

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al.,)
)
Plaintiffs,)
)
v.) Case No. 1:96CV01285
) (Judge Robertson)
DIRK KEMPTHORNE, Secretary of the Interior,)
et al.,)
)
Defendants.)
_____)

**NOTICE OF FILING OF THE THIRTY-THIRD QUARTERLY REPORT
FOR THE DEPARTMENT OF THE TREASURY**

The Department of the Treasury has prepared its *Thirty-Third Quarterly Report on Actions 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 this Court's Order of December 21, 1999.

A copy of the report is attached hereto.

Dated: March 3, 2008

Respectfully submitted,
JEFFREY S. BUCHOLTZ
Acting Assistant Attorney General
MICHAEL F. HERTZ
Deputy Assistant Attorney General
J. CHRISTOPHER KOHN
Director

/s/ John J. Siemietkowski
ROBERT E. KIRSCHMAN, Jr.
(D.C. Bar No. 406635)
Deputy Director
JOHN J. SIEMIETKOWSKI
Trial Attorney
Commercial Litigation Branch
Civil Division
P.O. Box 875
Ben Franklin Station
Washington, D.C. 20044-0875
Phone (202) 514-3368
Fax (202) 514-9163

CERTIFICATE OF SERVICE

I hereby certify that, on March 3, 2008 the foregoing *Notice of Filing of the Thirty-Third 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
Browning, MT 59417
Fax (406) 338-7530


/s/ Kevin P. Kingston
Kevin P. Kingston



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

March 3, 2008

MEMORANDUM FOR: JEFFREY S. BUCHOLTZ
ACTING ASSISTANT ATTORNEY GENERAL
CIVIL DIVISION
U.S. DEPARTMENT OF JUSTICE

FROM: PAUL G. WOLFTEICH 
CHIEF COUNSEL
BUREAU OF THE PUBLIC DEBT
DEPARTMENT OF THE TREASURY

SUBJECT: THIRTY-THIRD QUARTERLY REPORT
COBELL v. KEMPTHORNE

Included with this cover memorandum is the "Thirty-Third 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 v. Babbitt* (D.D.C. CV No. 96-1285), filed December 21, 1999.

The Report includes information concerning the Financial Management Service ("FMS"), the 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. Senior officials of FMS, BPD and DO reviewed the Report before it was submitted to the Department of Justice.

The Department of the Treasury stands ready to respond to any questions or concerns the Court may have after reviewing the Report.

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

Cobell v. Kempthorne

March 3, 2008

This is the Thirty-Third Quarterly Report filed by the Department of the Treasury (“Treasury”) 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 December 1, 2008 through February 29, 2008. The Order requires Treasury to report on the steps it has taken since the last quarterly report to preserve IIM-related documents.

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. During the past quarter, Treasury again issued reminders to ensure the retention of required records. The reminders Treasury issued include letters reminding banks (see Attachments A and C), the National Archives and Records Administration (NARA) (see Attachments D and E), Secret Service (see Attachment B), and employees of the Financial Management Service (FMS) and Bureau of the Public Debt (BPD) (see Attachments F and G) to continue preserving records related to this litigation. Retention instructions to pertinent Departmental Office (DO) employees continue to be posted on DO’s intranet site (see Attachment H).

We also note that, on January 3, 2008, Kenneth R. Papaj retired from his position as Commissioner of FMS with more than 34 years of federal service. On January 4, 2008, Judith R. Tillman succeeded Ken Papaj as Commissioner. Also on January 4, 2008, David A. Lebryk, formerly Deputy Director (since October 2002) and Acting Director (from August 2005 to September 2006) of the U.S. Mint, assumed his new role as Deputy Commissioner of FMS.

