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U.S. DISTRICT COURT  
DISTRICT OF COLUMBIA

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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2003  
MAYOR-VINTHINGTON  
CLERK

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 TO SUPPLEMENT ITS  
OBJECTIONS TO THE INTERIM REPORT OF THE SPECIAL MASTER  
REGARDING THE FILING OF INTERIOR'S EIGHTH QUARTERLY REPORT**

The Interim Report of the Special Master Regarding the Filing of Interior's Eighth Quarterly Report ("Interim Report") was filed on April 21, 2003. Under Fed. R. Civ. P. 53(e)(2), objections to the Interim Report were due on May 5, 2003. On that date Interior timely filed its Objections.

After its Objections were filed, Interior learned, based in part upon invoices submitted by the Special Master on May 6, 2003, that the Special Master secretly hired one of the principal witnesses to the events described in the Interim Report to assist with his investigation and with the drafting of the Interim Report. Interior seeks leave to file the accompanying Interior Defendants' Supplemental Objections to Interim Report of the Special Master Regarding the Filing of Interior's Eighth Quarterly Report ("Supplemental Objections").<sup>1</sup> Interior's objections to the newly discovered, improper actions of the Special Master form the basis of Interior's Supplemental Objections.

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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.

Dated: May 13, 2003

Respectfully submitted,

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STUART E. SCHIFFER  
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J. CHRISTOPHER KOHN  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL <u>et al.</u> ,	)	
	)	
Plaintiffs,	)	No. 1:96CV01285
v.	)	(Judge Lamberth)
	)	
GALE A. NORTON, Secretary of	)	
the Interior, <u>et al.</u> ,	)	
	)	
Defendants.	)	
_____	)	

**INTERIOR DEFENDANTS' SUPPLEMENTAL OBJECTIONS TO  
INTERIM REPORT OF THE SPECIAL MASTER REGARDING  
THE FILING OF INTERIOR'S EIGHTH QUARTERLY REPORT**

Interior Defendants respectfully submit the following Supplemental Objections to the Interim Report of the Special Master Regarding the Filing of Interior's Eighth Quarterly Report ("Interim Report"). On May 5, 2003, Interior filed its Objections to the Interim Report. Interior has learned that the Special Master secretly hired one of the principal witnesses to the events described in the Interim Report to assist with his investigation and with the drafting of the Interim Report. Interior's objections to these newly discovered, improper actions of the Special Master form the basis of Interior's Supplemental Objections.

**BACKGROUND**

As discussed in Interior's Objections, on August 30, 2002, Native American Industrial Distributors, Inc. ("NAID") moved to intervene in this case, alleging 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, on November 5, 2002, appointed Special Master Balaran to investigate NAID's claims. On April 21, 2003, the Special Master

filed his Interim Report, containing his preliminary findings and conclusions regarding his incomplete investigation into NAID's claims. The Special Master indicated that his Interim Report was based on information "obtained outside of normal channels and to which the parties may have no familiarity." Interim Report at 1. n.1.

Interior objected to the inaccurate and unsupported preliminary findings and conclusions in the Interim Report. See Objections at 7-26, 34-40. Interior objected to the filing of an interim report before the Special Master's investigation was complete. See Objections at 27-29. Interior also objected to the Special Master's ex parte acquisition of evidence. See Objection at 30-36.

On May 6, 2003, the day after Interior filed its Objections, the Special Master filed his April 2003 Report to the Court. Attached as Exhibit 3 to the April 2003 Report is 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, 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>1</sup>

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<sup>1</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.

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 and a member of the TAAMS Project Team at the time the events described in the Interim Report took place. Upon information and belief, this is also the same Mike Smith who, as Executive Vice President of NAID, wrote the Interior contracting officer a letter on January 7, 2003 regarding NAID’s pending contract dispute with Interior. See Letter of January 7, 2003 from Mike Smith (attached as Exhibit D). In this letter, which was carbon copied to “Alan Balaran, Special Master” (January 7 Letter at 2), Mike Smith informed the contracting officer:

[W]e have retained the services of counsel because we are dealing with a government agency that is refusing to negotiate with us in good faith. Rather, we have been the target of retaliation; allegations of which are still under investigation by the Court Appointed Special Master.

January 7 Letter at 1.

By February 27, 2003, a month and a half after that letter was written, the Special Master had hired Mike Smith to assist with his investigation of NAID’s allegations. See Invoice #35. 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”).

