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U.S. DISTRICT COURT  
DISTRICT OF COLUMBIA

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MAYER-WHITTINGTON  
CLERK

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)

**INTERIOR DEFENDANTS' MOTION IN LIMINE TO EXCLUDE  
TESTIMONY OF PLAINTIFFS' WITNESS MICHAEL S. SMITH**

Pursuant to Local Rule 7.1, Interior Defendants respectfully move to exclude the testimony of Michael Smith, a former employee of an Interior contractor, Native American Distributors, Inc. ("NAID"), and a paid consultant to the Special Master in this case.<sup>1</sup>

Mr. Smith is listed on Plaintiffs' witness list. See Plaintiffs' Pretrial Statement at Exhibit 1 at 3. Plaintiffs' counsel has indicated that Mr. Smith will testify about "the credibility of defendants and whether or not and to what extent the Court should be able to trust them to bring themselves into compliance with whatever duties the Court declares after this trial." See Pretrial Conference Transcript at 21:3-6. Mr. Smith's testimony as a witness for Plaintiffs after acting as a consultant for the Special Master creates at least the appearance of impropriety with regard to Mr. Smith's, and, derivatively, the Special Master's, impartiality in this matter. Permitting Mr. Smith to testify for Plaintiffs would create prejudice and unfairness for Interior Defendants, who have provided confidential and privileged information to the Special Master. To remedy this

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<sup>1</sup> In accordance with Local Civil Rule 7.1(m), counsel for Interior Defendants conferred with Plaintiffs' counsel regarding this motion. Plaintiffs' counsel indicated that Plaintiffs will oppose this motion.

appearance of impropriety and to preserve the integrity of these proceedings, the Court should exclude the testimony of Mr. Smith.<sup>2</sup>

### **FACTUAL BACKGROUND**

On August 30, 2002, NAID moved to intervene in this case and alleged that its employees had prepared information related to TAAMS that Interior had withheld from the Eighth Quarterly Report. The Court denied NAID's motion to intervene but appointed Special Master Balaran to investigate the claims of NAID on November 5, 2002. On April 21, 2003, the Special Master filed his Interim Report, containing his findings and conclusions regarding his investigation into NAID's claims. As an employee of NAID, Mr. Smith was a member of the TAAMS Project Team and played a role in many of the events described in the Special Master's Interim Report.

On May 5, 2003, Interior filed its Objections to the Interim Report. On May 6, 2003, the Special Master filed his April 2003 Report to the Court. Attached as Exhibit 3 to the April 2003 Report was the Special Master's Invoice #37 (attached as Exhibit A). This Invoice contains numerous charges related to work on the Interim Report for an individual identified as "MSS." See, e.g., Invoice #37, entries for 3/31/03, 4/1/03, 4/2/03, 4/3/03, 4/4/03, 4/5/03, 4/6/03, 4/7/03, 4/8/03, 4/9/03, 4/11/03, 4/14/03. In addition, it contains charges for the work of the Special Master's assistant, Ed Volz (identified as "EKV" on the invoice), for work on the Interim Report in association with "Mike Smith." See, e.g., Invoice #37, entries for 4/6/03, 4/7/03, 4/8/03,

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<sup>2</sup> Interior has a pending motion in limine to exclude the testimony of Mr. Smith to the extent that it relates to any of the matters discussed in the Interim Report of the Special Master Regarding the Filing of Interior's Eighth Quarterly Report ("Interim Report"). See Interior Defendants' Motion in Limine to Exclude Interim Report of the Special Master Regarding the Filing of Interior's Eighth Quarterly Report and All Evidence Related to the Special Master's Incomplete Investigation at 3 (filed April 28, 2003).

4/9/03, 4/10/03, 4/11/03, 4/15/03, 4/16/03. The charges submitted for “MSS” in Invoice #37 total 44.39 hours and \$5,992.65 (see Exhibit B, for a breakdown of the charges submitted by the Special Master for Mike Smith).<sup>3</sup>

Upon information and belief, the “Mike Smith” and “MSS” charges on the Special Master’s invoices are for work done by the same Mike Smith who was an employee of NAID at the time the events described in the Interim Report took place. Upon information and belief, this is the same Mike Smith that Plaintiffs have listed as a witness whom they expect to testify at this trial.

The Special Master did not inform Interior before he hired Mike Smith, a witness to the events being investigated, to assist him in his investigation of NAID’s claims. Indeed, Mr. Smith did more than just assist in the investigation. According to the Special Master’s billing information, Mr. Smith actually drafted portions of the Interim Report. See, e.g., Invoice #37, entries for 4/3/03 (“MSS Draft 8th QR analysis”), 4/4/03 (same), 4/15/03 (“EKV Assist the Special Master and Mike Smith editing report on the 8th Quarterly Report”), 4/16/03 (“EKV Assist Mike Smith editing and organizing materials for report on the 8th Quarterly Report”).

Interior did not, and does not, consent to Mr. Smith’s work for the Special Master regarding the investigation into NAID’s claims. In a separate submission, Interior will object to the Special Master’s secret hiring and paid assistance of Mr. Smith in the preparation of the

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<sup>3</sup> The March 2003 Report of the Special Master contains Invoice #35 (at exhibit 7) which also lists work done by “MSS” for the Special Master in the investigation and preparation of the Interim Report (attached as Exhibit C). The charges on this invoice for Mike Smith total 65.30 hours and \$8,815.50.

Interim Report.<sup>4</sup> In this Motion in limine, however, Interior limits its discussion to the impropriety of Mr. Smith testifying at trial as a witness for Plaintiffs after having worked as a paid consultant for the Special Master.

## DISCUSSION

### **THE TESTIMONY OF MR. SMITH SHOULD BE EXCLUDED**

Mr. Smith's appearance as Plaintiffs' witness imperils the integrity of, and public confidence in, the Special Master's activities. The Court appointed the Special Master; the Special Master, in turn, retained Mr. Smith to assist him. The Special Master is an officer of this Court, duty bound both to maintain impartiality in his activities and to avoid the appearance of impropriety.<sup>5</sup> Likewise, Mr. Smith's role requires him to maintain neutrality with regard to the work he has performed for the Special Master. See In re Edgar, 93 F.3d 256, 262 (7th Cir. 1996) ("Experts appointed and supervised by a court carry special weight because of their presumed neutrality.").

Permitting Mr. Smith to testify regarding information he may have obtained as an advisor to the Special Master would also circumvent Fed. R. Civ. Proc. 53, which requires a special master to make written reports and recommendations concerning findings of fact and conclusions of law to the court, which must ultimately decide to adopt or reject such findings and conclusions after considering written responses and objections by the parties. If the Plaintiffs

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<sup>4</sup> Interior also plans to file a timely objection to the bill of the Special Master for any charges listed for Mike Smith.

<sup>5</sup> The Court discussed the Special Master's role and relationship to the Court at length in its recent decision on the motions to disqualify. See Cobell v. Norton, 237 F. Supp. 2d 71 (D.D.C. 2003).

cannot call the Special Master to testify regarding the matters that he observed while investigating Interior, it is difficult to understand how they could call the Special Master's consultant.

It would be especially improper here where Interior has provided a significant volume of confidential and privileged information to the Special Master, both as part of his investigation into NAID's claims and for other matters in this case. It is unknown how much of this information was conveyed to Mr. Smith.

Mr. Smith's proposed testimony was already of questionable relevance. He is not a current employee or contractor of Interior and did not participate in any way in the preparation or drafting of the plans filed by Interior which are the subject of this Phase 1.5 trial.