INDEX TO ATTACHMENTS

The Department of the Treasury's Thirty-Third Quarterly Report

- Attachment A** February 12, 2008 letters issued by FMS to Mellon Bank and Bank America, reminding them to continue preserving all records pertinent to two lockbox accounts used to process IIM deposits (the accounts at both banks are now closed).
- Attachment B** February 7, 2008 letter issued by FMS, reminding the U.S. Secret Service to continue preserving, until further notice, all Treasury checks that FMS forwards for investigation and related information and records.
- Attachment C** Example of February 2008 Business Alert Message issued by FMS to all banks that act as Treasury's financial agents and February 6, 2008 letter issued 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 the Treasury General Account.
- Attachment D** February 11, 2008 letter from BPD to NARA, reminding NARA to continue the "freeze" on BPD records at Federal Records Centers.
- Attachment E** February 21, 2008 letter from FMS to NARA, reminding NARA to continue the "freeze" on FMS records at Federal Records Centers.
- Attachment F** Global e-mail issued February 27, 2008 to all FMS employees, and posted on FMS' intranet site, reminding employees to continue retaining records related to this litigation indefinitely and to continue utilizing the "Cobell Archive" mailbox to retain all IIM-related e-mail.
- Attachment G** Global e-mail issued February 27, 2008 to all BPD employees, and posted on BPD's intranet site, reminding employees to continue preserving IIM-related records indefinitely and sending all IIM-related e-mail to BPD's dedicated mailbox.
- Attachment H** Retention instructions to DO employees, posted on DO's intranet site, including steps for sending e-mail documents to DO's dedicated "Cobell" mailbox.



DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
WASHINGTON, D.C. 20227
February 12, 2008

Mr. David H. Dunlap, Vice President
Mellon Bank
Mellon Client Service Center
500 Ross Street; Suite 154-1360
Pittsburgh, PA 15262-0001

Re: Minerals Management Service Lockbox Account
Agency Location Code 14170001, Lockbox Number 911-4258

Dear Mr. Dunlap:

As you know, FMS remains under continuing court orders in Cobell, et al. v. Norton, et al. and various cases brought by Indian tribes to preserve, indefinitely, all records relating to Individual Indian Money (IIM) and tribal trust funds and assets. Accordingly, please continue to retain all documentation pertaining to the above-referenced lockbox account until further notice. You have confirmed that the records for this account include:

Standard Form 215
Standard Form 5515
ACH Receiving Remittance/Payment Report
Demand Deposit Account Activity Statements
any forms used to facilitate internal processing, such as the CASH-LINK II
Deposit Report Form

You must retain the records for this account IN ALL FORMS AND MEDIA generated for the account. This includes paper, electronic, microfilm, microfiche, or any other media. If you create the same record in multiple media, you must retain the record in all media.

Please distribute this letter to appropriate bank personnel, including records management personnel. If you have any questions regarding these retention instructions, please contact me at (202) 874-6847. Thank you for your continued cooperation.

Sincerely,

A handwritten signature in black ink that reads "Michael Mackay". The signature is written in a cursive style with a large, sweeping "M" and "A".

Michael Mackay
Director
General Revenue Collection Division



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

February 12, 2008

Mr. Stephen C. Herndon, Senior Vice President
Bank of America
Federal Government Banking Division
600 Peachtree Street, NE
Atlanta, GA 30308-2214

Re: Bureau of Indian Affairs –Palm Springs Lockbox Account (closed 11/1/05)
Agency Location Code 00004844, Lockbox Number 72758

Dear Mr. Herndon:

As you know, FMS remains under continuing court orders in Cobell, et al. v. Norton, et al. and various cases brought by Indian tribes to preserve, indefinitely, all records relating to Individual Indian Money (IIM) and tribal trust funds and trust assets. Notwithstanding the fact that the above-referenced lockbox account was closed effective November 1, 2005, please continue to retain all documentation pertaining to the account until further notice. You have confirmed that the account records include:

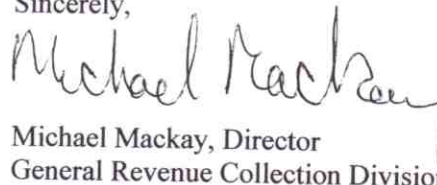
Standard Form 215
Standard Form 5515
Check copies
Monthly Account Activity Reports (MAAR)
Monthly Account Activity Statements (MAAS)
Standard Listing
Any forms used to facilitate internal processing, such as the Daily Balance Sheet

Your bank must continue to retain the records for this account IN ALL FORMS AND MEDIA that were generated. Accordingly, notwithstanding that your bank began generating photocopies of the checks associated with this account on October 1, 2001, you must continue retaining any duplicate copies on microfilm, unless and until FMS obtains court approval for your bank to retain only pre-October 2001 microfilm copies and post-September 2001 photocopies.

