

Plaintiffs' Motion to Compel conspicuously omits any reference to the Response. The Response raised numerous general and specific objections. Two of the general objections were substantially equivalent to the issues established in Interior's Motion for Protective Order: (1) under the Federal Rules of Civil Procedure all discovery is currently unauthorized in this case; and (2) the Anson Baker Discovery is unrelated to any justiciable issue in this case and not reasonably calculated to lead to admissible evidence. See Motion for Protective Order; Response to Anson Baker Document Requests. Although neglecting to inform the Court that these objections had been raised in the Response, Plaintiffs discussed these issues in their consolidated Opposition and Motion to Compel and Interior responded to their arguments in its Reply, which is incorporated by reference here. No further discussion of these two general objections is needed.²

Interior also raises other general and specific objections in its Response which Plaintiffs do not even address in their Motion to Compel. For example, Interior asserts that the requests are "over broad, vague, and impose an undue burden and/or expense." Response at 4; see also id. at 6-7 (Objections to Request Nos. 1-3). Because Plaintiffs fail to inform the Court about Interior's objections and fail entirely to contest those objections, the Motion to Compel should be denied.³

² On October 15, 2003, Plaintiffs filed a Notice of Supplemental Authority in Support of the Motion to Compel. This Notice was improperly filed without seeking leave of Court and does not cite to any "authority," supplemental or otherwise. Instead, the non-authority attached to the Notice consists of a letter from Mr. Ervin Chavez, President of the Shii Shi Keyah Allottee Association (Navajo), to the Bureau of Indian Affairs, the unverified contents of which only reinforce that appraisals are related to asset management – a proposition not in dispute.

³ Plaintiffs also neglected to discuss the Response at all with counsel for Defendants prior to filing the Motion to Compel.

If Plaintiffs improperly raise arguments related to the objections asserted in Defendants' Response for the first time in a reply supporting their Motion to Compel – and the Court is inclined to consider any such tardy argument – Interior will request authority to file a surreply to respond. For the Court's benefit in denying the Motion to Compel, however, Interior has attached declarations supporting the objection that complying with the overbroad requests would impose an undue burden, as asserted in the Response. See Declaration of Gabriel Sneezzy (October 16, 2003) (attached as Exhibit 2); Declaration of Janet Goodwin (October 17, 2003 (attached as Exhibit 3); Declaration of Thomas Lonnie (October 17, 2003)(attached as Exhibit 4).

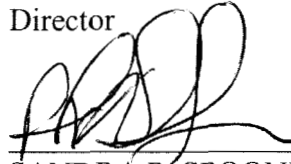
CONCLUSION

For these reasons, Plaintiffs' Motion to Compel should be denied.

Dated: October 17, 2003

Respectfully submitted,

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Assistant Attorney General
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

Case No. 1:96CV01285
(Judge Lamberth)

ORDER

This matter comes before the Court on Plaintiffs' Motion to Compel Anson Baker's Deposition and the Production of Documents Related Thereto [Dkt. #2318]. Upon consideration of the Motion, the responses thereto, and the record in this case, it is hereby

ORDERED that the Motion to Compel is DENIED; it is further

ORDERED that the Plaintiffs are precluded from deposing Anson Baker at this time;

ORDERED that Defendants need not produce the documents requested in the notice of deposition of Anson Baker;

SO ORDERED.

Date: _____

ROYCE C. LAMBERTH
United States District Judge

cc:

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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

**DEFENDANTS' RESPONSE TO PLAINTIFFS' NOTICE OF DEPOSITION
AND REQUEST FOR PRODUCTION OF DOCUMENTS, DATED AUGUST 21, 2003**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Defendants provide this response ("Response") to the Request for Documents propounded as part of Plaintiffs' Notice of Deposition and Request for Production of Documents concerning Anson Baker, dated August 21, 2003 ("Requests"). This Response reflects the Defendants' good faith diligent efforts to consider and investigate the subject matters covered by the Requests and to respond to each of the requests within the allotted time. The statements made herein are based upon the information known as of the date of this response and are subject to correction, modification and supplementation if and when additional relevant information becomes known to a Defendant.

