



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240



SEP 21 1999

Memorandum

To: PMB Office Heads

From: John Berry
Assistant Secretary - Policy, Management and Budget

Subject: Electronic Mail Retention Involving Trust Reform or the *Cobell* Litigation

Attached is a memorandum from the Deputy Solicitor, dated ~~September 15, 1999~~, subject as above. We in PMB are deeply involved in virtually all aspects of trust reform as well as the ongoing *Cobell* litigation. In addition we have department wide responsibility for records management. Thus, it is especially important that you ensure that every employee (including new employees) in your office receives a copy of this memorandum and fully understands and complies with its content.

Attachment



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MEMORANDUM

To: Bob Anderson, Bureau of Land Management
John Berry, Assistant Secretary for Policy, Management and Budget
Charles Breece, Office of Hearings & Appeals
Kevin Gover, Assistant Secretary for Indian Affairs
Joan Killgore, Minerals Management Service
John Lesky, Solicitor's Office
Anne Shields, Chief of Staff
Tom Thompson, Office of the Special Trustee

From: Ed Cohen *EC*
Deputy Solicitor

Date: September 15, 1999

Re: Electronic Mail Retention Involving Trust Reform or the Cobell Litigation

This memorandum is to clarify the Department's obligations on the retention of electronic mail which relates to the Cobell v. Babbitt litigation, the High Level Implementation Plan and its sub-projects, IIM trust administration, and trust reform. These instructions are separate from the Department's general policy on retention of electronic mail and other documents, and are specifically tailored to respond to the unique requirements placed upon the Department by this litigation. The reason for sending this memorandum at this time is that in recent discussions regarding our on-going duty to retain documents, questions were raised regarding how electronic mail should be preserved.

As you know, all personnel should print and properly file a paper copy of all electronic mail messages (including all transmission data in the message) and attachments, whether sent or received, which discuss: 1) the Cobell litigation, 2) the High Level Implementation Plan or any of its sub-projects, 3) IIM trust administration, or 4) trust reform. This includes all e-mails, regardless of whether the substance of a particular message is contained in subsequent messages. Adopting this approach ensures that transmission and recipient information is preserved to the greatest extent possible. This also includes electronic messages which may not be considered Federal records, such as messages received for informational purposes only, arranging meetings, and other non-records. Also, until instructed otherwise, once messages and attachments have been copied and filed properly, personnel should not delete email messages until they have remained on their computer overnight in order to ensure they are captured on non-archival back-up tapes.

These instructions apply to all Department personnel. If electronic mail is sent to or received from individuals outside the Department, departmental employees are also required to print and file these messages.

Each individual is responsible for filing and storing the printed copies of these electronic messages. The Court may require you to produce copies of these messages to supplement existing discovery requests or to comply with future discovery requests. We will be working with your senior contact for document production should we need to collect these documents for production.

Please ensure that this memo is distributed to all personnel in your office who may have electronic mail relating to the subjects mentioned above. If you have any questions, please do not hesitate to contact Steve Swanson at 219-1660 or Sabrina McCarthy at 219-2139 in Room 6040.