Please distribute this letter to appropriate bank personnel, including records management personnel. If you have any questions regarding these retention instructions, please contact me at (202) 874-6847.

Thank you for your continued cooperation.

Sincerely,


Michael Mackay, Director
General Revenue Collection Division

cc: Linda S. Corbett, Senior Vice President, Bank of America



DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
HYATTSVILLE, MD 20782

FEB -7 2008

Mr. Michael Stenger
Assistant Director,
Office of Investigations
U.S. Secret Service
950 H Street, N.W.
Washington, D.C. 20223

Re: Document Retention Requirements

Dear Mr. Stenger:

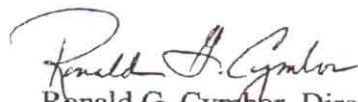
This letter is to serve as a reminder that Treasury remains subject to continuing court orders in Cobell, et al. v. Norton, et al. and various cases brought by Indian tribes to retain, indefinitely, "every document, [datum/data] or tangible thing . . . containing information that is relevant to, or is reasonably calculated to lead to the discovery of admissible evidence relevant to, the subject matter involved in the pending litigation." Copies of these orders and Treasury's stipulation in the Cobell case were provided with previous letters to the Secret Service. Please let me know if you need additional copies of these documents.

As stated in previous reminder letters to the Secret Service, among the types of records that Treasury must preserve to comply with these court orders are all Treasury checks and check-related records. Accordingly, please continue to preserve, until further notice, all Treasury checks that FMS forwards to your bureau for investigation and all information and records your bureau maintains relating to those checks. Please continue to take all steps necessary to determine and document that all such records in the possession of Secret Service are being preserved indefinitely.

If you have any questions concerning these court retention orders, please contact Terri Dawson in the FMS Chief Counsel's office at (202) 874-6877, or me, at (202) 874-7913.

Thank you for your continued cooperation and assistance.

Sincerely,


Ronald G. Cymbor, Director
Check Resolution Division

cc: Thomas Dougherty, Office of Chief Council, U.S. Secret Service – Fax# 202-406-6544

[Business Alert Message (BAM) for Current TGAs]

This is a reminder to continue preserving records in accordance with FMS' prior instructions to your financial institution. As stated in prior Business Alert Messages, due to ongoing litigation 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 the 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 instructions to appropriate personnel at your organization (including records management personnel). Please also ensure that an appropriate dissemination and compliance process is in place to ensure these instructions are being followed at your financial institution.

If these retention instructions create a problem for your operations, please send your concerns in writing to the Over-the-Counter Revenue Collection Division (OTCD) at 401 14th Street, S.W., Room 307C, Washington, DC 20227, as soon as possible.

If you have any questions, contact the Federal Reserve Bank of St. Louis at 1-866-771-1842 or Ava Singleton at (202) 874-9986.



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

February 27, 2008

Dear Sir or Madam:

This is a reminder to continue preserving records in accordance with FMS' prior instructions to your financial institution.

As stated in our initial Letter dated July 9, 1999 and each successive reminder letter, including our most recent reminder letter dated September 13, 2007, due to ongoing litigation, 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 any such records formerly maintained by the financial institutions shown on the attached list, now in your possession, custody or control. 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 and compliance process is in place to ensure these instructions are being followed at your financial institution.

If these retention instructions create a problem for your operations, please send your concerns in writing to the Over-the-Counter Revenue Collection Division (OTCD) at 401 14th Street, S.W., Room 307C, Washington, DC 20227, as soon as possible.

