

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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

Case No. 1:96CV01285  
(Judge Lamberth)

**NOTICE OF FILING OF THE EIGHTEENTH QUARTERLY REPORT  
FOR THE DEPARTMENT OF THE TREASURY**

The Department of Treasury has prepared its *Eighteenth Quarterly Report on Action Taken By the Department of the Treasury to Retain IIM-Related Documents Necessary For an Accounting* and submits it to the Court in accordance with the Order of December 21, 1999.

A copy of the report is attached hereto.

Dated: June 1, 2004

Respectfully submitted,  
ROBERT D. McCALLUM, JR.  
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/s/ John T. Stemplewicz  
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CERTIFICATE OF SERVICE

I hereby certify that, on June 1, 2004 the foregoing *Notice of Filing of the Eighteenth Quarterly Report for the Department of the Treasury* was served by Electronic Case Filing, and on the following who is not registered for Electronic Case Filing, by facsimile:

Earl Old Person (*Pro se*)  
Blackfeet Tribe  
P.O. Box 850  
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/s/ Kevin P. Kingston  
Kevin P. Kingston



DEPARTMENT OF THE TREASURY  
BUREAU OF THE PUBLIC DEBT  
WASHINGTON, DC 20239-0001

June 1, 2004

MEMORANDUM FOR: ROBERT D. McCALLUM, JR.  
ASSOCIATE ATTORNEY GENERAL  
U.S. DEPARTMENT OF JUSTICE  
CIVIL DIVISION

FROM: BRIAN L. FERRELL   
CHIEF COUNSEL  
BUREAU OF THE PUBLIC DEBT  
DEPARTMENT OF THE TREASURY

SUBJECT: EIGHTEENTH QUARTERLY REPORT  
*COBELL, ET AL. v. NORTON, ET AL.*

Included with this cover memorandum is the "Eighteenth Quarterly Report on Actions Taken by the Department of the Treasury to Retain IIM-Related Documents Necessary for an Accounting" (the "Report"). The Report has been prepared by the Department of the Treasury pursuant to the Court Order and Opinion in *Cobell, et al. v. Babbitt, et al.* (D.D.C. CV No. 96-1285), filed December 21, 1999.

The Report includes information concerning the Financial Management Service, ("FMS"), Bureau of the Public Debt ("BPD") and certain Departmental Offices ("DO"). The Report was prepared based on information provided by a number of program offices from the above-described organizations. The preparation of the Report included circulation of drafts of the Report to program offices that are responsible for the actions described in the Report. Comments were received from those offices and incorporated in the Report.

Prior to submitting the Report to the Department of Justice, senior officials of FMS, BPD and DO reviewed a final draft of the Report.

The Department of the Treasury stands ready, in accordance with the Court's order, to respond to any questions or concerns the Court may have after reviewing the Report and attachments thereto.

**EIGHTEENTH QUARTERLY REPORT ON ACTIONS TAKEN  
BY THE DEPARTMENT OF THE TREASURY TO RETAIN  
IIM-RELATED DOCUMENTS NECESSARY FOR AN ACCOUNTING**

*Cobell, et al. v. Norton, et al.*

D.D.C. CV No. 96-1285

June 1, 2004

This is the Department of the Treasury's ("Treasury") Eighteenth Quarterly Report, filed pursuant to the Court's December 21, 1999 Order ("Order") in the above-captioned case. It covers activities occurring over a three-month period from March 1, 2004 through May 31, 2004. The Order requires Treasury to report on the steps it has taken since the last quarterly report to rectify a single breach of its trust responsibilities, namely the destruction of IIM trust materials after their age exceeded six years and seven months. Cobell, et al. v. Babbitt, et al., 91 F. Supp. 2d 1, 50, 59 (D.D.C. 1999).

Treasury continues to preserve IIM-related documentation pursuant to the Court's August 12, 1999 Order, which defines the trust records that Treasury must retain. Treasury also continues to supply payment information to support Interior's ongoing historical accounting projects.

