

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al., )  
 )  
 Plaintiffs, )  
 )  
 v. ) Case No. 1:96CV01285  
 ) (Judge Lamberth)  
 GALE NORTON, Secretary of the Interior, et al., )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

**NOTICE OF FILING OF THE TWENTY-FIFTH QUARTERLY REPORT  
FOR THE DEPARTMENT OF THE TREASURY**

The Department of the Treasury has prepared its *Twenty-Fifth 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 1, 2006

Respectfully submitted,  
ROBERT D. McCALLUM, Jr.  
Associate Attorney General  
PETER D. KEISLER  
Assistant Attorney General  
STUART E. SCHIFFER  
Deputy Assistant Attorney General  
J. CHRISTOPHER KOHN  
Director

/s/ Robert E. Kirschman  
ROBERT E. KIRSCHMAN, Jr.  
(D.C. Bar No. 406635)  
Assistant Director  
Commercial Litigation Branch  
Civil Division  
P.O. Box 875  
Ben Franklin Station  
Washington, D.C. 20044-0875  
Phone (202) 616-0328  
Fax (202) 514-9163

CERTIFICATE OF SERVICE

I hereby certify that, on March 1, 2006 the foregoing *Notice of Filing of the Twenty-fifth 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 1, 2005

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

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

SUBJECT: TWENTY-FIFTH QUARTERLY REPORT  
*COBELL v. NORTON*

Included with this cover memorandum is the "Twenty-Fifth 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 and its attachments.

**TWENTY-FIFTH 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.*

March 1, 2006

This is the Department of the Treasury's ("Treasury") Twenty-fifth Quarterly Report, 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, 2005 through February 28, 2006. 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. This quarter, Treasury again issued reminders to ensure the continued retention of required records. The reminders issued this quarter include letters reminding the National Archives and Records Administration (NARA) (see Attachments A and D), Secret Service (see Attachment B), financial agent banks (see Attachments C and G), and a contractor (see Attachment E) to continue retaining pertinent records. In addition, Financial Management Service (FMS) and the Bureau of the Public Debt (BPD) again reminded their employees, by global e-mail, to continue preserving records related to this litigation (see Attachments F and H). Retention instructions to Departmental Offices (DO) employees continue to be posted on DO's intranet site (see Attachment I).

In Treasury's Twenty-fourth Quarterly Report, we stated that no further steps were planned to ascertain the effects, if any, of the hardware failure that occurred on DO's local area network on May 7, 2003. Attached is a report summarizing the findings and conclusions of Treasury's technical contractor on this issue. (See Attachment J.)

## **INDEX TO ATTACHMENTS**

*The Department of the Treasury's Twenty-fifth Quarterly Report*

*March 1, 2006*

- Attachment A** February 3, 2006 letter from FMS to NARA, reminding NARA to continue the “freeze” on FMS records at Federal Records Centers.
- Attachment B** February 6, 2006 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** February 7, 2006 letters mailed by FMS to the two banks (Mellon Bank and Bank of America) that administer lockboxes for IIM deposits, reminding them to continue preserving all records pertinent to those lockbox accounts.
- Attachment D** February 8, 2006 letter from BPD to NARA, reminding NARA to continue the “freeze” on BPD records at Federal Records Centers.
- Attachment E** February 9, 2006 letter from FMS Contracting Officer Robert Romano to Didlake, Inc., reminding Didlake, Inc. to continue retaining closed check claims case records indefinitely.
- Attachment F** Global e-mail issued February 14, 2006 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** Examples of February 2006 Business Alert Message sent by FMS to all banks that act as Treasury’s financial agents and February 24, 2006 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 the Treasury General Account.
- Attachment H** Global e-mail issued February 27, 2006 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 I** Retention instructions issued to DO employees and posted on DO’s intranet site, including a copy of the General Counsel’s Directive dated January 22, 2004, and steps for sending e-mail documents to DO’s dedicated “Cobell” mailbox.
- Attachment J** Report dated February 27, 2006, summarizing the findings and conclusions of Treasury’s technical contractor on the issue of the hardware failure that occurred on DO’s local area network on May 7, 2003.