Under these circumstances, the Court should exclude the testimony of Mr. Smith pursuant to Fed. R. Evid. 402 as irrelevant or under Rule 403 due to the unfair prejudice suffered by Interior from Mr. Smith's testimony, or pursuant to the Court's inherent authority to protect the integrity of its proceedings.

**CONCLUSION**

For these reasons, the Court should exclude the testimony of Mr. Smith.

Dated: May 8, 2003

Respectfully submitted,

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



SANDRA P. SPOONER

Deputy Director

D.C. Bar No. 261495

JOHN T. STEMPLEWICZ

Senior Trial Attorney

PHILLIP M. SELIGMAN

Commercial Litigation Branch

Civil Division

P.O. Box 875

Ben Franklin Station

Washington, D.C. 20044-0875

(202) 514-7194

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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 v. )  
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Case No. 1:96CV01285  
(Judge Lamberth)

**ORDER**

This matter comes before the Court on Interior Defendants' Motion In Limine To Exclude Testimony of Plaintiffs' Witness Michael Smith. Upon consideration of the Motion, the responses thereto, and the record in this case, it is hereby

ORDERED that Interior Defendants' Motion is GRANTED;

ORDERED that the testimony of Michael Smith will be excluded from the Phase 1.5 trial.

SO ORDERED.

Date: \_\_\_\_\_

\_\_\_\_\_  
ROYCE C. LAMBERTH  
United States District Judge

cc:

Sandra P. Spooner  
John T. Stemplewicz  
Commercial Litigation Branch  
Civil Division  
P.O. Box 875  
Ben Franklin Station  
Washington, D.C. 20044-0875  
Fax (202) 514-9163

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

Mark Kester Brown, Esq.  
607 - 14th Street, NW  
Box 6  
Washington, DC 20005  
Fax (202) 318-2372

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

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

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

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



LAW OFFICE

ALAN L. BALARAN, P.L.L.C.

ADMITTED IN DC AND MD

1717 PENNSYLVANIA AVE., N.W.  
THIRTEENTH FLOOR  
WASHINGTON, D.C. 20006  
TELEPHONE (202) 466-5010  
FAX (202) 986-8477  
E-MAIL abalaran@erols.com

Invoice submitted to:  
Cobell, et al. v. Norton, et al.  
United States District Court for the  
District of Columbia  
333 Constitution Avenue, NW  
Washington DC 20001

May 06, 2003

Invoice #37

Professional Services

		<u>Hrs/Rate</u>	<u>Amount</u>
3/31/2003	EKV Research - continued work on final summary of Navajo Region TFAS Review.	9.25 100.00/hr	925.00
	MSS Research - Analyze 8th QR Issues.	3.13 135.00/hr	422.55
	MSS Research - Prepare Analysis of Appraisal Subproject.	0.25 135.00/hr	33.75
4/1/2003	ALB Draft Monthly Report; review documentation	1.30 200.00/hr	260.00
	ALB Review Interior's Unopposed Motion for Leave to Substitute Original Expert Rebuttal Report of Lasater; to file under seal Defendants' Objections to report and recommendatoin of Special Master Monitor on Motion to Unseal Document Filed Under Seal by Court Monitor;	1.60 200.00/hr	320.00
	ALB Draft 8QR Report	2.20 200.00/hr	440.00
	EKV Continue work on final summary of Navajo Region TFAS Summary.	6.25 100.00/hr	625.00
	MSS Analyze 8th QR Exhibits.	1.00 135.00/hr	135.00
4/2/2003	EKV Complete Navajo Region TFAS Summary and begin edit.	7.75 100.00/hr	775.00

**EXHIBIT A**

Def's' Motion *In Limine* to Exclude  
Michael S. Smith as a Witness

			<u>Hrs/Rate</u>	<u>Amount</u>
4/2/2003	ALB	Review Motion for Protective Order and Opposition thereto; research applicable law and precedent; draft opinion	5.80 200.00/hr	1,160.00
	ALB	Draft Report to Court regarding 8QR	2.70 200.00/hr	540.00
	ALB	Research Issues regarding Motion for Protective Order -- generally fiduciary duties	3.50 200.00/hr	700.00
	MSS	Analyze 8th QR Exhibits.	4.88 135.00/hr	658.80
4/3/2003	ALB	Review Bureau and Agency comments on draft trust matrices and decision trees	1.70 200.00/hr	340.00
	ALB	Draft Report to the Court regarding Interior's representations in the 8QR	6.70 200.00/hr	1,340.00
	EKV	Complete Navajo Region TFAS Summary and begin the Alaska Region TFAS Summary.	5.00 100.00/hr	500.00
	ALB	Research and draft memo analyzing prudence/duty of care	3.60 200.00/hr	720.00
	MSS	Draft 8th QR Analysis.	2.00 135.00/hr	270.00
	MSS	Analyze 8th QR Exhibits.	2.75 135.00/hr	371.25
4/4/2003	EKV	Complete Alaska Region TFAS Summary and begin and complete Eastern Region TFAS Summary.	6.25 100.00/hr	625.00
	ALB	Draft Report regarding generation of Eighth Quarterly Report; review versions of report and EDS submissions	7.50 200.00/hr	1,500.00
	MSS	Draft 8th QR Analysis.	4.75 135.00/hr	641.25
4/5/2003	ALB	Draft Report regarding generation of Eighth Quarterly Report; review versions of report and EDS submissions	7.50 200.00/hr	1,500.00
	MSS	Analyze 8th QR Exhibits.	2.25 135.00/hr	303.75
4/6/2003	ALB	Draft Report regarding generation of Eighth Quarterly Report; review versions of report and EDS submissions	7.50 200.00/hr	1,500.00
	MSS	Analyze 8th QR Exhibits.	3.13 135.00/hr	422.55

		<u>Hrs/Rate</u>	<u>Amount</u>
4/6/2003	EKV Assist Mike Smith with analysis of exhibits for report on the 8th Quarterly Report.	3.50 100.00/hr	350.00
4/7/2003	ALB Draft Report regarding generation of Eighth Quarterly Report; review versions of report and EDS submissions	7.50 200.00/hr	1,500.00
	ALB Research Issues regarding	200.00/hr	NO CHARGE
	MSS Analyze 8th QR Exhibits.	5.00 135.00/hr	675.00
	EKV Assist Mike Smith with analysis of exhibits for report on the 8th Quarterly Report.	6.75 100.00/hr	675.00
4/8/2003	ALB Draft Opinion regarding Motion for Protective Order regarding RFP7	3.40 200.00/hr	680.00
	ALB Draft Report regarding generation of Eighth Quarterly Report	6.80 200.00/hr	1,360.00
	MSS Analyze 8th QR Exhibits.	5.00 135.00/hr	675.00
	EKV Assist Mike Smith with analysis of exhibits for report on the 8th Quarterly Report.	8.50 100.00/hr	850.00
4/9/2003	ALB Draft Report regarding generation of Eighth Quarterly Report	7.30 200.00/hr	1,460.00
	MSS Analyze 8th QR Exhibits.	2.75 135.00/hr	371.25
	EKV Review TFAS region summaries.	2.00 100.00/hr	200.00
	EKV Assist Mike Smith with preparation of exhibits for report on the 8th Quarterly Report.	4.25 100.00/hr	425.00
4/10/2003	ALB Finalize Opinion regarding Protective Order	4.50 200.00/hr	900.00
	ALB Draft Report regarding generation of Eighth Quarterly Report	7.00 200.00/hr	1,400.00
	EKV Assist Mike Smith with preparation of exhibits for report on the 8th Quarterly Report.	2.50 100.00/hr	250.00
	EKV Begin work on TFAS Southern Plains Region Summary.	3.75 100.00/hr	375.00