Thank you for your continuing cooperation in this matter. If you have questions, the first point of contact is the Federal Reserve Bank of St. Louis at 1-866-771-1842. Should you have further questions, feel free to contact Ava Singleton on (202) 874-9986.

Sincerely,

A handwritten signature in black ink that reads "Corvelli A. McDaniel".

Corvelli A. McDaniel, Director
Over-the-Counter Revenue Collection Division (OTCD)
A/C Federal Finance



DEPARTMENT OF THE TREASURY
BUREAU OF THE PUBLIC DEBT
PARKERSBURG, WV 26106-1328

February 11, 2008

National Archives and Records Administration
Life Cycle Management Division
Attention: Stephen Cooper
8601 Adelphi Road
College Park, MD 20740-6601

Re: Suspending Destruction

Dear Mr. Cooper:

As you are aware, the Bureau of the Public Debt (BPD), Department of the Treasury, has been under court order since August 1999 to preserve all documents relating to the pending litigation, Cobell v. Kempthorne, et al., which challenges the government's management of the Individual Indian Monies (IIM).

The purpose of this letter is to remind you that BPD remains under court order to preserve records indefinitely for purposes of the Cobell litigation. Therefore, we request that the Federal Records Centers continue to implement the freeze on all records from BPD Record Groups 53 and 82 and preserve all such records until further notice.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Judi Owens".

Judi Owens, Manager,
Graphics, Printing, and Records Branch



DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
HYATTSVILLE, MD 20782

February 21, 2008

Thomas E. Mills
Assistant Archivist for Regional Records Services
National Archives and Records Administration
Office of Regional Records Services
8601 Adelphi Road, Suite 3600
College Park, MD 20740

Dear Mr. Mills:

The purpose of this letter is to remind you that Financial Management Service (FMS), a bureau of the U.S. Department of the Treasury, remains under court order to preserve records indefinitely for purposes of the Cobell, et al. v. Norton, et al. litigation. Therefore, we request that the Federal Records Centers continue to implement the freeze on all records from FMS Record Groups 39, 50 and 425 and preserve all such records until further notice.

If you have any questions, you may contact Charles Brett at (202) 874-6156. Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "S. King".

Sharon M. King, Director
Administrative Programs Division



Cobell and Tribal Litigation – FMS Retention Requirements

To: Office of the Commissioner
Debt Management Services
Federal Finance
Governmentwide Accounting
Information Resources
AC Management
Payment Management
Austin
Birmingham
Kansas City
Philadelphia
San Francisco

Date: 02/27/2008
Expires in: Never
From: William Higgins
Subject: Cobell and Tribal Litigation – FMS Retention Requirements
Date: February 27, 2008

To: All FMS Employees

From: Judy Tillman
Commissioner

Subject: Cobell and Tribal Litigation – FMS Retention Requirements

All FMS employees are again reminded that *FMS* remains subject to continuing court orders and Treasury directives, requiring us to retain and safeguard all documents, data and tangible things that relate to Individual Indian Money (IIM) and Tribal trust funds and assets, indefinitely.

To ensure that we remain in compliance with all court orders and directives, please continue to adhere to the following FMS requirements:

Do not destroy any documents, data or tangible things unless you received written approval from the Chief Counsel. This rule applies to all documents, data and tangible things, whether litigation-related or not. Prepare a disposition request, following the instructions contained in the Chief Counsel's March 7, 2000 memorandum entitled "Process for Obtaining Disposition Approval" (posted on the FMS intranet on the "Cobell/Tribal Litigation" page). The only exception to this rule is for "obvious non-record materials," as described in the attached "Quick Reference Guide."

Attachment F
(2 of 4)

Continue copying or forwarding all Cobell-related and Tribal-related e-mail and other electronic documents to their respective dedicated mailboxes (“Cobell Archive@fms” for IIM-related e-mail/electronic documents and “Tribal Mailbox@fms” for Tribal-related e-mail/electronic documents). To insert a mailbox address on an e-mail, simply type “Cobell: or “Tribal” and press the “Enter” key. You may delete your copy of any e-mail or other electronic document sent to these mailboxes.

