

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al.,)
)
 Plaintiffs,)
)
 v.)
)
 DIRK KEMPTHORNE, Secretary of the Interior,)
 et al.,)
)
 Defendants.)
 _____)

Case No. 1:96CV01285
(Judge Robertson)

**DEFENDANTS’ MOTION FOR LEAVE TO DISCLOSE CERTAIN POTENTIAL
HEARING EXHIBITS AFTER THE SCHEDULED EXCHANGE DATE**

Defendants hereby move for leave to disclose certain forthcoming reports as potential trial exhibits for the October 10, 2007 hearing after the scheduled exhibit exchange date of August 31, 2007. The forthcoming reports are to be produced by FTI Consulting, a contractor of the Department of the Interior, on or about September 30, 2007. These reports include an overall report and individual reports by region. The overall report is tentatively titled “Department of the Interior Office of Historical Trust Accounting Data Completeness Validation Report - Interim Report, September 30, 2007.” Regional reports are expected to cover the following regions: the Alaska Region (Juneau Area), the Pacific Region (Sacramento Area), the Western Region (Phoenix Area), the Northwest Region (Portland Area), the Great Plains Region (Aberdeen Area), and the Rocky Mountain Region (Billings Area). They are probative as to the current status of the Department of the Interior’s historical accounting work and may be used at trial to provide up-to-date analyses of the data sets that the Department of the Interior is using to conduct the historical accountings for beneficiaries. However, the analyses and updated reports are not due to be completed until on or about September 30, 2007. Defendants presently plan to

list these reports as potential exhibits and, with the Court's permission, will disclose these potential exhibits to Plaintiffs once they are available.

Plaintiffs are not likely to suffer prejudice from the timing of the disclosure because the Administrative Record already contains an earlier status report on the project titled "Data Completeness Validation Interim Status Report." See Administrative Record, Doc. No. 382. Plaintiffs will also have several days between the time they receive the completed reports and the start of the hearing. Accordingly, Defendants respectfully move for permission to disclose these potential exhibits after the scheduled exchange date.¹

Dated: August 24, 2007

Respectfully submitted,
PETER D. KEISLER
Assistant Attorney General
MICHAEL F. HERTZ
Deputy Assistant Attorney General
J. CHRISTOPHER KOHN
Director

/s/ Robert E. Kirschman, Jr.
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¹ Counsel for Defendants conferred with Plaintiffs' counsel regarding this motion and Plaintiffs' counsel stated that Plaintiffs intend to oppose this motion.

CERTIFICATE OF SERVICE

I hereby certify that, on August 24, 2007 the foregoing *Defendants' Motion for Leave to Disclose Certain Potential Hearing Exhibits after the Scheduled Exchange Date* 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*)
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/s/ Kevin P. Kingston
Kevin P. Kingston

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FOR THE DISTRICT OF COLUMBIA

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ELOUISE PEPION COBELL, <u>et al.</u> ,)	
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Plaintiffs,)	
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v.)	Case No. 1:96cv01285 (JR)
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DIRK KEMPTHORNE,)	
Secretary of the Interior, <u>et al.</u> ,)	
)	
Defendants.)	
_____)	

ORDER

This matter comes before the Court on *Defendants' Motion for Leave to Disclose Certain Potential Hearing Exhibits After the Scheduled Exchange Date*, filed August 24 2007 [Dkt. No. __].

Upon consideration of said Motion, any opposition and reply thereto, and the entire record of this case, it is hereby

ORDERED, that Defendants' Motion should be and hereby is GRANTED;

Dated: _____, 2007

Hon. James Robertson
UNITED STATES DISTRICT JUDGE