The Requests as propounded seek production of documents responsive to one or more of eight enumerated individual requests. All of these requests are subject to one or more objections, which are asserted below. General Objections are objections that apply to each and every one of these Requests and are to be read as forming an integral part of the response to each individual request.

GENERAL OBJECTIONS TO REQUEST FOR DOCUMENTS

1. Defendants object to the Requests as a whole because this set of discovery requests violates Federal Rule of Civil Procedure 26(g)(2)(B)&(C). This rule provides that a signed discovery request, served by a party, constitutes a certification that the requests are "not interposed for any improper purpose, such as to harass" and that the requests are "not unreasonable or unduly burdensome or expensive" to fulfill. The Requests, however, violate these standards.

The Requests were propounded after trial of Phase 1.5 has concluded and before any conference has been held to set a schedule for any discovery that will be permitted for any future trial phase in this case. More important, the Requests seek discovery of information concerning matters that are beyond the subject matter of this case and, thus, beyond the subject matter jurisdiction of the Court to entertain and Plaintiffs' authority to investigate. The Requests also seek personal and private records concerning such things as Anson Baker's employment performance, personal finances, and income taxes, even though Mr. Baker is neither a party defendant in this litigation nor been shown to have engaged in conduct that would make the requested personal information either relevant to any claim or defense or reasonably likely to lead to discovery of admissible evidence. Several parts of the Requests are unbounded as to time and would require Defendants to search for potentially responsive documents possibly dating back more than one hundred years. Thus, the Requests are patently "unreasonable" within the meaning of Rule 26 and "unduly burdensome and expensive" on their face, and Plaintiffs' counsel should have been aware of the unreasonable and burdensome character of the Requests prior to serving them.

These Requests (a) seek information to annoy and harass Defendants and/or their employee(s); (b) are neither relevant to any subject matter properly within this case nor reasonably calculated to lead to the discovery of admissible evidence, and (c) seek to impose an undue burden and expense upon Defendants to conduct discovery that is not presently permitted, as noted above. On information and belief, Plaintiffs' counsel were or should have been aware that discovery is not permitted at this time, and that the Requests are obviously over broad, would impose undue burden on Defendants and seek documents for the ulterior purposes of embarrassment, oppression and/or harassment.

2. Defendants object to the Requests to the extent they seek, or could be construed as seeking, information or documents protected by the attorney-client privilege, work product privilege, deliberative process privilege, the right to privacy under applicable law, any joint defense, common interest or party communications privilege, investigative privilege, or any other applicable privilege, doctrine or right that would make the information or documents immune from discovery. Any inadvertent production of information protected by any of these privileges, doctrines, or rights shall not be deemed a waiver of the protections that those privileges, doctrines, or rights afford.

3. Defendants object to the Requests to the extent they seek duplicate discovery of any documents already produced or made available by any Defendant in response to a previous discovery request or as part of a court submission with which Plaintiffs were served (including submissions to the Court's appointed judicial officers).

4. Defendants object to the Requests to the extent that they seek production of documents that are not within a Defendant's possession or control. Without limiting the scope of

this objection, some Requests appear to seek production of documents that, if they exist, may be in the possession of Executive Departments beyond the control of Defendants; still others may be permanently maintained by the National Archives and Records Administration, but such documents are public records and not within the possession, custody, or control of Defendants. Finally, some of the Requests seek documents that are personal records of Mr. Baker (e.g., bank statements, credit card statements, personal correspondence) over which Defendants have no control.

5. Defendants object to the Requests to the extent they seek information that is beyond the scope of this litigation and not reasonably calculated to lead to the discovery of admissible evidence. Fed. R. Civ. P. 26.

6. Defendants object to each of the Requests to the extent that they seek information covered by the Privacy Act, but not within the scope of the Order entered November 27, 1996, or the scope of any other applicable statute or order. In addition, Defendants object to the Requests to the extent that they seek documents containing confidential business information belonging to third parties, tribes, contractors or the regulated community or information that, if publicly released, could compromise Defendants' regulatory or enforcement activities.