		<u>Hrs/Rate</u>	<u>Amount</u>
4/11/2003	ALB Draft Report regarding generation of Eighth Quarterly Report	6.50 200.00/hr	1,300.00
	ALB Deposition		NO CHARGE
		200.00/hr	
	MSS Analyze 8th QR Exhibits.	3.50 135.00/hr	472.50
	EKV Assist Mike Smith in preparation of exhibits for report on the 8th Quarterly Report.	1.25 100.00/hr	125.00
	EKV Continue work on Southern Plains Region TFAS Summary.	2.00 100.00/hr	200.00
4/12/2003	ALB Draft Report regarding generation of Eighth Quarterly Report	5.80 200.00/hr	1,160.00
4/13/2003	ALB Draft Report regarding generation of Eighth Quarterly Report	6.20 200.00/hr	1,240.00
	EKV Finalize and edit report on the 8th Quarterly Report.	9.50 100.00/hr	950.00
4/14/2003	ALB Draft Report regarding generation of Eighth Quarterly Report	7.10 200.00/hr	1,420.00
	MSS Analyze 8th QR Exhibits.	4.00 135.00/hr	540.00
	EKV Finalize and edit report on the 8th Quarterly Report.	12.75 100.00/hr	1,275.00
4/15/2003	ALB Draft Report regarding generation of Eighth Quarterly Report	5.50 200.00/hr	1,100.00
	EKV Assist the Special Master and Mike Smith editing report on the 8th Quarterly Report.	6.00 100.00/hr	600.00
	EKV Continue work on the Southern Plains TFAS Summary.	1.00 100.00/hr	100.00
4/16/2003	ALB Draft Report regarding generation of Eighth Quarterly Report	6.00 200.00/hr	1,200.00
	EKV Continue work on the Southern Plains TFAS Summary.	2.25 100.00/hr	225.00
	EKV Assist Mike Smith editing and organizing materials for report on the 8th Quarterly Report.	6.75 100.00/hr	675.00

		<u>Hrs/Rate</u>	<u>Amount</u>
4/17/2003	ALB Draft Report regarding generation of Eighth Quarterly Report	7.20 200.00/hr	1,440.00
	EKV Organize exhibits and retrieve documents for 8th Quarterly Report.	11.50 100.00/hr	1,150.00
4/18/2003	ALB Draft Report regarding generation of Eighth Quarterly Report	7.50 200.00/hr	1,500.00
	EKV Edit report on the 8th Quarterly Report.	9.25 100.00/hr	925.00
4/19/2003	ALB Draft Report regarding generation of Eighth Quarterly Report	7.50 200.00/hr	1,500.00
4/20/2003	ALB Draft Report regarding generation of Eighth Quarterly Report	8.50 200.00/hr	1,700.00
	EKV Final edit and exhibit preparation for report on the 8th Quarterly Report.	7.25 100.00/hr	725.00
4/21/2003	ALB Finalize Report regarding generation of Eighth Quarterly Report	2.20 200.00/hr	440.00
	ALB Preparation for oral argument regarding plaintiffs' bills of particulars regarding Secretary Gale A. Norton; Assistant Secretary Neal A. McCaleb; Department of Justice attorneys Phillip A. Brooks, Charles W. Findlay III, James Simon; former Assistant Solicitor Willa Perlmutter; and former Assistant Attorney General Lois Schiffer.	4.50 200.00/hr	900.00
	EKV Continue work on Southern Plains Region TFAS Summary.	3.25 100.00/hr	325.00
4/22/2003	ALB Hear oral argument regarding plaintiffs' bills of particulars regarding Secretary Gale A. Norton; Assistant Secretary Neal A. McCaleb; Department of Justice attorneys Phillip A. Brooks, Charles W. Findlay III, James Simon; former Assistant Solicitor Willa Perlmutter; and former Assistant Attorney General Lois Schiffer.	8.50 200.00/hr	1,700.00
	EKV Continue work on Southern Plains Region TFAS Summary.	4.75 100.00/hr	475.00
4/23/2003	EKV Continue work on Southern Plains Region TFAS Summary.	4.00 100.00/hr	400.00
4/24/2003	ALB Review filings regarding Blackwell and Cohen - email issues	4.40 200.00/hr	880.00
	EKV Continue work on Southern Plains Region TFAS Summary.	5.75 100.00/hr	575.00

	<u>Hrs/Rate</u>	<u>Amount</u>
4/25/2003 ALB Preparation for oral argument regarding plaintiffs' bills of particulars regarding Edith Blackwell and Edward Cohen	2.50 200.00/hr	500.00
4/27/2003 ALB Review Gidner report and documentation related to Chickasaw and Wewoka agencies; prepare questions for deposition of Hanna et al.	5.40 200.00/hr	1,080.00
ALB Travel to Tulsa, Oklahoma to conduct depositions concerning Wewoka and Chickasaw agency Special Master site visits	3.50 200.00/hr	NO CHARGE
4/28/2003 ALB Deposition of Jeannette Hanna	3.50 200.00/hr	700.00
ALB Depositions of S. tully, J. Belgarde; R. Phillips; J. Kemp; P. Phillip and J. Hanna	8.50 200.00/hr	1,700.00
For professional services rendered	396.29	\$60,372.65
Additional Charges :		
3/31/2003 Copying cost		85.59
4/7/2003 Copying cost		1,315.06
Copying cost		50.76
4/8/2003 Photocopies of Eastern Navajo Region for Report		126.90
Total costs		\$1,578.31
Total amount of this bill		\$61,950.96
Previous balance		\$59,771.03
5/5/2003 Payment - thank you		(\$59,771.03)
Total payments and adjustments		(\$59,771.03)
Balance due		\$61,950.96

**Work Performed by "MSS" in the Special Master's April 1, 2003 Bill**

<b>Date</b>	<b>Description</b>	<b>Time</b>	<b>Rate</b>	<b>Total</b>
2/27/03	Review of EDS AS-IS Report and 8th Quarterly Report	0.60	\$135.00	\$81.00
2/27/03	Reviewed 8th QR files (two boxes)	0.90	\$135.00	\$121.50
2/27/03	Reviewed files in DOI regarding 8th QR.	1.00	\$135.00	\$135.00
2/27/03	Reviewed 8th QR files (two boxes)	1.40	\$135.00	\$189.00
3/5/03	Reviewed 8th QR files (two boxes)	0.50	\$135.00	\$67.50
3/5/03	Reviewed Appendix A.doc	0.10	\$135.00	\$13.50
3/5/03	Reviewed Appendix B.pdf.	0.10	\$135.00	\$13.50
3/5/03	Reviewed OTRM Site Visit Plan	0.10	\$135.00	\$13.50
3/5/03	Drafted 030305 Chronology	1.00	\$135.00	\$135.00
3/5/03	Reviewed SOW.doc	0.10	\$135.00	\$13.50
3/5/03	Reviewed Appendix A.pdf	0.10	\$135.00	\$13.50
3/5/03	Reviewed MMS.pdf	0.10	\$135.00	\$13.50
3/5/03	Reviewed Probate J.pdf	0.10	\$135.00	\$13.50
3/5/03	Reviewed Probate R.pdf	0.10	\$135.00	\$13.50
3/5/03	Reviewed Probate K.pdf	0.10	\$135.00	\$13.50
3/5/03	Reviewed P&P E.pdf	0.10	\$135.00	\$13.50
3/5/03	Reviewed Workforce M	0.10	\$135.00	\$13.50