DEPARTMENT OF THE TREASURY  
FINANCIAL MANAGEMENT SERVICE  
HYATTSVILLE, MD 20782

February 3, 2006


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,

  
Sharon M. King, Director  
Administrative Programs Division



DEPARTMENT OF THE TREASURY  
FINANCIAL MANAGEMENT SERVICE  
HYATTSVILLE, MD 20782  
FEB -6 2006

Brian K. Nagel  
Assistant Director,  
Office of Investigations  
U.S. Secret Service  
950 H Street, N.W.  
Washington, D.C. 20223

Re: Document Retention Order in Cobell, et al. v. Norton, et al.  
Civ. No. 1-96CV01285 (D.D.C.)

Dear Mr. Nagel:

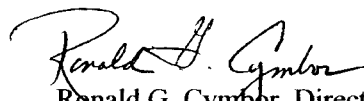
This is a reminder that Treasury remains subject to a continuing court order in the above-referenced lawsuit, requiring Treasury to retain, indefinitely, "all documents and data relating to Individual Indian Money trust funds and Individual Indian trust assets." Copies of the document retention order entered in the case on August 12, 1999 and Treasury's Stipulation filed with the court on July 6, 1999 were provided with some of our previous reminder letters to Secret Service, including our reminder letter dated August 26, 2003. Please let me know if you need copies of those documents.

As stated in our previous letters to Secret Service (dated January 14, 2000, October 13, 2000, February 28, 2001, August 29, 2001, August 28, 2002, February 12, 2003, August 26, 2003, January 16, 2004, August 2, 2004, February 2, 2005, and August 10, 2005), among the types of records that Treasury must preserve to comply with the court order and Stipulation 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 the Cobell document retention order and Stipulation, please contact Beth Kramer in the FMS Chief Counsel's office, at (202) 874-7036, or me, at (202) 874-7913.

Thank you for your continued cooperation and assistance.

Sincerely,

  
Ronald G. Cymbor, Director  
Financial Processing Division



DEPARTMENT OF THE TREASURY  
FINANCIAL MANAGEMENT SERVICE  
WASHINGTON, D.C. 20227  
February 7, 2006

Attachment C  
(1 of 2)

Ms. Elaine Friedman, Vice President  
Mellon Bank  
Mellon Client Service Center  
Suite 1260  
Pittsburgh, PA 15259-0001

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

Dear Ms. Friedman:

As you know, FMS remains under a continuing court order in Cobell, et al. v. Norton, et al. to preserve, indefinitely, all records relating to Individual Indian Money (IIM) trust funds and trust 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 cursive script that reads "Sheryl R. Morrow".

Sheryl R. Morrow, Director  
General Revenue Collection Division





DEPARTMENT OF THE TREASURY  
FINANCIAL MANAGEMENT SERVICE  
WASHINGTON, D.C. 20227  
February 7, 2006

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  
Agency Location Code 00004844, Lockbox Number 72758

Dear Mr. Herndon:

As you know, FMS remains under a continuing court order in Cobell, et al. v. Norton, et al. to preserve, indefinitely, all records relating to Individual Indian Money (IIM) trust funds and trust 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
- Check copies
- Monthly Account Activity Reports (MAAR)
- Monthly Account Analysis Statements (MAAS)
- Standard Listing
- Any forms used to facilitate internal processing, such as the Daily Balance Sheet

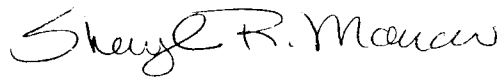
You must retain the records for this account IN ALL FORMS AND MEDIA generated for the account. This includes paper, electronic, microfilm, microfiche, or any other media. If you create the same record in multiple media, you must retain the record in all media.