7. Defendants object to Requests that seek production of "all" documents that "directly or indirectly relate to, refer to, or embody" a particular identified topic on the grounds that such requests are over broad, vague, and impose an undue burden and/or expense.

8. Defendants object to the Requests as oppressive and unduly burdensome to the extent that they seek to impose, individually or collectively, an obligation on any Defendant to search for documents without any limitation as to date or age.

9. Defendants object to the Requests to the extent that they seek any electronic data, including e-mail records, that are stored on system back-up tapes; such back-up tapes are used for restoration of information in case of system failure and are not designed nor used to archive or retrieve selected information.

10. Defendants further object to these Requests to the extent they seek to require any Defendant to contact and/or discuss issues in this litigation with class members contrary to Court order.

11. Defendants also assert their ongoing objection to all discovery by Plaintiffs generally, based upon the fact that the *only* relief sought in this case is under the Administrative Procedure Act.

12. Finally, Defendants object to all of these Requests to the extent that Plaintiffs seek to impose on any Defendant the full cost of retrieving, producing and/or duplicating responsive documents. Defendants, as a prerequisite to producing or making available for inspection and copying responsive documents, may require Plaintiffs to advance their reasonable and fair share of the cost of that undertaking, in an amount and manner agreeable to both sides.

RESPONSES TO THE REQUEST FOR DOCUMENTS

Without waiving the foregoing objections and subject to them, Defendants respond to each individual request as follows:

Request 1

All documents, including without limitation memoranda, handwritten notes and marginalia, calendars, diaries, appointment books, schedulers, planners, Day-Timers, time records, voice mail, email, and the like, all hard copy documents, and electronic documents housed in, or created on, computers or personal digital assistants, whether the computers are owned *or* leased by the

government, its agents, employees, Mr. Baker or any other individual or other entity, and any drafts thereof, which directly or indirectly relate to, refer to, or embody material regarding the appraisal of individual Indian allotted and tribal land.

Objections: Defendants incorporate by reference their General Objections above and further object to this request on the grounds that the description of documents requested, and in particular the phrase “directly or indirectly relate to, refer to, or embody” is over broad, vague and ambiguous. Defendants also object on the basis that the request seeks discovery concerning the “appraisal” of both allotted and tribal lands which is vague and over broad; the request does not define “appraisal” or identify any particular appraisal topic, nor does it limit the request to a specific period of time. Finally, as noted above, the subject matter of the request is not relevant to any claim or defense in this case nor is it reasonably calculated to lead to discovery of admissible evidence. The Request may also improperly seek discovery of privileged documents or material protected by the Privacy Act or other confidentiality statute, as noted above.

Request 2

Any documents including legal opinions, memoranda, instructions or other material relied upon by Mr. Baker or any individuals under his supervision now or in the past which address or relate in any way to the appraisal of individual Indian trust lands or tribal trust lands, including but not limited to governing policies or standards for any such appraisal activities.

Objections: Defendants incorporate by reference their General Objections above and further object to this request on the grounds that the description of documents requested, and in particular the phrase “directly or indirectly relate to, refer to, or embody” is over broad, vague and ambiguous. Defendants also object on the basis that the request seeks discovery concerning the “appraisal” of both allotted and tribal lands which is vague and over broad; the request does not define “appraisal” or identify any particular appraisal topic, nor does it limit the request to a

specific period of time. Finally, as noted above, the subject matter of the request is not relevant to any claim or defense in this case nor is it reasonably calculated to lead to discovery of admissible evidence. The Request also appears improperly to seek discovery of privileged documents or material protected by the Privacy Act or other confidentiality statute, as noted above.

Request 3

All documents, including without limitation memoranda, handwritten notes and marginalia, calendars, diaries, appointment books, schedulers, planners, Day-Timers, time records, voice mail, email, and the like, all hard copy documents, and electronic documents housed in, or created on, computers or personal digital assistants, whether the computers are owned or leased by the government, its agents, employees, Mr. Baker or any other individual or other entity, and any drafts thereof, which embody, refer to or relate to any communication between Mr. Baker and any third-party lessee or contractor - including, but not limited to any agent, representative or any other direct or indirect intermediary of such third-party lessee or contractor – of individual Indian trust assets.

