IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al.,	)	
Plaintiffs,	)	
v.	)	Case No. 1:96CV01285
	)	(Judge Lamberth)
GALE NORTON, Secretary of the Interior, et al.,	)	
Defendants.	)	

EMERGENCY MOTION TO STAY FILING OF EIGHTH QUARTERLY TRUST REFORM STATUS REPORT PENDING RULING ON MOTION TO PERMIT MODIFIED FORM OF REPORT

Defendants, the Secretary of the Interior and the Assistant Secretary - Indian Affairs ("Interior"), file this Emergency Motion in conjunction with their Motion to Permit Filing Modified Form of Trust Reform Status Report for the Period Ending October 31, 2001 ("Report Motion"). The Report Motion requests that the November 12, 2001 report prepared by Electronic Data Systems Corporation ("EDS") and its addendum (filed under seal) , the EDS report scheduled to be submitted on December 6, 2001, the 60- and 120-day reports of the Office of Historical Trust Accounting, and the Declarations of J. Steven Griles, Deputy Secretary of the Interior, Thomas N. Slonaker, Special Trustee for American Indians, and Bert T. Edwards, Executive Director of the Office of Historical Trust Accounting, may be filed as Interior's trust reform status report for the quarter ending October 31, 2001, as required by this Court's Order of December 21, 1999.

If the Court denies the Report Motion, the eighth quarterly report, which covers the period August 1, 2001 through October 31, 2001, will be due on December 3, 2001. For the

reasons set forth in the accompanying memorandum, Interior respectfully requests that the Court enter an Order staying the filing of the eighth quarterly report pending its determination of the Report Motion and providing further that, if the Report Motion is denied, the eighth quarterly report will be due fifteen days after entry of an Order denying the Report Motion.

Undersigned counsel for Defendants conferred with counsel for plaintiffs, Dennis Gingold, about this motion, and Mr. Gingold stated that plaintiffs oppose this motion.

Dated: November 26, 2001

Respectfully submitted,

ROBERT D. McCALLUM
Assistant Attorney General
STUART E. SCHIFFER
Deputy Assistant Attorney General
J. CHRISTOPHER KOHN
Director
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OF COUNSEL:

Sabrina A. McCarthy
Department of the Interior
Office of the Solicitor

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	)	(Judge Lamberth)
GALE NORTON, Secretary of the Interior, et al.,	)	
	)	
Defendants.	)	
	)	

MEMORANDUM IN SUPPORT OF EMERGENCY MOTION TO STAY FILING OF EIGHTH QUARTERLY TRUST REFORM STATUS REPORT PENDING RULING ON MOTION TO PERMIT MODIFIED FORM OF REPORT

INTRODUCTION

Defendants, the Secretary of the Interior and the Assistant Secretary - Indian Affairs ("Interior"), submit the following memorandum in support of their Emergency Motion to Stay Filing of Eighth Quarterly Trust Reform Status Report Pending Ruling on Motion to Permit Modified Form of Report ("Emergency Motion"). The Emergency Motion is being filed in conjunction with Interior's Motion to Permit Filing Modified Form of Trust Reform Status Report for the Period Ending October 31, 2001 ("Report Motion"). The Report Motion requests that the November 12, 2001 report prepared by Electronic Data Systems Corporation ("EDS") and its addendum (filed under seal), the EDS report scheduled to be submitted on December 6, 2001, the 60- and 120-day reports of the Office of Historical Trust Accounting ("OHTA"), and the Declarations of J. Steven Griles, Deputy Secretary of the Interior, Thomas N. Slonaker, Special Trustee for American Indians, and Bert T. Edwards, Executive Director of the OHTA,

may be filed as Interior's trust reform status report for the quarter ending October 31, 2001, as required by this Court's Order of December 21, 1999.

If the Court denies the Report Motion, the eighth quarterly report, which covers the period August 1, 2001 through October 31, 2001, will be due on December 3, 2001.