The Special Master did not inform Interior before he hired Mr. Smith and Interior was not aware that Mr. Smith had been hired by the Special Master.<sup>2</sup> Interior did not, and does not, consent to Mr. Smith's work for the Special Master regarding the investigation into NAID's claims.

## DISCUSSION

### **I. IT WAS IMPROPER FOR THE SPECIAL MASTER TO MEET IN SECRET WITH A WITNESS TO THE EVENTS BEING INVESTIGATED**

The Special Master revealed in his Interim Report that he had obtained information relied upon in his Interim Report "outside of normal channels." Interim Report at 1 n.1. He did not reveal any of the sources of his ex parte evidence. Interior suspected that the Special Master's abnormal channels of information gathering may have included NAID employees who had participated in the events being investigated. See Objections at 32-33. The Special Master's bills confirm that he did indeed meet secretly with one such NAID employee, Mike Smith. See Invoice #35, #37.

Interior obviously does not object that the Special Master would interview one of the two NAID employees<sup>3</sup> who were principally involved in the matters being investigated. Indeed, an investigation into the claims made by NAID against Interior might not be complete without the

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<sup>2</sup> Interior has been informed that Mike Smith was no longer employed by NAID, as Executive Vice President or otherwise, when the Special Master secretly hired him to assist with the investigation and drafting of the Interim Report. Mr. Smith's employment status with NAID at the time he was employed by the Special Master does not affect Interior's objection.

<sup>3</sup> Jerry Moran is the other NAID employee principally involved in the matters being investigated.



views of the NAID witnesses who made such claims.<sup>4</sup> Interior is surprised, however, that the Special Master would meet with an NAID witness like Mike Smith and take his testimony off the record. For the reasons discussed at length in its Objections, such ex parte acquisition of evidence by the Special Master is wholly improper and is objected to by Interior.

**II. IT WAS IMPROPER FOR THE SPECIAL MASTER TO HIRE AN ADVERSE WITNESS TO THE EVENTS BEING INVESTIGATED TO ASSIST WITH THE INVESTIGATION AND THE DRAFTING OF AN INTERIM REPORT**

Although secret meetings with witnesses and the secret gathering of evidence are clearly improper, the Special Master's invoices confirm that he has done much worse here. He not only met secretly with a witness and participant in the events and claims being investigated who had demonstrated a manifest hostility to Interior as recently as January 2003; he hired him. Mike Smith participated in the Special Master's investigation, researched issues for the Special Master, and drafted portions of the Interim Report. See Invoice #35, Invoice #37.

The Court ordered the Special Master to investigate NAID's claims. The Special Master hired a former NAID Executive Vice President, who had recently written a letter critical of Interior, to help with the investigation and to help with the actual drafting of the Interim Report. By hiring Mike Smith it appears that the Special Master did not investigate NAID's claims; he simply adopted them and published them as findings in an Interim Report without even speaking to any Interior official to get their view of NAID's allegations. In any event, the employment of

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<sup>4</sup> Any investigation which did not include information from the Interior officials and employees being investigated would also be incomplete and it was thus improper for the Special Master to file a public report detailing his preliminary findings before such a complete investigation had been conducted.

Mr. Smith presents the appearance of bias and the abandonment of neutrality required of a judicial official.

Interior did not consent to the Special Master's action. Interior objects to the retention and participation of Mr. Smith in this investigation and in the preparation of the Interim Report. Under the circumstances, the Special Master should not continue this or any other investigation.


**CONCLUSION**

For these reasons, and for the reasons stated in its Objections, Interior Defendants object to the Special Master's Interim Report.

Dated: May 13, 2003

Respectfully submitted,

ROBERT D. McCALLUM, JR.  
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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 to Supplement its  
Objections to SM's Interim Report

			<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		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>

LAW OFFICE

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

ADMITTED IN DC AND MD

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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

EXHIBIT C

Defs' Motion to Supplement its



		<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 Appendix 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); Mmotion 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; t/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	\$59,771.03
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>



American Indian,  
Service-Disabled  
Veteran Owned 8(a)

# NAID, Inc.

9706 Pennsylvania Avenue  
Upper Marlboro, Maryland 20772  
(301) 599-7085, Fax (301) 599-7087  
[www.naid.com](http://www.naid.com)

Copy

January 7, 2003

Carl Howbbee  
Contracting Officer  
Office of the Special Trustee  
Trust Acquisition and Support Services  
505 Marquette N.W., Suite 1402  
Albuquerque, NM 87102

Reference: Settlement Claim for Termination for the Convenience of the Government  
Contract OST02CT0005

03 JAN - 8 AM 10: 05

OST-TRUST ACQUISITION  
SUPPORT SERVICES

Dear Mr. Howbbee,

NAID acknowledges receipt of the letter from Keith Kennedy dated January 6, 2003, responding to our December 26, 2002 letter.