Objections: Defendants incorporate by reference their General Objections above and further object to this request on the grounds that the description of documents requested, and in particular the phrase “directly or indirectly relate to, refer to, or embody” is over broad, vague and ambiguous. Defendants also object on the basis that the request seeks discovery of any communications concerning “individual Indian trust assets” which is not defined and so is vague, ambiguous and over broad. It is also over broad and objectionable to the extent it does not limit the request to a specific period of time. Finally, as noted above, the subject matter of the request is not relevant to any claim or defense in this case nor is it reasonably calculated to lead to discovery of admissible evidence. The Request may also seek discovery of privileged documents or material protected by the Privacy Act or other confidentiality statute, as noted above.

Request 4

A resume or *curriculum vitae*, licences, and professional certifications of Mr. Baker.

Objections: Defendants incorporate by reference their General Objections above and further object to this request on the grounds that the materials sought contain matter subject to the Privacy Act and that Mr. Baker's appraisal work is not relevant to this case and is not within the scope of discovery of this case pursuant to Federal Rule of Civil Procedure 26. The request is also unlimited as to time and type of record and is, therefore, over broad.

Request 5

All documents, whether in hard copy or electronic format - including all memoranda, voice mail, email, handwritten notes and marginalia - that relate to, refer to, or embody, directly or indirectly, generally or specifically, and informal or formal, disciplinary or personnel action, threatened disciplinary or personnel action, investigations, examinations, assessments or adverse or critical performance reviews ("Professional Evaluations") concerning Mr. Baker or any employee under his supervision.

Objections: Defendants incorporate by reference their General Objections above and further object to this request on the grounds that the materials sought contain matter subject to the Privacy Act and that Mr. Baker's job performance and personnel records, as well as those of "any employee under his supervision," are not relevant to this case and are not within the scope of discovery of this case pursuant to Federal Rule of Civil Procedure 26. The request is also unlimited as to time and type of record and is, therefore, over broad.

Request 6:

All federal and state tax returns for Mr. Baker since calendar year 1983, including but not limited to, all supporting documentation for such returns.

Objections: Defendants incorporate by reference their General Objections above and further object to this request on the grounds that the materials sought contain matter subject to the Privacy Act, as well as other confidentiality statutes, and that Mr. Baker's tax returns are not relevant to this case or within the scope of discovery of this case pursuant to Federal Rule of Civil Procedure 26.

Request 7:

All communications by and between the Internal Revenue Service and Mr. Baker since calendar year 1983.

Objections: Defendants incorporate by reference their General Objections above and further object to this request on the grounds that the materials sought contain matter subject to the Privacy Act, as well as other confidentiality statutes, and that Mr. Baker's communications with the IRS are not relevant to this case and are not within the scope of discovery of this case pursuant to Federal Rule of Civil Procedure 26. The request is also unlimited as to the subject of the communication and is, therefore, over broad.

Request 8:

All bank statements, bank books, credit card statements, personal financial statements, checking account statements, savings account statements, mutual fund statements and all other statements which embody, reflect, or relate to assets or investments made or held by Mr. Baker, including those assets held or invested on behalf of Mr. Baker in the possession of agents, representatives or any other third party since 1983.

Objections: Defendants incorporate by reference their General Objections above and further object to this request on the grounds that the materials sought contain matter subject to the Privacy Act and that Mr. Baker's personal finances are not relevant to this case and are not within the scope of discovery of this case pursuant to Federal Rule of Civil Procedure 26. Furthermore, Defendants do not collect such personal financial records of employees in the ordinary conduct of their business and so it would be unreasonable and unduly burdensome to require Defendants to search for such documents

September 23, 2003

Respectfully submitted,

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Deputy Assistant Attorney General
J. CHRISTOPHER KOHN
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CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on September 23, 2003 I served the foregoing *Defendants' Response to Plaintiffs' Notice of Deposition and Request for Production of Documents, Dated August 21, 2003* 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

