gingold, Esq.
Mark Kester Brown, Esq.
1275 Pennsylvania Avenue, NW
Washington, DC 20004

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

PLEASE TAKE NOTICE, pursuant to Federal Rule of Civil Procedure 45, that the Secretary of the Interior and the Assistant Secretary-Indian Affairs intend to serve a Subpoena, in the form attached hereto, on the Intertribal Monitoring Association on November 19, 2002 or as soon thereafter as service may be effectuated.

Dated: November 19, 2002

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

SANDRA P. SPOONER
Deputy Director
D.C. Bar No. 261495

GINO D. VISSICCHIO
Trial Attorney
Commercial Litigation Branch
Civil Division
P.O. Box 875
Ben Franklin Station
Washington, DC 20044-0875
(202) 514-7194

AO 88 (Rev. 1/94) Subpoena in a Civil Case

Issued by the
# UNITED STATES DISTRICT COURT

FOR THE _____ DISTRICT OF NEW MEXICO

ELOUISE PEPION COBELL, et al.,
Plaintiffs,

V.

GALE A. NORTON, SECRETARY OF THE INTERIOR, et al.,
Defendants.

## SUBPOENA IN A CIVIL CASE

CASE NUMBER: [1] 1:96CV01285 (D.D.C.) (RCL)

TO: Intertribal Monitoring Association - Attn: Custodian of Records
2401 12th Street, NW, Suite 214s
Albuquerque, New Mexico 87104

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

| PLACE OF TESTIMONY | COURTROOM |
|---|---|
| | DATE AND TIME |

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

| PLACE OF DEPOSITION | DATE AND TIME |
|---|---|
| | |

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

All videos, recordings, transcripts, prepared statements, and other documents and/or tangible things that contain, reflect or relate to any speeches, comments or remarks by Joseph S. Kieffer, III at any meeting, conference or other event from April 2001 through the present.

| PLACE | DATE AND TIME |
|---|---|
| United States Attorney's Office, 201 Third Street, NW, Suite 900, Albuquerque, NM 87102 | Dec. 4, 2002, 10:00 am |

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

| PREMISES | DATE AND TIME |
|---|---|
| | |

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

| ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) | DATE |
|---|---|
| Attorneys for Defendants Secretary of the Interior and Assistant Secretary-Indian Affairs | November 19, 2002 |

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

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

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

## PROOF OF SERVICE

DATE PLACE

SERVED

SERVED ON (PRINT NAME) MANNER OF SERVICE

SERVED BY (PRINT NAME) TITLE

## DECLARATION OF SERVER

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

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

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

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

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

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

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

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

(i) fails to allow reasonable time for compliance,

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

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

(iv) subjects a person to undue burden.

(B) If a subpoena

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

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

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

(d) DUTIES IN RESPONDING TO SUBPOENA.

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

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

CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on November 19, 2002 I served the foregoing *Notice of Subpoena* by facsimile in accordance with their written request of October 31, 2001 upon:

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

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

By U.S. Mail upon:

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

By facsimile and U.S. Mail upon:

Alan L. Balaran, Esq.
Special Master
1717 Pennsylvania Avenue, N.W.
12th Floor
Washington, D.C. 20006
(202) 986-8477

By Hand upon:

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

Kevin P. Kingston