Date	Description	Time	Rate	Total
3/5/03	Reviewed Workforce J .pdf	0.10	\$135.00	\$13.50
3/5/03	Reviewed Breach 1 h.pdf	0.10	\$135.00	\$13.50
3/5/03	Reviewed Appendix D.pdf	0.10	\$135.00	\$13.50
3/5/03	Reviewed May 2001 Completion Criteria.pdf	0.10	\$135.00	\$13.50
3/5/03	Reviewed Appendix C.pdf	0.10	\$135.00	\$13.50
3/5/03	Reviewed May 2001 M R Notes.pdf	0.10	\$135.00	\$13.50
3/5/03	Reviewed Appendix E.pdf	0.10	\$135.00	\$13.50
3/5/03	Reviewed Appendix F.pdf	0.10	\$135.00	\$13.50
3/5/03	Reviewed Aug 17 2001 talking points.pdf	0.10	\$135.00	\$13.50
3/5/03	Drafted 030305 Chronology	0.10	\$135.00	\$13.50
3/5/03	Reviewed Records Management Template	0.10	\$135.00	\$13.50
3/5/03	Reviewed TAAMS Template	0.10	\$135.00	\$13.50
3/5/03	Reviewed Policies and procedures template	0.10	\$135.00	\$13.50
3/5/03	Reviewed Introduction template	0.10	\$135.00	\$13.50
3/5/03	Reviewed probate backlog template	0.10	\$135.00	\$13.50
3/5/03	Reviewed workforce planning template	0.10	\$135.00	\$13.50
3/5/03	Reviewed MMS system engineering template	0.10	\$135.00	\$13.50
3/5/03	Reviewed computer architecture template	0.10	\$135.00	\$13.50
3/5/03	Reviewed Appendix G template	0.10	\$135.00	\$13.50



Date	Description	Time	Rate	Total
3/5/03	Drafted Oct 1 2001 8th QR templates	0.40	\$135.00	\$54.00
3/5/03	Reviewed Appendix H	0.10	\$135.00	\$13.50
3/5/03	Reviewed Oct 2001 briefings	0.10	\$135.00	\$13.50
3/5/03	Reviewed Appendix I	0.10	\$135.00	\$13.50
3/5/03	Reviewed Appendix J	0.10	\$135.00	\$13.50
3/5/03	Drafted 030305 Chronology	0.40	\$135.00	\$54.00
3/5/03	Reviewed Appendix J	0.10	\$135.00	\$13.50
3/6/03	Reviewed Appendix J1	0.10	\$135.00	\$13.50
3/6/03	Reviewed Appendix I2	0.50	\$135.00	\$67.50
3/6/03	Reviewed Appendix L	1.00	\$135.00	\$135.00
3/6/03	Reviewed AppendixJ2	0.20	\$135.00	\$27.00
3/6/03	Drafted 030306 Chronology Report	5.00	\$135.00	\$675.00
3/12/03	Reviewed 8th QR documents	5.00	\$135.00	\$675.00
3/12/03	Reviewed documents relating to OST2CT0010	2.50	\$135.00	\$337.50
3/13/03	Reviewed 8th QR documents	0.80	\$135.00	\$108.00
3/13/03	Reviewed documents relating to OST02CT0010	4.00	\$135.00	\$540.00
3/14/03	Drafted Analysis of contract issues.	2.60	\$135.00	\$351.00
3/14/03	Drafted analysis of contract issues.	1.60	\$135.00	\$216.00
3/18/03	Drafted sole source justification (OST contract)	0.80	\$135.00	\$108.00

Date	Description	Time	Rate	Total
3/18/03	Reviewed documents relating to 8th QR	1.00	\$135.00	\$135.00
3/18/03	Reviewed documents relating to 8th QR	4.80	\$135.00	\$648.00
3/19/03	Reviewed HLIP microsoft file	0.80	\$135.00	\$108.00
3/19/03	Compiled Appraisal information for later analysis	4.00	\$135.00	\$540.00
3/20/03	Developed information on appraisals	1.80	\$135.00	\$243.00
3/20/03	Compiled information for 8th QR analysis	3.40	\$135.00	\$459.00
3/21/03	Reviewed and Analyzed 8th QR files	3.90	\$135.00	\$526.50
3/25/03	Edited OST02CT0010 analysis	4.00	\$135.00	\$540.00
3/26/03	Reviewed and Analyzed 8th QR files	3.90	\$135.00	\$526.50
3/27/03	Reviewed and Analyzed 8th QR files	3.90	\$135.00	\$526.50
	<b>TOTALS:</b>	<b>65.30</b>	<b>\$135.00</b>	<b>\$8,815.50</b>

**Work Performed by "MSS" in the Special Master's May 6, 2003 Bill**

Date	Description	Time	Rate	Total
3/31/03	Research - Analyze 8th QR Issues.	3.13	\$135.00	\$422.55
3/31/03	Research - Prepare Analysis of Appraisal Subproject.	0.25	\$135.00	\$33.75
4/1/03	Analyze 8th QR Exhibits.	1.00	\$135.00	\$135.00
4/2/03	Analyze 8th QR Exhibits.	4.88	\$135.00	\$658.80

Date	Description	Time	Rate	Total
4/3/03	Draft 8th QR Analysis.	2.00	\$135.00	\$270.00
4/3/03	Analyze 8th QR Exhibits	2.75	\$135.00	\$371.25
4/4/03	Draft 8th QR Analysis.	4.75	\$135.00	\$641.25
4/5/03	Analyze 8th QR Exhibits.	2.25	\$135.00	\$303.75
4/6/03	Analyze 8th QR Exhibits.	3.13	\$135.00	\$422.55
4/7/03	Analyze 8th QR Exhibits.	5.00	\$135.00	\$675.00
4/8/03	Analyze 8th QR Exhibits.	5.00	\$135.00	\$675.00
4/9/03	Analyze 8th QR Exhibits.	2.75	\$135.00	\$371.25
4/11/03	Analyze 8th QR Exhibits.	3.50	\$135.00	\$472.50
4/14/03	Analyze 8th QR Exhibits.	4.00	\$135.00	\$540.00
<b>TOTALS:</b>		<b>44.39</b>	<b>\$135.00</b>	<b>\$5,992.65</b>

**Total Work Performed by "MSS" in the Special Master's April and May Bills:**

Month Billed	Total Hours Worked by MSS	Rate	Total Billed
April 2003	65.30	\$135.00	\$8,815.50
May 2003	44.39	\$135.00	\$5,992.65
<b>TOTALS:</b>	<b>109.69</b>	<b>\$135.00</b>	<b>\$14,808.15</b>

**Work Performed Referencing "Mike Smith" in the Special Master's April 1, 2003 Bill**

<b>Date</b>	<b>Initials</b>	<b>Description</b>	<b>Time</b>	<b>Rate</b>	<b>Total</b>
3/4/03	EKV	Meeting with Mike Smith regarding work objectives.	0.50	\$100.00	\$50.00
		<b>TOTALS:</b>	<b>0.50</b>	<b>\$100.00</b>	<b>\$50.00</b>