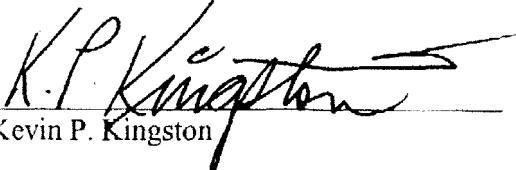
Dennis M Gingold, Esq.
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Per the Court's Order of April 17, 2003,
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By U.S. Mail upon:

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Kevin P. Kingston

*** MULTI TX/RX REPORT ***

TX/RX NO	1252	
PGS.	12	
TX/RX INCOMPLETE	-----	
TRANSACTION OK	[56]914063387530	OLD PERSON
	[58]93182372	GINGOLD
	[59]98220068	HARPER
ERROR INFORMATION	-----	



FROM: Department of Justice
Civil Division

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SENT BY: Kevin Kingston
Law Clerk
Labat-Anderson, Inc.

DATE: September 23, 2003
Mark K. Brown

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NUMBER OF PAGES SENT (INCLUDING COVER PAGE): 12

*Defendants' Response to Plaintiffs' Notice of Deposition and
Request for Production of Documents, Dated August 21, 2003*

IMPORTANT: This facsimile is intended only for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected from disclosure under applicable law. If the reader of this transmission is not the intended recipient or the employee or agent responsible for delivering the

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.,)
Defendants)

DECLARATION OF GABRIEL SNEEZY

1. I, Gabriel Sneezy, am the Acting Director of the Office of Appraisal Services of the Office of the Special Trustee (OST), United States Department of the Interior. As the Acting Director, I am responsible for the management of the Office of Appraisal Services. I have held this position since August 10, 2003. My previous employment was with the Bureau of Indian Affairs (BIA) for 11 years. The last position which I held in the BIA was as Chief Appraiser where I was responsible for providing technical advice to the Director of the Office of Trust Responsibilities.
2. I have reviewed the Notice of Deposition and Request for Production of Documents filed by the Plaintiffs on August 21, 2003. I was generally familiar with appraisal processes and filing practices within the Bureau of Indian Affairs at the time I was employed in that bureau. In approximately March of 2002, appraisals for Indian lands were placed under the management of the Office of the Special Trustee for American Indians. Appraisal processes and filing practices did not change significantly. However, in order to make a rough estimate of the level of effort that would be necessary for a search of the documents potentially responsive to this Request from the Plaintiffs, it was necessary for me to rely upon information gathered from a number of individuals.
3. The Office of the Special Trustee is presently responsible for performing and/or reviewing appraisals of lands allotted to individual Indians and tribal lands. The appraisals vary greatly in complexity, depending on the proposed use of the land, and range from those

performed on parcels owned by one or two individuals, to those performed on tracts in which several hundred beneficiaries have an interest. Accordingly, the paper and electronic files created during the performance and/or review of appraisals can vary from several pages of paper and little or no electronic data, to voluminous files of paper and many floppy disks and compact disks of digital photographs, charts, and graphs.

4. The first item of the Plaintiffs' Request for Production appears to request all documents in the Department of the Interior which relate to appraisals of Indian lands. Following is a broad assessment of the effort that would be necessary to search for documents that would be potentially responsive to the first item. This statement is based on information compiled by others in the Office of Appraisal Services in response to inquiries from the Office of the Solicitor.
 - a. Appraisal files in 12 offices of OST Regional Appraisers would need to be searched, as well as appraisal files in the Office of Appraisal Services of the Office of the Special Trustee in Albuquerque, New Mexico. According to information compiled by appraisal staff, the estimated number of cubic feet of paper appraisal documents which are located in these 13 locations is approximately 1,500 cubic feet.
 - b. Appraisal reports and other appraisal-related documents are sent to BIA agency offices, where they are generally not segregated as such, but rather kept in a variety of types of files pertaining to the project for which an appraisal was needed or considered: leases, rights of way, permits, etc. Additional appraisal-related documents may be created in these agency offices which would not be found in the OST Regional Offices. There are approximately 82 BIA agency offices in which appraisal documents are likely to be found scattered throughout various categories of files. Because appraisals and appraisal-related documents are not filed as a distinct category of documents in a single location within the office but rather scattered throughout other types of files, I cannot estimate with any degree of accuracy the volume of responsive documents that may be located in the agency offices. The effort that would be required by agency employees to perform a search for such documents, would entail searching all lease, right of way, permit, and other types of files that may contain appraisal-related documents; and such an effort would likely require thousands of employee-hours.
 - c. The foregoing statements in paragraphs "a" and "b" are made in general with regard to documents and files currently in the possession of the Office of the Special Trustee and the Bureau of Indian Affairs. Older files, some of which are likely to include appraisal reports and related documents, have been sent to various Federal Records Centers. Again, because appraisals and appraisal-related documents are often not segregated from other types of documents, but rather were maintained in