As of this time, the Court has not acted on Treasury's July 9, 2001 Motion to replace the existing August 12, 1999 retention order in this case. Accordingly, notwithstanding that you began generating photocopies of 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 to retain only pre-October 2001 microfilm copies and post-September 2001 photocopies.

Page 2 – Mr. Herndon

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 cursive script that reads "Sheryl R. Morrow".

Sheryl R. Morrow, Director  
General Revenue Collection Division

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



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

February 8, 2006

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. Norton, 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,

Vicki Thorpe, Manager,  
Graphics, Printing, and Records Branch  
Records Officer

Financial Management Service  
**memorandum**

**Attachment E**

February 9, 2006

Didlake, Inc.  
Attn: Victoria Tanner, Project Manager  
3700 East-West Highway, Room B-014  
Hyattsville, MD 20782

Re: FMS Contract Number TFMS-HQ-04-K-0001 (formerly FHQ99D51295)

Dear Ms. Tanner:

Please continue to ensure that appropriate personnel at your company who perform work for FMS under the referenced contract are aware of, and are complying with, FMS' longstanding instructions to retain, indefinitely, all check claims related records. Such records include microfiche copies of closed check claims case files, original documents contained in such files (including original TFS 1133 claim forms), and any supporting information or documentation associated with same.

Our letter to you dated August 7, 2001 included a copy of the retention order issued August 12, 1999 in the Cobell, et al. v. Norton, et al. litigation. If you need another copy of the retention order, please let me know.

Please make FMS aware of any concerns you may have regarding these instructions. You may contact the COTR, Marilyn Haynes, at (202) 874-8883 or Alicia Steele, at (202) 874-7027, if you have any questions.

Thank you for your continued cooperation.

Sincerely,



Robert Romano  
Contracting Officer

cc: Marilyn Haynes, COTR  
Beth Kramer, Office of Chief Counsel  
File

*FMS — Quality People — Quality Service*



## Official FMS Business

[<BR>]

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**To:** Office of the Commissioner Agency Services Debt Management Services Federal Finance Financial C  
Governmentwide Accounting Information Resources AC Management Regional Operations HQ Austr  
Birmingham Kansas City Philadelphia San Francisco

**Date:** 02/14/2006

**From:** William Higgins

**Subject:** Cobell and Tribal Trust Litigation - FMS Retention Requirements

---

Date: February 14, 2006

To: All FMS Employees

From: Richard L. Gregg  
Commissioner

Subject: Cobell and Tribal Trust 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 the court orders and directives, **please continue to adhere to the following FMS requirements:**

1. Do not destroy any documents, data or tangible things unless you have 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."
2. 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 Cobell-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.

3. Promptly forward any voicemail messages that relate to the Jicarilla Apache Nation or The Pueblo of Laguna Tribe to FMS' dedicated "Tribal" voicemail repository. Step-by-step instructions for forwarding voicemail messages to the repository are provided in my March 26, 2004 memorandum (posted on the FMS intranet on the "Cobell/Tribal Litigation" page).
4. 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.
5. 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 or to Beth Kramer at (202) 874-7036.

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 Netscape Navigator. 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 or Beth Kramer at (202) 874-7036.