Our conclusion from the letter is that neither Mr. Kennedy nor you are interested in reaching a settlement of the claim and that you continue your pattern of acting in bad faith and retaliating against NAID. In the time it took Mr. Kennedy to respond to our letter, we could have settled the claim, if that had been your wish. Regrettably, this is apparently not the case.

It is important for NAID to restate some of the facts surrounding this settlement:

First, we have retained the services of counsel because we are dealing with a government agency that is refusing to negotiate with us in good faith. Rather, we have been the target of retaliation; allegations of which are still under investigation by the Court Appointed Special Master. We have retained counsel because we need the protection of the law, as the contracting officer is no longer our advocate. In response to your specific questions, Mr. Ruther's rate of \$250 per hour is considered low for legal representation in the Washington, DC area. The number of hours that he has charged is the minimum necessary to draft the claim, research the regulations and the law, meet with and advise NAID, read and understand the contract documents and correspondence, research the FAR requirements regarding termination for convenience, research case law regarding termination for convenience, read and understand the NAID appeals and the Government's denial of these appeals, review the invoicing and billing and determine the amount of the claim, advise the corporate executives on appropriate actions and decisions, and provide general legal advice regarding NAID corporate issues surrounding the termination action.

Second, this is a **FIXED PRICE** contract. In your questions regarding the costs, you assume that this is a cost reimbursement or time and materials contract. This is not the case. Keep in mind that you and your staff determined that this contract would be **FIXED PRICE**, not NAID. You now have to live with the consequences of your decision. One of the consequences is that NAID sustained no reduction in our costs as a result of the government's termination actions. NAID is entitled to recover these costs, and any lost profits, that resulted from the government's actions. Moreover, the government's actions increased our costs as we were forced to seek the advice of counsel.

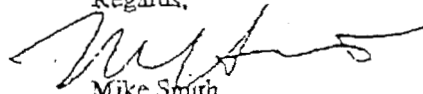
Third, it is now over four and a half months since you terminated the contract, and we have not yet begun settlement negotiations. NAID submitted our final invoice, with the intent of beginning negotiations, on August 22, 2002, immediately after you issued your termination letter. The Prompt Payment Act requires you to return improper invoices in seven days, yet you took two months (until October 18, 2002) to respond and return the invoice with specific instructions. This is one more piece of evidence that you are acting in bad faith and not following the Federal Acquisition Regulations and the law.

Fourth, in our protests of both the EDS contract award and the OST solicitation for management support, we asked that your decision be reviewed by a higher authority within the Department of the Interior. This request is allowed in, and consistent with, the FAR. Yet this higher authority review did not occur. This is another example that you are acting in bad faith and not following the Federal Acquisition Regulations and the law.

Finally, in our December 26, 2002 letter, NAID requested that you issue a contracting officer's decision within 60 days, IAW FAR Part 33.211(c)(1). We stand ready to negotiate the settlement at your convenience.

In the future, address all correspondence and negotiations to our counsel, Neil Ruther at 29 West Susquehanna Avenue, Suite 610, Towson, Maryland 21204. He may be reached at (410) 337-6888, and fax (410) 337-0636.

Regards,



Mike Smith,  
Executive Vice President

CC: Bob Faithful, DOI SADB  
Debra Sonderman, DOI Director of the Office of Acquisition and Property Management  
Lyndia Smith, SBA Cognizant  
Alan Balaraq, Special Master

CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on May 13, 2003 I served the foregoing *Interior Defendants' Motion to Supplement Its Objections to the Interim Report of the Special Master Regarding the Filing of Interior's Eighth Quarterly Report* and *Interior Defendants' Objections to the Interim Report of the Special Master Regarding the Filing of Interior's Eighth Quarterly Report* 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

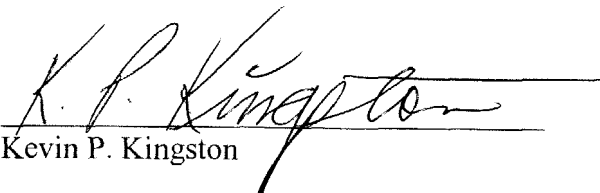
By U.S. Mail upon  
Elliott Levitas, Esq:  
1100 Peachtree Street, Suite 2800  
Atlanta, GA 30309-4530

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