

either (a) does not house or access Individual Indian Trust Data, or (b) is secure from Internet access by unauthorized users.

The court entered this preliminary injunction on July 28, 2003. The court has not yet evaluated the certifications submitted by the government pursuant to the preliminary injunction or ordered the Department of Interior to disconnect systems from the Internet.

2. On September 25, 2003, after a 44-day trial, the district court issued a "structural injunction" that precludes implementation of the historical accounting plan developed by the Department of Interior and asserts judicial control over virtually all aspects of the management of Individual Indian Money accounts. The 18-page structural injunction was accompanied by a 272-page opinion addressing historical accounting and a 79-page opinion addressing trust reform generally. See Cobell v. Norton, No. 96-1285, 2003 WL 22211405 (D.D.C. Sept. 25, 2003).

The structural injunction is appealable as of right under 28 U.S.C. 1292(a)(1). The decision whether to appeal rests with the Solicitor General of the United States. A notice of appeal would be due November 24, 2003.

3. The preliminary injunction and the structural injunction are closely related, and in the government's view, the injunctions exceed the district court's jurisdiction for many of

the same reasons. The government thus requests that the above-captioned appeal be held in abeyance while the Solicitor General determines whether to appeal from the structural injunction. If an appeal is taken from that ruling, it may be appropriate to consolidate the two appeals for briefing and argument.

Respectfully submitted,

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OCTOBER 2003

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of October, 2003, I caused copies of the foregoing motion to be sent to the Court and to the following by hand delivery:

The Honorable Royce C. Lamberth
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