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
<b>1. Non-Treasury/FMS Material</b>	<ul style="list-style-type: none"> <li>• Office supply catalogs</li> <li>• vendor marketing materials</li> <li>• non-FMS publications/manuals, such as phone books, Federal Register, dictionaries, “Lotus Notes for Dummies,” etc.</li> </ul>
<b>2. Treasury/FMS Distribution/Reference Material</b>	<ul style="list-style-type: none"> <li>• attendee’s copy of handouts received at meetings, training, etc.</li> <li>• employee’s copy of work-related organization charts, phone lists, Treasury Correspondence Manual, etc.</li> <li>• employee’s copy of FMS publications, such as “Fiscal Scene”</li> <li>• excess stocks of FMS marketing materials, such as Direct Deposit brochures</li> <li>• notices received re: IT security, scheduling of meetings &amp; van rides, training, “acting” managers, voting leave, etc.</li> </ul>
<b>3. Personal Papers</b>	<ul style="list-style-type: none"> <li>• notices received re: retirements, deaths, TSP, CFC, PTI, Flex Account, etc.</li> <li>• employee’s copy of T&amp;A, payroll, personnel, etc. records (<u>except</u> travel records/receipts)</li> <li>• printouts of non-Federal Web pages that were not used for FMS business</li> <li>• non-FMS-related calendars/reminders</li> <li>• recipes, poems, cartoons, etc.</li> </ul>
<b>4. Other</b>	<ul style="list-style-type: none"> <li>• printer banner pages and printer failure reports</li> <li>• interim drafts created but never circulated to anyone</li> <li>• duplicates of any of the examples in these four categories.</li> </ul>

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



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## Cobell/Tribal Litigation Home Page

FMS is under continuing court orders to preserve certain documents indefinitely for purposes of the Cobell and tribal trust lawsuits. All employees must adhere to the instructions contained in the following documents, until further notice.

Cobell:

1. **Commissioner Richard L. Gregg's August 30, 1999 memorandum** directing all FMS employees to preserve indefinitely all documents and data relating to IIM trust monies. This memorandum includes the court's August 12, 1999 retention order and a list of the types of records FMS must preserve. *Note that the records FMS must retain for the Cobell litigation include not only IIM-related records but certain entire categories of records that FMS agreed to retain, regardless of whether they are IIM-related (for example, all Treasury checks).*
2. **The Deputy Chief Information Officer's July 2, 1999 guidelines** for utilizing the "Archive" Cobell mailbox.
3. **The Deputy Chief Information Officer's May 30, 2000 e-mail** which reiterates the policy for using the "Archive Cobell" mailbox. It also provides guidance for using the mailbox with Lotus Notes e-mail.
4. **Deputy Commissioner Kenneth R. Papaj's March 3, 2000 memorandum** (revised and reissued March 24, 2000) to Assistant Commissioners, entitled "Maintenance of Data on FMS Systems."
5. **Chief Counsel Debra N. Diener's March 7, 2000 memorandum** to Assistant Commissioners, outlining the requirements for seeking approval to dispose of documents not pertinent to pending litigation.
6. **Commissioner Gregg's February 14, 2006 memorandum** reminding All FMS Employees of records retention requirements, including the rule that no documents, data or tangible things can be destroyed without written approval from the Chief Counsel (with the exception of "obvious non-record materials"). Includes a copy of the "Quick Reference Guide" describing "obvious non-record materials".

Tribal:

1. **Commissioner Gregg's April 2, 2002 memorandum to Assistant Commissioners** directing that all tribal trust fund documents be preserved.
2. **Commissioner Gregg's March 26, 2004 memorandum to Assistant Commissioners and Chief Counsel**, requiring that email and voicemail messages related to two tribes (The Pueblo of Laguna and Jicarilla Apache Nation) be forwarded to dedicated "Tribal" mailboxes, and providing detailed instructions for using those mailboxes.

All questions should be directed to the Office of Chief Counsel at 874-6680.

**OCC Welcome Page**



**[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 our initial letter dated July 9, 1999 and each successive reminder letter, including the most recent Broadcast Administrative Message issued in August 2005, 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 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 at 401 14th Street, S.W., Room 307C, Washington, DC 20227.

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



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

Attachment G  
(2 of 2)

February 24, 2006

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 August 9, 2005, 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 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 any 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,

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

## Attachment H

Anne Meister/BPD

02/27/2006 04:35 PM

To All - BPD (Business use only!)

cc IIM Mailbox@BPD

Subject IMPORTANT REMINDER TO ALL EMPLOYEES

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
- Electronic communications, such as e-mails and Internet messages, relating to the subjects 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. Norton*," 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.