**Work Performed Referencing "Mike Smith" in the Special Master's May 6, 2003 Bill**

<b>Date</b>	<b>Initials</b>	<b>Description</b>	<b>Time</b>	<b>Rate</b>	<b>Total</b>
4/6/03	EKV	Assist Mike Smith with analysis of exhibits for report on the 8th Quarterly Report.	3.50	\$100.00	\$350.00
4/7/03	EKV	Assist Mike Smith with analysis of exhibits for report on the 8th Quarterly Report.	6.75	\$100.00	\$675.00
4/8/03	EKV	Assist Mike Smith with analysis of exhibits for report on the 8th Quarterly Report.	8.50	\$100.00	\$850.00
4/9/03	EKV	Assist Mike Smith with preparation of exhibits for report on the 8th Quarterly Report.	4.25	\$100.00	\$425.00
4/10/03	EKV	Assist Mike Smith with preparation of exhibits for report on the 8th Quarterly Report.	2.50	\$100.00	\$250.00
4/11/03	EKV	Assist Mike Smith with preparation of exhibits for report on the 8th Quarterly Report.	1.25	\$100.00	\$125.00
4/15/03	EKV	Assist the Special Master and Mike Smith editing report on the 8th Quarterly Report.	6.00	\$100.00	\$600.00
4/16/03	EKV	Assist Mike Smith editing and organizing materials for report on the 8th Quarterly Report.	6.75	\$100.00	\$675.00
		<b>TOTALS:</b>	<b>39.50</b>	<b>\$100.00</b>	<b>\$3,950.00</b>

**Total Work Referencing "Mike Smith" in the Special Master's April and May Bills:**

<b>Month Billed</b>	<b>Total Hours Worked (all by EKV)</b>	<b>Rate</b>	<b>Total Billed</b>
April 2003	0.50	\$100.00	\$50.00
May 2003	39.50	\$100.00	\$3,950.00
<b>TOTALS:</b>	<b>40.00</b>	<b>\$100.00</b>	<b>\$4,000.00</b>

8

LAW OFFICE

ALAN L. BALARAN, P.L.L.C.

ADMITTED IN DC AND MD

1717 PENNSYLVANIA AVE., N.W.  
THIRTEENTH FLOOR  
WASHINGTON, D.C. 20006  
TELEPHONE (202) 466-5010  
FAX (202) 986-8477  
E-MAIL abalaran@erols.com

Invoice submitted to:  
Cobell, et al. v. Norton, et al.  
United States District Court for the  
District of Columbia  
333 Constitution Avenue, NW  
Washington DC 20001

April 01, 2003

Invoice #35

Professional Services

		<u>Hrs/Rate</u>	<u>Amount</u>
2/27/2003	MSS Review of EDS AS-IS Report and 8th Quarterly Report.	0.60 135.00/hr	81.00
	MSS Reviewed 8th QR files (two boxes)	0.90 135.00/hr	121.50
	MSS Reviewed files in DOI regarding 8th QR.	1.00 135.00/hr	135.00
	MSS Reviewed 8th QR files (two boxes)	1.40 135.00/hr	189.00
3/2/2003	ALB Draft Monthly Report; review attachments	2.00 200.00/hr	400.00
	ALB Review records related to possible document destruction for upcoming Albuquerque trip	3.50 200.00/hr	700.00
3/3/2003	EKV Attended two IT security meetings.	2.00 100.00/hr	200.00
	ALB Weekly IT meeting regarding status of pending requests and reports from Interior; Conference w/Mahach et al. regarding after hours "Phase III" testing; conference w/Kerr and Gast regarding tasks for upcoming month and status of NBC Washington	3.50 200.00/hr	700.00
	ALB Review Plaintiffs' Notice of Supplemental Authority in Support of MOTion for Order to Show Cause Why Interior and Edwards should not be held in contempt	0.30 200.00/hr	60.00

		<u>Hrs/Rate</u>	<u>Amount</u>
3/3/2003	ALB Review Brooks' Reply to Plaintiffs' Consolidated Opposition	0.30 200.00/hr	60.00
	EKV Research of IBO contracts.	2.00 100.00/hr	200.00
	EKV Preparation of monthly reports and for distribution.	2.50 100.00/hr	250.00
	EKV Preparation of Department of Corrections report.	1.00 100.00/hr	100.00
3/4/2003	EKV Research and drafting of a memo comparing TFAS draft and final draft.	8.25 100.00/hr	825.00
	EKV Meeting with Mike Smith regarding work objectives.	0.50 100.00/hr	50.00
	EKV Research TFAS reviews and began drafting memos regarding their contents.	6.25 100.00/hr	625.00
	ALB Travel to Kansas City and to Overland Park en route to Overland Park	4.50 200.00/hr	NO CHARGE
3/5/2003	EKV Research of IBO binders and drafting of summary memos.	7.25 100.00/hr	725.00
	MSS Reviewed 8th QR files (two boxes)	0.50 135.00/hr	67.50
	MSS Reviewed Appendix A.doc	0.10 135.00/hr	13.50
	MSS Reviewed Appendix B.pdf.	0.10 135.00/hr	13.50
	MSS Reviewed OTRM Site Visit Plan	0.10 135.00/hr	13.50
	MSS Drafted 030305 Chronology	1.00 135.00/hr	135.00
	MSS Reviewed SOW.doc	0.10 135.00/hr	13.50
	MSS Reviewed Appendix A.pdf	0.10 135.00/hr	13.50
	MSS Reviewed MMS.pdf	0.10 135.00/hr	13.50

		<u>Hrs/Rate</u>	<u>Amount</u>
3/5/2003	MSS Reviewed Probate J.pdf	0.10 135.00/hr	13.50
	MSS Reviewed Probate R.pdf	0.10 135.00/hr	13.50
	MSS Reviewed Probate K.pdf	0.10 135.00/hr	13.50
	MSS Reviewed P&P E.pdf	0.10 135.00/hr	13.50
	MSS Reviewed Workforce M	0.10 135.00/hr	13.50
	MSS Reviewed Workforce J.pdf	0.10 135.00/hr	13.50
	MSS Reviewed Breach 1 h.pdf	0.10 135.00/hr	13.50
	MSS Reviewed Appendix D.pdf	0.10 135.00/hr	13.50
	MSS Reviewed May 2001 Completion Criteria.pdf	0.10 135.00/hr	13.50
	MSS Reviewed Appendix C.pdf	0.10 135.00/hr	13.50
	MSS Reviewed May 2001 AAR Notes.pdf	0.10 135.00/hr	13.50
	MSS Reviewed Appendix E.pdf	0.10 135.00/hr	13.50
	MSS Reviewed Appendix F.pdf	0.10 135.00/hr	13.50
	MSS Reviewed Aug 17 2001 talking points.pdf	0.10 135.00/hr	13.50
	MSS Drafted 030305 Chronology	0.10 135.00/hr	13.50
	MSS Reviewed Records Management Template	0.10 135.00/hr	13.50
	MSS Reviewed TAAMS Template	0.10 135.00/hr	13.50