Promptly forward any voicemail messages that relate to *any tribe* to FMS’ dedicated “Tribal” voicemail repository. Following are step-by-step instructions for forwarding voicemail messages to the repository:

Press “1” after (or while listening to) a new or saved message;

Then press “2” to forward with comment;

Voice a comment to include (1) the tribe’s name when applicable, e.g., “Message

for Tribal mailbox-Crow tribe,” (2) the identity of the caller, (3) the time and date of the message, (4) the duration of the message, and (5) the caller’s extension, and press #;

Enter extension 91313, and press #;

After the prompts, press #, and then press # again to send (forward).

Do not archive (move) data from any FMS electronic production systems that contain litigation-related data, except pursuant to a written archive plan that has been approved by the Commissioner’s Office. Please refer to the Deputy Commissioner’s March 24, 2000 memorandum entitled “Maintenance of Data on FMS Systems” (posted on the FMS intranet on the “Cobell/Tribal Litigation” page) for more information about this requirement.

Do not attempt to give guidance on record retention matters to Federal Reserve Bank

personnel. Please refer all such questions to Terri Dawson at (202) 874-6877.

I appreciate your continued compliance with these instructions and encourage you to review the pertinent memoranda posted on the FMS intranet. To locate the memoranda, double click on the icon for Internet Explorer. This moves you to FMS’ intranet. Under “News” or “Hot Topics”, click on “Cobell/Tribal Litigation.”

If you have questions or need assistance regarding any of these retention requirements, please do not hesitate to contact Terri Dawson at (202) 874-6877.

Thank you.

Attachment

“A Quick Reference Guide”

REMEMBER: PRESERVE ALL INTERIOR/INDIAN-TRUST-RELATED MATERIAL!!

OBVIOUS NONRECORD MATERIALS	
These may be destroyed without the approval of the Chief Counsel	
Categories	Examples
1. Non-Treasury/FMS Material	Office supply catalogs vendor marketing materials non-FMS publications/manuals, such as phone books, Federal Register, dictionaries, "Lotus Notes for Dummies," etc.
2. Treasury/FMS Distribution/Reference Material	attendee's copy of handouts received at meetings, training, etc. employee's copy of work-related organization charts, phone lists, Treasury Correspondence Manual, etc. employee's copy of FMS publications, such as "Fiscal Scene" excess stocks of FMS marketing materials, such as Direct Deposit brochures notices received re: IT security, scheduling of meetings & van rides, training, "acting" managers, voting leave, etc.
3. Personal Papers	notices received re: retirements, deaths, TSP, CFC, PTI, Flex Account, etc. employee's copy of T&A, payroll, personnel, etc. records (except travel records/receipts) printouts of non-Federal Web pages that were not used for FMS business non-FMS-related calendars/reminders recipes, poems, cartoons, etc.
4. Other	printer banner pages and printer failure reports interim drafts created but never circulated to anyone duplicates of any of the examples in these four categories.

[Click here for more information on Cobell Litigation](#)

Attachment F
(4 of 4)

Nancy Fleetwood/BPD
02/12/2008 05:22 PM

To All - BPD (Business use only!)
cc
bcc
Subject Record retention

I'd like to remind all employees that BPD remains subject to a court order that governs the retention of records relating to the Individual Indian Money (IIM) trust fund and IIM trust assets. To ensure compliance with this court order, you should not destroy any documents or data pertaining to the following subjects without written approval from the Chief Counsel or his designee:

- IIM deposit fund investment records;
- IIM accounts and accounts held in trust by the Department of the Interior;
- Savings bonds held in trust form of registration by the Department of the Interior;
- Correspondence (internal and external) relating to Individual Indian Money; and
- Electronic communications, such as e-mails and Internet messages, relating to the subject above, unless those communications have been forwarded to the *Cobell* mailbox.

