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U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

Case No. 1:96CV01285
(Judge Lamberth)

RESPONSE TO COURT'S INQUIRIES DURING CLOSING ARGUMENTS

Just prior to the conclusion of oral argument on July 8, 2003, the Court inquired about the government's position regarding possible modifications the Court might make, as part of a structural injunction, to the two plans which the Interior Defendants submitted, and also inquired about the possibility of reinstalling a Court Monitor as part of the structural injunction. Tr., July 8, 2003, p.m., at 25-30. Stressing that "I don't make the final decision on those kinds of things" and that "this is just me talking right now," government counsel nonetheless engaged in a colloquy with the Court on these issues.

Although Interior Defendants assume that government counsel made sufficient disclaimers in his response to the Court's inquiries, they nonetheless stress that their position on these questions remains that it is beyond this Court's jurisdiction to enter a structural injunction that dictates how the Interior Defendants must conduct trust reform or comply with their obligation to account to individual Indian money ("IIM") account holders. In remanding the matter back to this Court in 2001, the Court of Appeals stated that "supervision of the Department's conduct in preparing an accounting may well be beyond the district court's jurisdiction," Cobell v. Norton, 240 F.3d 1081, 1106, 1110 (D.C. Cir. 2001), and indicated that

"defendants should be afforded sufficient discretion in determining the precise route they take."

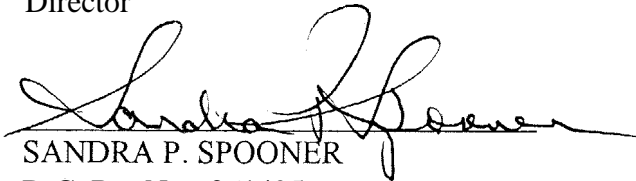
Id. at 1110.

Interior Defendants do not consent to a structural injunction of any sort, to another court monitor, or to any sort of board or other entity to perform a monitoring role.

Dated: July 17, 2003

Respectfully submitted,

ROBERT D. McCALLUM, JR.
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CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on July 17, 2003 I served the foregoing *Response to Court's Inquiries During Closing Arguments* by facsimile in accordance with their written request of October 31, 2001 upon:

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Per the Court's Order of April 17, 2003,
by facsimile and by U.S. Mail upon:

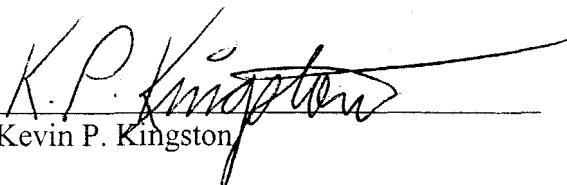
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