		<u>Hrs/Rate</u>	<u>Amount</u>
3/5/2003	MSS Reviewed Policies and procedures template	0.10 135.00/hr	13.50
	MSS Reviewed Introduction template	0.10 135.00/hr	13.50
	MSS Reviewed probate backlog template	0.10 135.00/hr	13.50
	MSS Reviewed workforce planning template	0.10 135.00/hr	13.50
	MSS Reviewed MMS system engineering template	0.10 135.00/hr	13.50
	MSS Reviewed computer architecture template	0.10 135.00/hr	13.50
	MSS Reviewed Appendix G template	0.10 135.00/hr	13.50
	MSS Drafted Oct 1 2001 8th QR templates	0.40 135.00/hr	54.00
	MSS Reviewed Appendix H	0.10 135.00/hr	13.50
	MSS Reviewed Oct 2001 briefings	0.10 135.00/hr	13.50
	MSS Reviewed Appendix I	0.10 135.00/hr	13.50
	MSS Reviewed Apendix J	0.10 135.00/hr	13.50
	MSS Drafted 030305 Chronology	0.40 135.00/hr	54.00
	MSS Reviewed Appendix J	0.10 135.00/hr	13.50
	ALB Review Remediation Plan re: NBC -- T/conference with Gillett and Travel to Labat - Anderson Facility/ Conference w/Managers, Dunbar (L.A), Skotta (OTR), Siemekowski (DOJ), Baker (LA) and review effort to index, quality control, search and gatekeep	3.50 200.00/hr	700.00
	ALB Review Defendants' Expert Reports provided by J.S. (DOJ)	1.50 200.00/hr	300.00
	ALB Review documents in preparation of investigation into possible document destruction at Navajo Regional Office	2.00 200.00/hr	400.00

		<u>Hrs/Rate</u>	<u>Amount</u>
3/5/2003	ALB Travel from Kansas City to Albuquerque	3.50 200.00/hr	NO CHARGE
	ALB Review Plaintiffs' Expert Reports	2.00 200.00/hr	400.00
3/6/2003	EKV Research of IBO binders and drafting of summary memos.	8.00 100.00/hr	800.00
	MSS Reviewed Appendix J1	0.10 135.00/hr	13.50
	MSS Reviewed Appendix I2	0.50 135.00/hr	67.50
	MSS Reviewed Appendix L	1.00 135.00/hr	135.00
	MSS Reviewed Appendix J2	0.20 135.00/hr	27.00
	MSS Drafted 030306 Chronology Report	5.00 135.00/hr	675.00
	ALB Travel from Albuquerque to Gallup	2.00 200.00/hr	NO CHARGE
	ALB Interview Baker and Hatfield; review appraisal files; travel to Window Rock, AZ (NC) Interview Stephen Graham	0.50 200.00/hr	100.00
3/7/2003	EKV Research of IBO binders and drafting of summary memos.	6.75 100.00/hr	675.00
	ALB Review Appraisal files -- Draft Memorandum and edit	3.00 200.00/hr	600.00
	ALB Review NAID outline	1.20 200.00/hr	240.00
	ALB Review OTR Workplan; draft memo to file	0.80 200.00/hr	160.00
	ALB Review documents and reports submitted by Gallup Appraisal Office	2.80 200.00/hr	560.00
3/8/2003	ALB Review Kerr Reports	0.90 200.00/hr	180.00
3/9/2003	ALB Conference with Interior Employees (individually and collectively) regarding records retention, work plans, appraisals	5.80 200.00/hr	1,160.00

			<u>Hrs/Rate</u>	<u>Amount</u>
3/9/2003	ALB	Review KPMG Annual Report regarding DOI/OST Tribal and Other Trust Funds and IIM Funds Managed by OTFM	1.70 200.00/hr	340.00
3/10/2003	ALB	Travel from Albuquerque to DC	3.50 200.00/hr	NO CHARGE
	ALB	Conference with Interior employees	2.00 200.00/hr	400.00
	ALB	Review Independent Auditor's Report regarding Consolidated Balance Sheets of BIA focusing on weaknesses identified in IT Systems	0.80 200.00/hr	160.00
	ALB	Review 3/4/03 Bi-Weekly Report; draft memo to file to send letter to Justice	0.80 200.00/hr	160.00
3/11/2003	EKV	Research of region binders. Drafted summaries for Midwest and Southwest Regions and began work on Pacific Region.	6.50 100.00/hr	650.00
	EKV	Meeting with IT group.	1.00 100.00/hr	100.00
	ALB	Weekly IT Conference regarding updates and Phase IV testing	2.00 200.00/hr	400.00
	ALB	Review appellate brief/opposition and reply	2.20 200.00/hr	440.00
	ALB	Review Opposition to Motion to Assign Mandamus to Appellate Panel	0.30 200.00/hr	60.00
	ALB	Review Angel and Lasater Reports (w/out attachments)	1.80 200.00/hr	360.00
	ALB	Review Defendants' reply regarding Attachment C (.3) Motion to file (.2); Motion for enlargement regarding B. Edwards (.2); Motion for Protective Order regarding Mineral Act (.3); and Motion regarding E&Y report (.6).	1.60 200.00/hr	320.00
3/12/2003	EKV	Meeting with Alan Balaran regarding the progress of work performed last week during his absence and plans for progression.	1.00 100.00/hr	100.00
	EKV	Research and drafting of memo regarding the original intent of the IBO Inter-Agency Agreement, the guidelines set out in the TFAS/TAAMS memo, and work performed in various regions.	6.75 100.00/hr	675.00
	MSS	Reviewed 8th QR documents	5.00 135.00/hr	675.00
	MSS	Reviewed documents relating to OST2CT0010	2.50 135.00/hr	337.50

			<u>Hrs/Rate</u>	<u>Amount</u>
3/13/2003	ALB	Review Petrie letter regarding third production RFP7 documents and Protective order	0.10 200.00/hr	20.00
	ALB	Review Motion for Expedited Consideration of Interior Defendants' Motion for Leave to Provide congress a Summary Version of the Ernst and Young Report	2.00 200.00/hr	400.00
	ALB	Draft Letter to Gillett regarding Audit Report and Phase IV Testing	0.20 200.00/hr	40.00
	ALB	Review Interior Defendants' Motion and Memorandum in Support for a Protective Order Regarding Confidential Information re: RFP7	0.30 200.00/hr	60.00
	ALB	Review Gingold Letter regarding Zantaz search	0.10 200.00/hr	20.00
	ALB	Review Scott Park's Letter to Gingold and attachments regarding Infield position discription	0.30 200.00/hr	60.00
	ALB	Review Plaintiffs' Notice of Supplemental Authority in Support of Compliance Action Plan	0.10 200.00/hr	20.00
	ALB	Review Notice of Supplemental Authority in Support of Plaintiffs' Plan for Determining Accurate Balances in the Individual Indian trust	0.10 200.00/hr	20.00
	ALB	Review Plaintiffs' correspondence responding to Beard letter modifying position description of Mona Infield	0.10 200.00/hr	20.00
	EKV	Research involving Southwest and Navajo Regions TFAS Reviews; finished Southwest Summary Report and began Navajo Region report.	8.00 100.00/hr	800.00
	MSS	Reviewed 8th QR documents	0.80 135.00/hr	108.00
	MSS	Reviewed documents relating to OST02CT0010	4.00 135.00/hr	540.00
3/14/2003	ALB	Conference with USi, John Kerr regarding plan to proceed with Phase IV, remediation efforts, Phase III continued scans, future site visits	1.70 200.00/hr	340.00
	ALB	Draft Report to Court regarding Site Visit to Gallup and Window Rock	4.50 200.00/hr	900.00
	ALB	Review Interior Defendants' Motion to Strike Plaintiffs' request for sanctions emanating from S.M. McCaleb Report; Plaintiffs' Opposition thereto	0.40 200.00/hr	80.00
	ALB	Review Motion by Gale Norton for Enlargement of Time to Respond to Motion for Order to Show Cause regarding Burt Edwards	0.20 200.00/hr	40.00