You should continue to copy or forward all e-mails relating to the IIM trust fund, IIM trust assets, and the *Cobell* litigation to the dedicated IIM Mailbox. To insert the mailbox address on an e-mail, simply type "IIM Mailbox" and press the "Enter" key.

The Federal Reserve Banks have also been instructed not to destroy any fiscal agency records unless they have received specific permission in writing from Treasury authorizing the destruction. Please refer any inquiries from FRB personnel regarding record retention to Jimmy Phillips at (202) 504-3683, fax number (202) 504-3630. Don't attempt to give guidance on record retention matters to any FRB employee.

I appreciate your continued compliance with these instructions and encourage you to occasionally review the pertinent memoranda and e-mails, which are posted on PD Web under the Office of the Chief Counsel's (OCC) website. Just click on the office link "OCC" and then click on "*Cobell v. Kempthorne*," which appears in the "Litigation" section.

Thanks again for the great support you have shown in helping Public Debt comply with a very challenging court order.

Nancy



DONET

DEPARTMENTAL OFFICES INTRANET

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Litigation Obligations and Directives

Office of the General Counsel

Tom McGivern - (202) 622-2317

Below are memoranda explaining the scope of the Departmental Offices' legal obligations in pending cases to retain certain documents and records that may be needed as evidence in those cases.

- Directive From General Counsel To All Departmental Offices Employees Concerning Cobell Litigation
- Litigation-Related Document Retention and Search Obligations

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Litigation Obligations and Directives

Office of the General Counsel

Directive From General Counsel To All Departmental Offices Employees Concerning Cobell Litigation

By order of the Court in Cobell v. Norton, Departmental Offices employees must preserve all documents and records, whether in paper, electronic, or other form, that are relevant to any aspect of the government's responsibilities with respect to the Individual Indian money trust. Such responsibilities include, but are not limited to, management, administration, collection, disbursement, investment, and accounting of trust funds.

To comply with the various court orders to which we are subject in Cobell v. Norton, to make it easier to manage and retrieve electronic mail as needed, and to help ensure that our electronic mail will continue to operate, I am requesting that you do the following things:

Step One: Search for Previous E-Mails You Have Sent or Received

Search your e-mail, including "Inbox," "Drafts," "Message Log," and all "Folders" and "Archives," for anything that relates in any way to the Cobell litigation, Individual Indian Monies, or Department of Interior investments on behalf of Individual Indians. Forward any e-mails that you find on this subject (including attachments and retaining forwarding history) to "Cobell" or Cobell@do.treas.gov. In an effort to manage electronic mail, we have created this dedicated mailbox for Cobell-related and/or discussions relating to Individual Indian Money account.

Step Two: E-Mails That You Send in the Future

Beginning immediately, send a "cc" (not a "bcc") of all e-mails (including attachments) that you initiate, that relate in any way to the Cobell litigation, Individual Indian Monies or Department of Interior investments on behalf of Individual Indians, to "Cobell."

Step Three: E-Mails That You Receive in the Future

Also beginning immediately, forward all e-mails that you receive (including attachments and retaining forwarding history) that relate in any way to the Cobell litigation, Individual Indian Monies or Department of Interior investments on behalf of Individual Indians, to "Cobell," unless you can tell from the message that the e-mail has already been sent to the "Cobell."

If you have questions on this process or the retention of documents, call Thomas McGivern, Counselor to the General Counsel, at 622-2317.

If you need help in formulating e-mail searches or forwarding messages, or have questions on the "Cobell" mailbox, contact the HelpDesk at 622-1111.