# DO NET

departmental offices intranet



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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.

JAN 22 2006

## IMMEDIATE ACTION

## MEMORANDUM TO ALL DEPARTMENTAL OFFICES EMPLOYEES

**FROM:** ARNOLD I. HAVENS *AH*  
GENERAL COUNSEL

**SUBJECT:** Document Retention Obligations in Cobell v. Norton (Individual Indian Money or "IIM" Litigation)

Previously, this Office has instructed Departmental Offices employees to preserve documents in the Cobell v. Norton litigation. This directive serves as a reminder to employees as to their obligations.

To ensure compliance with court orders in Cobell, 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, regardless of NARA-approved record disposition schedules. Such responsibilities include, but are not limited to, management, administration, collection, disbursement, investment, and accounting of trust funds.

For purposes of preserving e-mails, I am requesting that you do the following:

1. 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 Monies or Department of Interior investments on behalf of individual Indians, to the dedicated mailbox for Cobell-related e-mails and/or e-mails relating to Individual Indian Money accounts. The dedicated mailbox address is Cobell@do.treas.gov or just Cobell.
2. Forward any e-mail that you receive (including attachments and retaining forwarding history) that relate in any way to the Cobell litigation, Individual Monies or Department of Interior investments on behalf of individual Indians, to the dedicated mailbox for Cobell-related e-mails and/or e-mails relating to Individual Indian Money accounts, unless you can tell from the message that the e-mail has already been sent to the dedicated mailbox. The dedicated mailbox address is Cobell@do.treas.gov or just Cobell.

Please note that the Cobell mailbox has been copied on the e-mail message conveying this directive.

If you have any questions about this process or the retention of documents, please call Brian Ferrell, Chief Counsel, Bureau of the Public Debt, at 691-3715.

If you have any questions about the Cobell mailbox, please contact the HelpDesk at 622-1111.

MEMORANDUM FOR RORY SCHULTZ  
OCIO

FROM:

GORDON L. SMITH  
CHIEF ENGINEER  
BAE SYSTEMS INFORMATION TECHNOLOGY

 2/27/2006

SUBJECT:

*Cobell v. Norton: Technical summary of data analysis*

A. Background

There was a hardware failure in the Departmental Offices local area network ("DO LAN") on May 7, 2003. The OCIO has previously reported to the *Cobell* court on efforts to assess the effects, if any, of the hardware failure. This report describes the final steps taken to analyze data from back up tapes made shortly after the hardware failure.

B. Discussion

The OCIO made a copy of the electronic mail message data stored on backup tapes of the DO LAN, including the two main servers "MS-01" and "MS-02." The copy of the backup tape data was stored on "stand-alone" hard drives so that the data could be analyzed to assess, if possible, the effects of the hardware failure in May 2003. The presence of classified information in the data necessitated strict security precautions. The backup tapes are securely stored and were not analyzed.

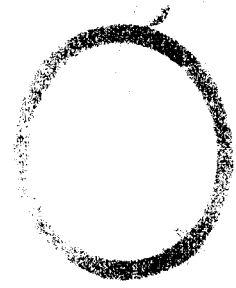
The servers run Microsoft Exchange software. Three Microsoft Exchange utilities were run on the data on the hard drives.

1. ISINTEG utility.

The first utility, ISINTEG, checks the integrity of the Exchange "logical structure." The logical structure comprises the information displayed to the user in Microsoft Outlook (the DO email software) including all mailboxes, all folders in a mailbox, all messages in each folder, and all attachments. There were no errors detected in the logical structure. This means that for each message stored, there is a corresponding data page(s) in the database holding the data for that message.