			<u>Hrs/Rate</u>	<u>Amount</u>
3/14/2003	ALB	Review Interior's Notice of Filing of Newell's expert report	2.00 200.00/hr	400.00
	ALB	Review Defendants' Unopposed Motion to File Expert Report of Joseph R. Rosenbaum under seal and attachments thereto	0.60 200.00/hr	120.00
	ALB	Review correspondence regarding Infield position dated 3/14	0.10 200.00/hr	20.00
	EKV	Research of Navajo Region TFAS review - continued work on summary document.	8.75 100.00/hr	875.00
	MSS	Drafted Analysis of contract issues.	2.60 135.00/hr	351.00
	MSS	Drafted analysis of contract issues.	1.60 135.00/hr	216.00
3/15/2003	ALB	Review Interior Defendants' Response to NAIC Amicus Brief	0.30 200.00/hr	60.00
3/16/2003	ALB	Review Defendants' Reply to Plaintiffs' Opposition to Interior's Motion to Strike comments regarding Corrected report and recommendation of Special Master	0.10 200.00/hr	20.00
	ALB	Draft Appraisal Report	5.60 200.00/hr	1,120.00
3/17/2003	ALB	Draft letter to Gillett in response to Warshawsky letter and Cason/SAIC attachments	0.40 200.00/hr	80.00
	ALB	Conference with w/USi, John Baddour and John Kerr regarding internal testing and Phase IV issues and upcoming IT meeting	0.80 200.00/hr	160.00
	ALB	Review Plaintiffs' Notice of Supplemental Information in support of opposition to motion to adjust SM-M fee	0.20 200.00/hr	40.00
	ALB	Review USi OHA Report (3/12/03); transmit with cover letter to counsel	0.30 200.00/hr	60.00
	ALB	Review Kessler letter regarding OTR certification and attachment	0.10 200.00/hr	20.00
	ALB	Review McKenna response to Plaintiffs' counsel regarding service on Secretary	0.10 200.00/hr	20.00
	ALB	Review Motion to Continue Motions for summary Judgment and affidavit in support thereof; notice of filing of amended certificate of service; opposition to Plaintiffs' Motions to treat as conceded and strike as untimely motion for partial summary judgment	1.50 200.00/hr	300.00

			<u>Hrs/Rate</u>	<u>Amount</u>
3/17/2003	ALB	Review Materials related to O&G exploration in Eastern Navajo region	4.70 200.00/hr	940.00
	EKV	Research - finished drafting of Navajo summary, revised Southwest Region and Navajo Region Summary, began work on Midwest Region summary.	7.75 100.00/hr	775.00
3/18/2003	EKV	Research - TFAS summary review of Midwest Region completed and work performed on Northwest Region.	8.00 100.00/hr	800.00
	EKV	Meeting - weekly IT meeting.	1.50 100.00/hr	150.00
	MSS	Drafted sole source justification (OST contract)	0.80 135.00/hr	108.00
	MSS	Reviewed documents relating to 8th QR	1.00 135.00/hr	135.00
	MSS	Reviewed documents relating to 8th QR	4.80 135.00/hr	648.00
3/19/2003	EKV	Research - revised Southwest Regional TFAS summary memo and began second revision on Navajo Regional TFAR summary memo.	8.75 100.00/hr	875.00
	MSS	Reviewed HLIP microsoft file	0.80 135.00/hr	108.00
	MSS	Compiled Appraisal information for later analysis	4.00 135.00/hr	540.00
3/20/2003	ALB	Review Defendants' Motion for reconsideration of sanctions in light of CM-M decision to release privileged documents	0.30 200.00/hr	60.00
	ALB	Review Secretary Norton's Motion (in her individual capacity) for Order Relating to Service	0.30 200.00/hr	60.00
	ALB	Review Plaintiffs' Opposition to Bentzen's Motion for Protective Order to Quash Subpoena and other relief and attachments	0.40 200.00/hr	80.00
	ALB	Review Brown-Quinn correspondence regarding expert opinion/production of documents	0.10 200.00/hr	20.00
	ALB	Review Amended Notice of Christie Deposition and attached inventory list	0.20 200.00/hr	40.00
	ALB	Review Status Report to S.M. of March 18, 2003; draft letter to Kessler regarding OTR Report	0.60 200.00/hr	120.00
	ALB	Review Defendants' Motion for Reconsideration of March 5, 2003 Order Directing Payment to Special Master Alan L. Balaran, and Memorandum in Support	0.30 200.00/hr	60.00

		<u>Hrs/Rate</u>	<u>Amount</u>
3/20/2003	ALB Review Defendants' Motion for Reconsideration of March 5, 2003 Order Directing Payment to Special Master-Monitor J. Kieffer, and Memorandum in Support	0.30 200.00/hr	NO CHARGE
	ALB Review Plaintiffs' Notice of Supplemental Authority in Support of Plaintiffs' Plan for Determining Accurate Balances	0.30 200.00/hr	60.00
	ALB Review Notice of Filing of 13th Quarterly Treasury Report	0.70 200.00/hr	140.00
	ALB Review Motion to Substitute Declaration of D. Erwin and attachments thereto	0.50 200.00/hr	100.00
	ALB Review Motion for Enlargement regarding Bert Edwards and attachments thereto	0.60 200.00/hr	120.00
	ALB Review Motion to substitute declarations of Griles, Cason and Swimmer in support of assertions of deliberative process privileges	0.60 200.00/hr	120.00
	ALB Review Filings regarding statute of limitations and laches	0.30 200.00/hr	60.00
	ALB Conference with J. Kerr regarding Phases III and IV testing and future site visits; draft plan of action	1.50 200.00/hr	300.00
	EKV Research - continued revision of Navajo Region and began Northwest Region TFAS reviews.	8.50 100.00/hr	850.00
	MSS Developed information on appraisals	1.80 135.00/hr	243.00
	MSS Compiled information for 8th QR analysis	3.40 135.00/hr	459.00
3/21/2003	ALB Review Motion for expedited consideration and clarification regarding contact of Plaintiff Old Person	0.40 200.00/hr	80.00
	ALB Review NAID documents and begin draft of Preliminary NAID Report	2.00 200.00/hr	400.00
	ALB Conference with Haspell and Kessler regarding Labat, Trust Definition, Trust Training and creation of search engine	1.00 200.00/hr	200.00
	ALB Draft Observations regarding IBO/TFAS review of four regions	3.50 200.00/hr	700.00
	EKV Research - finished Northwest Region and began work on a TFAS review synopsis	8.25 100.00/hr	825.00
	ALB Review NAID documents and draft report in response to court order	4.50 200.00/hr	900.00