Accordingly, the Emergency Motion seeks an Order staying the filing of the eighth quarterly report and providing further that, if the Report Motion is denied, the report will be due fifteen days after entry of an Order denying the Report Motion.

ARGUMENT

As set forth in the Report Motion, certain critical events in Interior's trust reform efforts have taken place during and immediately following the period to be covered by the eighth quarterly report. These events include Interior's receipt of the findings on trust reform and its implementation of the trust reform recommendations of its independent consultant, EDS, undertaking a reorganization initiative placing Indian trust asset management under a single, newly formed directorate, and issuance of OHTA's 60- and 120-day reports. The reporting of these events constitutes a more informative status report for the eighth quarter than the form heretofore employed. Such a modified form of report also would facilitate trust reform. Should the Court disagree, Interior must file, not later than December 3, 2001, a report to cover the quarter that ended October 31, 2001.

The relief requested in the Emergency Motion, as well as in the Report Motion, is extremely limited and will not unduly delay trust reform. Indeed, it will facilitate trust reform by allowing those involved in the transition to the new trust asset management organization to focus

their attention and resources on that transition, having submitted a report which the Court may agree satisfies the Court's December 1999 Order, albeit under a modified format.

CONCLUSION

For the foregoing reasons, defendants respectfully request that the Court grant the Emergency Motion and enter an Order staying the filing of the eighth quarterly report pending its determination of the Report Motion and providing further that, if the Report Motion is denied, the eighth quarterly report will be due fifteen days after entry of an Order denying the Report Motion.

Dated: November 26, 2001

Respectfully submitted,

ROBERT D. McCALLUM
Assistant Attorney General
STUART E. SCHIFFER
Deputy Assistant Attorney General
J. CHRISTOPHER KOHN
Director
SANDRA P. SPOONER
Deputy Director

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OF COUNSEL:

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	)	
Defendants.	)	
	)	

ORDER

Upon consideration of Interior Defendants' Emergency Motion to Stay Filing of Eighth Quarterly Trust Reform Status Report Pending Ruling on Motion to Permit Modified Form of Report, it is by this Court hereby,

ORDERED that the aforementioned Motion is GRANTED, and it is accordingly

ORDERED, ADJUDGED, and DECREED that filing of Interior's trust reform status report for the quarter ending October 31, 2001, is stayed pending this Court's determination of Interior's Motion to Permit Filing Modified Form of Trust Reform Status Report for the Period Ending October 31, 2001 ("Report Motion"); and further, that, if this Court enters an Order denying the Report Motion, Interior's quarterly report for the period ending October 31, 2001 shall be due fifteen days after entry of such Order.

Date: _____

_____
Honorable Royce C. Lamberth
United States District Judge

CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on November 26, 2001, I served the foregoing Emergency Motion to Stay Filing of Eighth Quarterly Trust Reform Status Report Pending Ruling on Motion to Permit Modified Form of Report, with Memorandum in Support, by facsimile only, in accordance with their written request of October 31, 2001, upon:

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

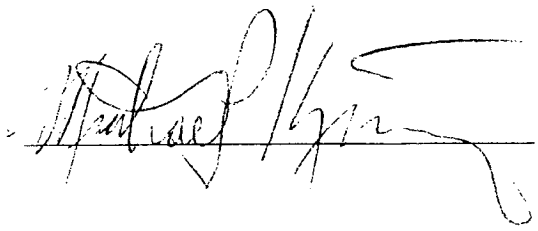
Dennis M Gingold, Esq.
Mark Brown, Esq.
1275 Pennsylvania Avenue, N.W.
Ninth Floor
Washington, D.C. 20004
202-381-2372

and by facsimile and ordinary mail upon:

Alan L. Balaran, Esq.
Special Master
1717 Pennsylvania Ave., N.W.
12th Floor
Washington, D.C. 20006

and by U.S. Mail upon:

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

and by hand delivery upon:

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