a variety of types of files, I cannot estimate what volume of potentially responsive documents might be recoverable from Federal Records Centers, or that have been recovered by the Department and are now being indexed by the Office of Trust Records.

- d. Approximately 37 tribes or tribal organizations have current contracts with the Department of the Interior pursuant to 25 U. S.C. 450/(c)(7)(B) which authorize them to conduct appraisals of allotted or tribal lands. Appraisal reports and related documents potentially responsive to the Plaintiffs' Request may be found in the files of those tribes or tribal organizations which have undertaken this function. I cannot at this time estimate with any degree of accuracy the volume of potentially responsive documents in the possession of such tribes. However, it is clear that in order to produce whatever volume of responsive documents exist in the files of such tribes, a search would have to be undertaken in each such tribal location.
 - e. In addition, private contractors performing appraisals both for tribes and for Departmental bureaus, may have responsive documents.
5. Documents potentially responsive to the second item in Plaintiffs' Request for Production might be found in all or in some subset of the locations described in the foregoing description of the level of effort necessary to respond to the first item in Plaintiffs' Request for Production. That is, guidance, instructions, policies, and standards, etc. may exist in any office where personnel is or was involved in appraisals on Indian lands, but would not necessarily be located in every such office. Specific documents actually relied upon by Mr. Baker or individuals under his supervision are likely to exist in offices of the two Regions where Mr. Baker has been employed, the Navajo Region and the Northwest Region, but also may exist in other Regions where Mr. Baker was assigned to special projects. I would be unable to attest to actual reliance by any individual upon any specific document.
6. Documents potentially responsive to the third item in Plaintiffs' Request for Production might be found in any or all of the locations described in paragraph "5" above. In addition, electronic email messages of Anson Baker in all locations where he has worked in the Department, would need to be examined.

The foregoing information is not intended to constitute an exhaustive description of all locations within the Department of the Interior where a search for documents potentially responsive to the Plaintiffs' Request would be necessary, if production of such records were required, but rather to demonstrate the degree of effort that such a search would require. Actual

production of the documents would of course require extensive copying and other tasks, with related expenses.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Gabriel Sneezy", is written over a horizontal line.

Gabriel Sneezy
Acting Director of the Office of Appraisal Services
Office of the Special Trustee for American Indians
United States Department of the Interior

Dated: October 16, 2003

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.,)
Defendants)

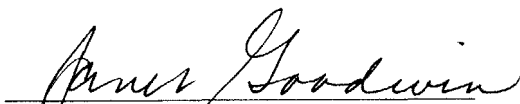
DECLARATION OF JANET GOODWIN

1. I, Janet Goodwin, am a Senior Attorney in the Office of the Solicitor, Division of Indian Affairs, United States Department of the Interior. I have held this position for approximately 16 months. I have been employed by the Office of the Solicitor in various other positions for the past 22 years.
2. I reviewed the Notice of Deposition and Request for Production of Documents filed by the Plaintiffs on August 21, 2003. I determined that the Office of the Solicitor might reasonably possess documents potentially responsive to the first, second, third, and fifth requests of the Plaintiffs, and solicited the following information from Headquarters, Regional, and Field Offices:
 - a. Whether the office has documents potentially responsive to the four requests enumerated above;
 - b. An estimate of the volume of such documents in each office; and
 - c. An estimate of the level of effort that would be required to search/produce the documents.
3. I received replies for 19 offices, including all of the Regional and Field Offices.
4. The following statements are a summary of the responses which I received: nine of the offices do possess potentially responsive documents, and three more may possess potentially responsive documents. The estimates of volume ranged from a few documents in some offices to others with great volumes. For example, one office listed 72 cabinet file drawers, 87 storage boxes, and 176 boxes in the Federal Records Center which would need to be searched for responsive documents. The estimated employee hours which

would be needed to conduct a search in the Office of the Solicitor came to a total of approximately 1,700 hours.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

