

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, <u>et al.</u> ,)	
)	
Plaintiffs,)	Civil Action No. 96-1285 (JR)
)	
v.)	
)	
DIRK KEMPTHORNE, Secretary of)	
the Department of the Interior,)	
<u>et al.</u> ,)	
)	
Defendants.)	

**DEFENDANTS’ RESPONSE TO PLAINTIFFS’
MAY 18, 2007 REQUEST FOR PRODUCTION**

In accordance with the instructions of the Court at the May 14, 2007 status hearing and Rules 26 and 34 of the Federal Rules of Civil Procedure, Defendants submit this response (“Response”) to Plaintiffs’ Request for Production, which was filed on May 18, 2007 [Dkt. 3326] (“Plaintiffs’ RFP”). During the status hearing, Plaintiffs assured the Court that their “view of discovery is not broad.” Tr. at 71 (May 14, 2007) [Dkt. 3328]. The Court expressed concern that discovery could “eat up most of the time that we all have to get ready for this trial in October,” Tr. at 73, but invited Plaintiffs “to prepare a . . . not broad request for production of documents,” and directed Defendants to file their objections so document discovery could be considered at the next hearing on June 18, 2007. Tr. at 75. This Response contains Defendants’ objections as requested by the Court, together with an explanation of our principal objections and, where appropriate, evidence supporting our objections. Defendants respectfully submit that the requested discovery should be denied for the reasons set forth below.

ARGUMENT

Despite assurances to the contrary, Plaintiffs' RFP seeks a massive document production. The request is sweeping in scope, unlimited in time, and poses several unduly burdensome tasks. Much of the information sought is utterly irrelevant to any aspect of the hearing slated for October 10, 2007, and the few topics that are relevant will be adequately covered by documents in the Administrative Record. Moreover, the breadth of Plaintiffs' RFP would as a practical matter require postponement of the October hearing until responsive documents could be produced. For these reasons and the other grounds set forth in this Response, Defendants object to Plaintiffs' RFP and respectfully urge the Court to quash the request in its entirety.¹

For the Court's convenience in understanding Defendants' objections to the requested discovery and as an aid to consideration of these issues at the next status conference, Defendants have organized their Response somewhat differently than the ordinary response to a document discovery request under Rule 34. The Response is divided into two principal parts. The first addresses four main categorical objections that militate strongly against all or a substantial portion of the requested discovery. The second part contains a detailed item-by-item response to each enumerated request. All of the categorical objections set forth in Part I should be viewed as an integral part of each individual response that follows in Part II. Should the Court rule in

¹ Mindful of the Court's expressed desire to address Plaintiffs' discovery requests and Defendants' objections at the next status conference on June 18, 2007 and to avoid unnecessary motion practice, Defendants are not formally moving to quash Plaintiffs' RFP. Nevertheless, the detailed grounds set forth in this Response for Defendants' asserted objections, as well as the attached supporting materials, provide ample basis for the Court to deny sua sponte all discovery sought by Plaintiffs' RFP.

Defendants' favor on the Part I objections, there should be little or no need to consider the additional, more individualized objections set out in Part II.

I. THE COURT SHOULD DENY PLAINTIFFS' DISCOVERY REQUESTS

A. Plaintiffs Make No Showing To Warrant Additional Discovery, Where Jurisdiction of the Court Rests Upon The Administrative Procedure Act

1. Interior Defendants Will File An Administrative Record That Addresses The Few Relevant Topics For Which Plaintiffs Seek Discovery

The Department of the Interior is compiling the Administrative Record ("AR") which will be filed with the Court and made available to Plaintiffs well in advance of the October 10, 2007 hearing. Following a review of Plaintiffs' RFP, the Interior Defendants have determined that they expect to provide documents in the AR that will be responsive to the following enumerated items in Plaintiffs' RFP: Request Nos. 5, 6 (in part), 10, and 18. The Interior Defendants also plan to include in the AR the following items sought by Request No. 20, as listed on Plaintiffs' Appendix C: Items 1, 2, 5, 8, 10, 11, 13-17, 21-23, 25, and 26 (for trust financials only).² Defendants respectfully submit that the materials included in the AR are the only documents relevant for purposes of the hearing set for October 10, 2007.

2. Plaintiffs Have Not Demonstrated A Need for Discovery Going Beyond the Administrative Record

The Court has indicated that it may deviate from a pure judicial review made upon the Administrative Record, given the history of this litigation. See Tr. at 43 (stating that it is "much too late in the game for an APA paper review of everything" and noting possibility of expert

² The provision of such documents as part of the AR, however, is not to be construed as a production made in response to Plaintiffs' RFP.

testimony). Defendants acknowledge and respect the Court’s view, but we respectfully submit that, as the Court determines the shape of the upcoming proceeding, it should conform to APA procedure as much as possible unless an identifiable and well-founded reason for departing from the established route to adjudication is clearly demonstrated. Because Plaintiffs’ complaint and the Court’s authority to hear Plaintiffs’ claims rest on the Administrative Procedure Act (“APA”), see Cobell v. Kempthorne, 455 F.3d 301, 304 (D.C. Cir. 2006); Cobell v. Babbitt, 30 F. Supp. 2d 24, 31-33 (D.D.C. 1998), APA procedure should serve as the default rule for the case.

The law is well-settled that discovery is ordinarily not permitted in an APA case. Only two acknowledged exceptions exist: (1) where there has been a strong showing of bad faith or improper behavior, or (2) “the rare case in which the record is so bare as to frustrate effective judicial review.” Community for Creative Non-Violence v. Lujan, 908 F.2d 992, 997-98 (D.C. Cir. 1990) (citing Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402 (1971)). Thus, discovery should be disfavored unless Plaintiffs make a strong showing of need.³ See also Commercial Drapery Contractors, Inc. v. United States, 133 F.3d 1, 7 (D.C. Cir. 1998).