2. ESEFILE utility.

The second utility, ESEFILE, was run to check the accuracy of each page in the database and to check that there are no missing pages. The Exchange data from one or more email messages is stored on 4 kilobyte ("KB") pages in a database. These pages are sequentially numbered. When data is written to one of these pages, a check is run against the page and this value is stored in the page header. ESEFILE then runs another check against each page and compares that to the original value stored in the page header. ESEFILE also checks to ensure there are no



missing pages. In addition, when the database automatically expands to allow more data to be written, pages to which no data has been written are known as "Uninitiated" pages. The Uninitiated pages reported by ESEFILE are the number of pages that never contained any data.

ESEFILE reported that server MS-01 had 77,935,618 pages and MS-02 had 79,241,986 pages. MS-01 had 6,371 Uninitiated pages and MS-02 had 310,320 Uninitiated pages. ESEFILE reported that there were no pages with 'bad' check and no pages with wrong page numbers. The results of the ESEFILE utility indicate the original data written to each page has not changed and that all pages are still present in the database.

### 3. ESEUTIL

The third utility run is called ESEUTIL. ESEUTIL has an "assessment" mode and a "defragmentation" mode. ESEUTIL in assessment mode is run to obtain information about "Disassociated" pages. Disassociated pages are pages that do not have corresponding messages. For example, a user may start typing a message but delete the message without saving or sending the message. These pages are normally "cleaned up" during regular system maintenance. I am informed that the OCIO was not able to perform regular system maintenance at the time of the hardware failure because of the large size of the database. The large database was created because of the decision to retain all data (including all email) in order for DO to meet the discovery obligations in the litigation.

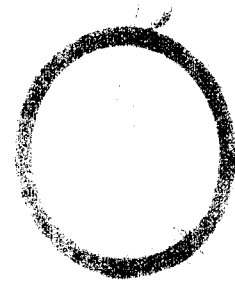
The ESEUTIL utility was run in assessment mode but failed to run completely after multiple starts. Consultation with Microsoft technical personnel indicated that the only way to successfully run the utility would be to run it in defragmentation mode. In this mode, the utility goes through the database and copies all good data to a new database but deletes Disassociated pages since it sees them as bad data. Running the utility in this mode was successfully completed on 24 October, 2005. The utility reported that all data in the database is complete.

	MS01	MS02
Size of the Database before ESEUTIL	312GB	317GB
Size of the Database after ESEUTIL	299GB	275GB
Difference	13GB	42GB

("GB" = gigabyte.)

The size of the database went down after running ESEUTIL in the defragmentation mode. Since the utility ran with no errors, it is my professional judgment that the risk that any data about email messages was lost is minimal.

The size of the databases is smaller after defragmentation because Uninitiated and Disassociated pages are not copied to the new database. In addition, "white space" is not copied to the new database. (If an email message does not fill an entire 4KB page, the remaining space may be too small to store another message. This unused extra space is not copied to the new database.)



At the time of the hardware failure, the Microsoft Exchange database had grown so large that system maintenance could not be performed, including system maintenance that would eliminate Uninitiated and Disassociated pages. Consequently, it is highly likely that there would be a significant number of Disassociated pages.

C. Results.

Based on the results from the utilities (ISINTEG, ESEFILE, and ESEUTIL), combined with our experience in running the Exchange Store (*e.g.*, we have never had a user report that a particular email message could not be retrieved), we can conclude that: (1) the Exchange data on both servers is in a very stable condition; (2) the likelihood that any data loss occurred, or that any specific email message was lost, is minimal.

The hardware failure occurred while the email system was processing messages in and out of the DO LAN system. The utilities we have run are unable to tell us whether any such messages were lost. The utilities are also unable to tell us the parameters of any loss except the difference between the size of the database before and after defragmentation. The Unassociated pages, Disassociated pages and white space are a significant portion of the difference and almost certainly all of it. However, it is not possible to tell for certain that every message ever sent or received by the DO LAN is still in the Microsoft Exchange data store.

D. Conclusion.

In my professional judgment, and the judgment of Microsoft technical personnel, the utilities that have been run exhaust the options for assessing the effects (if any) of the hardware failure. Accordingly, I have no further steps to recommend.