10/17/03
Date


Janet Goodwin, Senior Attorney
Division of Indian Affairs
Office of the Solicitor
United States Department of the Interior

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.,)
Defendants)

DECLARATION OF THOMAS P. LONNIE

1. I, Thomas P. Lonnie, am the Assistant Director for Minerals, Realty and Resource Protection in the Bureau of Land Management (BLM), United States Department of the Interior. I have been in this position for approximately three months. My responsibilities include oversight of BLM's trust programs. My previous position was Deputy State Director of the Montana State Office, Bureau of Land Management. I have been employed by the BLM for 20 years.
2. The Bureau of Land Management is responsible for providing information upon request related to mineral evaluations for leasing, land sales, and land exchanges, for use by the Bureau of Indian Affairs and the Office of the Special Trustee.
3. I reviewed the Notice of Deposition and Request for Production of Documents filed by the Plaintiffs on August 21, 2003, and determined that some offices of the Bureau of Land Management might reasonably possess documents potentially responsive to the first and second requests of the Plaintiffs. The following information was solicited from those offices by BLM staff and by the Office of the Solicitor:
 - a. Whether the office has documents potentially responsive to the four requests enumerated above;
 - b. An estimate of the volume of such documents in each office; and
 - c. An estimate of the level of effort that would be required to search/produce the documents.
4. The following statements are based on the responses provided to BLM staff and to the Office of the Solicitor, and concern paper records only: six offices possess potentially responsive documents. The estimates of volume ranged from a few files in some offices to others with significant volumes. For example, one office estimated that it had 10,000 pages and another estimated a full four-drawer filing cabinet; both estimated that over a

week of employee time would be required to search and copy responsive documents. The estimated employee time which would be needed to conduct a search for potentially responsive paper documents in the Bureau of Land Management totaled approximately three weeks. Electronic records would have to be searched in all locations where paper records are located.

5. In addition, the Bureau of Land Management has contracted with private contractors for appraisal services. I am unable to provide estimates of the volumes of potentially responsive documents that might be found in the offices of private contractors, but an exhaustive search would necessarily include the same.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

10-17-03

Date



Thomas Lonnie
Assistant Director, Mineral Realty and
Resource Protection
Bureau of Land Management
United States Department of the Interior

CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on October 17, 2003 I served the foregoing *Interior Defendants' Opposition to Plaintiffs' Motion to Compel Anson Baker's Deposition and the Production of Documents Related Thereto* by facsimile in accordance with their written request of October 31, 2001 upon:

Keith Harper, Esq.
Richard A. Guest, 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.
607 - 14th Street, NW, Box 6
Washington, D.C. 20005
(202) 318-2372

By Facsimile and U.S. Mail upon:

PDF Copy by E-Mail Upon:

Alan L. Balaran, Esq.
Special Master
1717 Pennsylvania Avenue, N.W., 13th Floor
Washington, D.C. 20006
(202) 986-8477

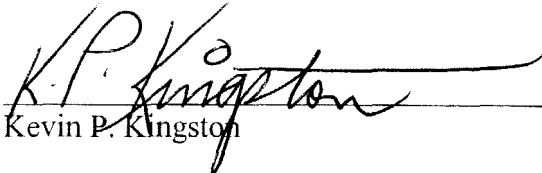
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Counsel for Anson Baker

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

Earl Old Person (*Pro se*)
Blackfeet Tribe
P.O. Box 850
Browning, MT 59417
(406) 338-7530

By U.S. Mail upon:

Elliott Levitas, Esq
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Atlanta, GA 30309-4530


Kevin P. Kingston