		<u>Hrs/Rate</u>	<u>Amount</u>
3/21/2003	MSS Reviewed and Analyzed 8th QR files	3.90 135.00/hr	526.50
3/22/2003	ALB Draft NAID Report; review EDS Reports (10/10; 10/31; 11/12) and Interior's request to replace HLIP with EDS format and Emergency Motion; review comments to EDS first two reports	4.80 200.00/hr	960.00
3/23/2003	ALB Draft NAID Report; review EDS Reports (10/10; 10/31; 11/12) and Interior's request to replace HLIP with EDS format and Emergency Motion; review comments to EDS first two reports	5.00 200.00/hr	1,000.00
3/24/2003	ALB Draft NAID Report based on public information while awaiting production of documents	4.40 200.00/hr	880.00
	ALB Conference with J. Kerr revieweing Work Plan for Cobell v. Norton Project dated March 20, 2003	1.60 200.00/hr	320.00
	ALB Review Court documents related to 8th Quarterly Report	2.20 200.00/hr	440.00
	EKV Research - completed TFAS synopsis report and began revised TFAS account	7.75 100.00/hr	775.00
	EKV Meeting with AB regarding status of TFAS review.	1.00 100.00/hr	100.00
3/25/2003	ALB Review Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Conolidated Motions regarding concession as to summary judgment, untimely opposition to P's Motion for Partial Summary Judgment and for enlargement of time to reply to opposition brief (+ attached affidavits); consolidated opposition to Norton's Motion for enlargement of time to respond to Ps' Motion for Order to Show Cause regarding contempt for Edwards and request for expedited consideration; Ds' Reply Memorandum in further support of Motion for Leave to provide Congress with Summary Versions of E&Y Report	1.60 200.00/hr	320.00
	ALB Review Gidener Final Report regarding events at Chickasaw -- draft memo to file challenging assumptions for discussion with Kerr; draft letter to Gillett; review letter from Gillett regarding Boise Solicitor's Office and draft response	3.50 200.00/hr	700.00
	ALB Draft Chronology of 6th, 7th and 8QR	2.90 200.00/hr	580.00
	ALB Review Navajo region IBO documents w/EV for report	1.50 200.00/hr	300.00
	EKV Research - continued work on TFAS summary account.	7.75 100.00/hr	775.00



		<u>Hrs/Rate</u>	<u>Amount</u>
3/25/2003	MSS Edited OST02CT0010 analysis	4.00 135.00/hr	540.00
3/26/2003	ALB Review Interior Defendants' Motion and Supporting Memorandum for Reconsideration of 3/11/03 Memo granting plaintiffs' request for sanctions pursuant to 56(g)	0.70 200.00/hr	140.00
	ALB Review NAID memoranda and e-mails relating to creation of 8QR; continue drafting report and chronology of events leading to January 16, 2002 report release	4.50 200.00/hr	900.00
	ALB Review Notification of Proposed Movement of BOR Records and attachments; draft letter of approval	0.60 200.00/hr	120.00
	EKV Research - continued work on TFAS summary account.	6.25 100.00/hr	625.00
	MSS Reviewed and Analyzed 8th QR files	3.90 135.00/hr	526.50
3/27/2003	ALB Review Notice of Intention to Reconnect BIA to Internet; draft letter to Gillett in response	0.30 200.00/hr	60.00
	ALB Draft Letter regarding proposed oral argument schedule in contempt proceedings	0.30 200.00/hr	60.00
	ALB Review Assessment of SAG regarding Sacramento Visit; OHA connection retest; MMS Strac; NBC; v/conference w/J. Kerr and review letter from Kerr to J. Snoich regarding further remediation information	1.40 200.00/hr	280.00
	ALB Review Interior Defendants' Motion to File Under Seal Memo to Strike Plaintiffs' References to and Quotation of the Content of Attachment "C"; and Motion to Strike Order to Show Cause regarding Bert Edwards, Historical Accounting Plan and Notice of Violation	0.50 200.00/hr	100.00
	ALB Review letters from Gillett requesting reports and regarding the OSM remediation; draft response.	0.30 200.00/hr	60.00
	ALB Review Plaintiffs' Notice of Filing Exhibit 1 in support of opposition to Secretary Norton's Memorandum	0.20 200.00/hr	40.00
	ALB Draft Report regarding 8QR	4.70 200.00/hr	940.00
	EKV Research - continued work on Midwest Region TFAS summary account.	9.00 100.00/hr	900.00
	ALB Draft NAID Chronology and Report; review 10/10/01 EDS Report	7.00 200.00/hr	1,400.00

		<u>Hrs/Rate</u>	<u>Amount</u>
3/27/2003	ALB Review Ferrell letter regarding digitization	0.10 200.00/hr	20.00
	ALB Review Weekly Status Report of SAG	0.40 200.00/hr	80.00
	ALB Begin Review of Interior's opposition to Plaintiffs' Motion for Order to Show Cause why Edwards Should not be held in Civil and Criminal Contempt; and Motion by Secretary Norton (in her individual capacity) regarding same	1.80 200.00/hr	360.00
	MSS Reviewed and Analyzed 8th QR files	3.90 135.00/hr	526.50
3/28/2003	EKV Research - continued work on TFAS summary accounts for Southwest and Northwest regions.	8.00 100.00/hr	800.00
3/29/2003	ALB Review Interior Defendants' Opposition to Show Cause Motion regarding B. Edwards and attachments; Opposition to Plaintiffs' Motion to Continue Ds' Motion for Summary Judgment Pursuant to Fed.R.Civ.P. 56(f) and to Enlarge (w/out attachments)	2.60 200.00/hr	520.00
	ALB Draft Review of 8QR Chronology	4.40 200.00/hr	880.00
3/30/2003	ALB Review checkerboard documents; Oil & Gas Journals and draft Site Visit Report to the Navajo Eastern Region	5.60 200.00/hr	1,120.00
3/31/2003	ALB Draft Report to Court regarding 8QR; Site visit to Navajo report and monthly report	5.70 200.00/hr	1,140.00
	ALB Review Court Monitor Opinions regarding deliberative process etc	2.20 200.00/hr	NO CHARGE
	For professional services rendered	400.70	\$56,795.50
	Additional Charges :		
3/3/2003	Copying cost		162.22
3/21/2003	Copying cost for Navajo allottee map		105.75
3/31/2003	Airline for Kansas City and Albuquerque		834.00
	Food Expenses (at government rate of \$42 per diem)		294.00
	Hotel for Kansas and Albuquerque		1,028.02
	Taxicab to Baltimore and National for Kansas City and Overland Park		88.00

	<u>Amount</u>
3/31/2003 Rental Cars in Kansas City and Albuquerque	434.44
Gasoline in Kansas City and Albuquerque	29.10
Total costs	<u>\$2,975.53</u>
Total amount of this bill	<u>\$59,771.03</u>
Previous balance	\$38,623.77
4/1/2003 Payment - thank you	<u>(\$38,623.77)</u>
Total payments and adjustments	<u>(\$38,623.77)</u>
Balance due	<u><u>\$59,771.03</u></u>

CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on May 8, 2003 I served the foregoing *Interior Defendants' Motion In Limine to Exclude Testimony of Plaintiffs' Witness Michael S. Smith* 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.  
1275 Pennsylvania Avenue, N.W.  
Ninth Floor  
Washington, D.C. 20004  
(202) 318-2372

Mark Kester Brown, Esq.  
607 - 14th Street, NW  
Box 6  
Washington, DC 20005  
(202) 318-2372

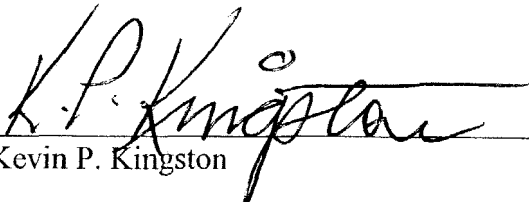
By U.S. Mail upon  
Elliott Levitas, Esq:  
1100 Peachtree Street, Suite 2800  
Atlanta, GA 30309-4530

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 facsimile and U.S. Mail:

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

  
Kevin P. Kingston