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GENERAL COUNSEL

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

AUG 6 2007

MEMORANDUM TO ALL DEPARTMENTAL OFFICES EMPLOYEES

FROM: ROBERT F. HOYT 

SUBJECT: Obligation to Retain Materials for Indian Litigation

The Department of the Treasury remains involved in numerous lawsuits filed by Native American individuals and tribes alleging that the U.S. Government owes an accounting for their trust funds or has mismanaged their trust funds and property. To ensure compliance with court retention orders and other litigation responsibilities, **Departmental Offices employees must retain all materials -- whether in paper, electronic (including e-mail or voice-mail), or tangible form -- that meet any of the criteria described below.** These criteria are broader than legally required and are designed only for Departmental Offices materials.

1. Materials that mention or relate to Individual Indian Money or Individual Indian Money accounts.
2. Materials that mention or relate to tribal funds or tribal fund accounts. For example, material relating to the depositing, investing, disbursing, or accounting of tribal funds must be retained.
3. Materials that mention or relate to any delay between the issuance of government checks and the redemption of investments in government accounts to cover those checks -- sometimes called "check float." This criterion is not limited to Indian or tribal trust funds.

Attached are instructions for retaining e-mails and voice-mails by forwarding them to dedicated mailboxes.

You are required to retain these materials until further notice from this Office. If you have questions regarding the retention of particular materials, please contact Peter Bieger, Deputy Assistant General Counsel (Banking and Finance) at (202) 622-1975. The retention orders from *Cobell v. Kempthorne* and the tribal trust lawsuits are located on Treasury's intranet at <http://home.do.treas.gov/litigations> and are incorporated herein by reference. This memorandum takes the place of earlier instructions issued in connection with the *Cobell* and tribal trust lawsuits. Thank you for your continued attention to this important matter.

Attachment: Instructions for using the dedicated Cobell and tribal mailboxes for retaining e-mails and voice mails.

Attachment

Instructions for using the dedicated Cobell and tribal mailboxes for retaining e-mails and voice-mails

Cobell materials retention procedures

To retain e-mails:

1. Send a "cc" (not a "bcc") of all e-mails (including attachments) that you initiate, that relate in any way to Individual Indian Money or Individual Indian Money accounts, to the dedicated e-mailbox at the following mailbox address: *cobell@do.treas.gov* or just *Cobell*.

2. Forward any e-mail that you receive, or have previously received and not already forwarded, (including attachments and retaining forwarding history) that relate in any way to Individual Indian Money or Individual Indian Money accounts, to the dedicated e-mailbox at the following mailbox address: *cobell@do.treas.gov* or just *Cobell*, unless you can tell from the message that the e-mail has already been sent to the dedicated e-mailbox.

Tribal trust materials retention procedures

To retain e-mails:

1. Send a "cc" (not a "bcc") of all e-mails (including attachments) that you initiate, that relate in any way to (a) tribal funds or tribal fund accounts or (b) any check float afforded to any invested government account, to the dedicated e-mailbox at the following mailbox address: *tribal@do.treas.gov* or just *tribal*. Please ensure that the tribe's name, if any, is included in the subject heading.

2. Forward any e-mail that you receive, or have previously received and not already forwarded, (including attachments and retaining forwarding history) that relate in any way to (a) tribal funds or tribal fund accounts or (b) any check float afforded to any invested government account, to the dedicated e-mailbox at the following mailbox address: *tribal@do.treas.gov* or just *tribal*, unless you can tell from the message that the e-mail has already been sent to the dedicated e-mailbox.

To retain voice-mails:

Forward all applicable voice messages that relate in any way to (a) tribal funds or tribal fund accounts or (b) any check float afforded to any invested government account, to the dedicated voice-mailbox in accordance with the following instructions:

- press 1 after (or while listening to) a new or saved message;
- press 2 to forward with comment;
- voice a comment and identify the relevant tribe, if any (e.g., "Message for tribal mailbox-Jicarilla Tribe"), then press #;
- enter extension 91313, then press #;
- press #, then press # again to send (forward).

At the request of the Department of Justice, please review the header of each voice message being forwarded and, when voicing a comment include the identity of the caller, the time and date of the message, the duration of the message, and the extension of the caller.

Please note that the *Cobell* and tribal e-mailboxes have been copied on the e-mail message conveying this memorandum.