As previously reported in Treasury's Fourteenth Quarterly Report filed June 2, 2003, Treasury notified Justice and the Special Master, on May 27, 2003, of the possibility of some data loss in a Microsoft Exchange database because of a hardware failure in the email system used by Departmental Offices (DO). Since then, Treasury has provided the Court with several updates and other information about the work being done to address this event, in Treasury's Fifteenth and Sixteenth Quarterly Reports filed September 2, 2003 and December 1, 2003.

Since the September 2, 2003 quarterly report, Treasury's IT staff has worked with a consultant to identify a viable technical solution, ordered two 1TB Firewire cards and external disk drives, and prepared its servers to run these utilities. The Firewire cards and disk drives have been installed and the target servers have been configured to support the data restore and the ESEUTIL and ISINTEG utility processes. Before the ESEUTIL and ISINTEG utilities can be run, Treasury must load a pristine copy of the Exchange database from a backup tape onto a storage area network (SAN). While this is technically possible, Treasury must first address an unexpected situation. Treasury recently determined that its copy of the Microsoft Exchange database contains some classified information. The rules governing the handling of classified information strictly limit the ability to use the SAN, because the SAN is not secure enough for storage of classified information, even temporarily. DO's IT staff has developed a proposal to address the situation. The proposal is being reviewed by Treasury officials with responsibility for ensuring compliance with the rules for handling classified information. As we have in the past, we will keep the Court informed of our progress.

On March 5, 2004, Financial Management Service (FMS) issued a reminder letter to each bank that formerly acted as Treasury's financial agent, reminding them to continue to retain, indefinitely, records associated with Interior's deposits to Treasury's General Account. A copy of the letter is annexed hereto as Attachment A.

On March 22, 2004, the Treasury Relations and Support Office of the Federal Reserve Bank of St. Louis issued an email to its Treasury business leaders, district liaisons and product office contacts, throughout the Federal Reserve System, instructing them to remind their staffs to continue following established record retention procedures for this litigation and to review their procedures to ensure that any Treasury records transferred among offices continue to be retained. The email also confirmed that each Federal Reserve Bank has a process in place for reminding new employees of the retention requirements.

In April 2004, Treasury hosted a series of records and information management briefings and training events attended by senior executive managers and employees. The series included briefings on electronic records preservation and discovery and The Sedona Principles.

## **INDEX TO ATTACHMENTS**

*The Department of the Treasury's Eighteenth Quarterly Report  
June 1, 2004*

**Attachment A**      Example of March 5, 2004 letter sent by FMS to all banks that formerly acted as Treasury's financial agents, reminding them to continue to retain, indefinitely, records associated with Interior's deposits to Treasury General Accounts at those banks.



DEPARTMENT OF THE TREASURY  
FINANCIAL MANAGEMENT SERVICE  
WASHINGTON, D.C. 20227

Attachment A

March 05, 2004

Dear Sir:

Please continue to follow the instructions stated in FMS' letters to your financial institution dated July 9, 1999, August 2, 1999, December 16, 1999, September 7, 2000, February 15, 2001, August 17, 2001, February 15, 2002, August 15, 2002, January 22, 2003, and August 11, 2003 regarding document retention. Due to ongoing litigation [Cobell, et al. v. Norton, et al., Civ. No. 1-96CV01285 (D. D.C.)], your financial institution must retain, until further notice:

Standard Form 215, Standard Form 5515 and any supporting documentation, IN ALL FORMS AND MEDIA, associated with transactions relating to deposits received from the Department of the Interior for credit to the Treasury's General Account (TGA). This includes paper, electronic, microfilm, microfiche, or any other media.

If you have not already done so, please designate a point of contact at your financial institution to disseminate these record retention instructions to appropriate personnel at your organization (including records management personnel). Please ensure that an appropriate dissemination process is in place and is being followed at your financial institution.

If these retention instructions create a problem for your operations, please send your concerns in writing to the Financial Services Division at 401 14th Street, S.W., Room 304B, Washington, DC 20227, as soon as possible.

Thank you for your continuing cooperation in this matter. If you have any questions, you may contact Leo Warring at (202) 874-7148 or me at (202) 874-6762.

Sincerely,

A handwritten signature in cursive script that reads "Alexa Urban".

Alexa Urban, Director  
Financial Services Division  
A/C Federal Finance