3. Plaintiffs’ New Document Requests Neither Demonstrate A Need For Additional Discovery Nor Indicate Its Relevance

In their new document request, Plaintiffs ignore all APA case precedent disfavoring discovery and abandon any common sense understanding of a “not broad” request, opting instead for extensive document discovery from Defendants. Tellingly, Plaintiffs’ broad discovery demand contains not one proffer to justify the scope of any request or its relevance to either the

³ To the extent the District Court previously allowed some discovery in this case, see Cobell v. Norton, 226 F.R.D. 67 (D.D.C. 2005), we submit those previous decisions are no longer controlling, because the underlying rationale was later rejected by the Court of Appeals, Cobell, 455 F.3d at 317.

October hearing or this case. As Defendants demonstrate below, much of what Plaintiffs now seek lies well beyond any reasoned application of Federal Rule of Civil Procedure 26. It also defies boundaries on relevance that the Court has previously drawn. See Cobell v. Norton, 226 F.R.D. 67, 79-80 (D.D.C. 2005) (denying discovery of asset management matters). In several instances, the requests would impose withering search and production obligations on Defendants and most likely delay the October hearing.⁴ In some cases, Plaintiffs are demanding production of documents from Defendants that are available to anyone as public records. For still other requests, the documents sought are either already in Plaintiffs' possession (with some requested documents even offered through Plaintiffs' own website⁵) or were made available to Plaintiffs for inspection years ago, without Plaintiffs ever availing themselves of the opportunity. When the improper requests are set aside, what remains is a subset of relevant documents that the Interior Defendants plan to include as part of their AR. Plaintiffs will receive these documents when the AR is filed, and that disclosure negates any remaining justification Plaintiffs might muster in favor of their discovery request, particularly in view of the APA origins of the case.

⁴ See infra Part I. C.

⁵ See infra notes 22 and 23.

B. The Highly Individualized Discovery Plaintiffs Seek Is Contrary To The Class Action Scheme That Plaintiffs Have Elected To Use

Several of Plaintiffs' request seek discovery of huge volumes of documents that are relevant, if at all, only to individual IIM beneficiaries who may or may not be unnamed members of the plaintiff class. Several of Plaintiffs' requests⁶ seek this sort of information, but little of it is likely relevant to more than one person. Plaintiffs claim that there are "over 500,000" IIM beneficiaries,⁷ but even if that claim were accurate, there are not 500,000 co-plaintiffs in this case. The only co-plaintiff parties before the Court are the five named individual plaintiffs. More than ten years ago, the Court certified the five named individual party-plaintiffs to proceed as representatives on behalf of a class of IIM account holders. Order Certifying Class Action (February 4, 1997) [Dkt. 27]. In 2003, the Court removed Earl Old Person as a class representative on Plaintiffs' own motion,⁸ so there are now just four representative plaintiffs for the entire class: Elouise Pepion Cobell, Mildred Cleghorn,⁹ Thomas Maulson, and James Louis LaRose. See generally Plaintiffs' Revised Memorandum of Points and Authorities In Support of

⁶ Defendants' class action scope objection, as set out above, applies to Request Nos. 1-6, 9, 11-13, 15-17, 19, and 20 (Appendix C, Item 25).

⁷ See, e.g., Plaintiffs' Brief Regarding the Nature and Scope of the Historical Accounting and Exclusions from Defendants' Historical Accounting Plan at 10 n.6 (filed May 29, 2007) [Dkt. 3331].

⁸ Memorandum and Order of March 5, 2003 at 9-10 [Dkt. 1864].

⁹ Mildred Cleghorn died on April 15, 1997, and her interests have since been represented informally by her daughter and executrix, Penny Cleghorn. See Plaintiffs' Memorandum of Supplemental Information at 1-2 (March 22, 1999) [Dkt. 221] ("Mildred Cleghorn has died. Penny Cleghorn, her daughter, has now been appointed as her executrix and should be substituted as a plaintiff in that capacity.") Defendants do not know whether circumstances are now appropriate for Penny Cleghorn to be formally substituted for her mother as a party-plaintiff pursuant to Federal Rule of Civil Procedure 25(a).

Motion for Class Certification at 10-13 (January 14, 1997) [Dkt. 21]. As a certified class action, the claims of the four class representatives stand as Plaintiffs' chosen vehicle through which the claims of all class members will be judged or resolved. See generally Hansberry v. Lee, 311 U.S. 32, 41 (1940) (“[T]he judgment in a ‘class’ or ‘representative’ suit, to which some members of the class are parties, may bind members of the class or those represented who were not made parties to it.”); Geoffrey B. Hazard, *The Effect of the Class Action Device Upon the Substantive Law*, 58 F.R.D. 307, 310 (1973) (“unique characteristic [of the class action] is the assertion that a large number of individuals . . . should be considered essentially as one”). Thus, those claims should be the focal point of any discovery by Plaintiffs.

Considering the representative vehicle Plaintiffs elected to prove their own case, individualized discovery into unnamed class member accounts is neither necessary nor even relevant to the class proceeding, especially given the limited interim review that the Court has set for October 10, 2007. Unnamed account holders are not co-plaintiffs, nor are they jointly pursuing their own claims in this case. To the contrary, it would destroy the very efficiency of conducting this case as a class action if such individual issues were injected into the case. Consequently, discovery that concerns specific transactions or circumstances involving accounts of unnamed account holders is not needed for purposes of the October hearing.

Plaintiffs' RFP is therefore improper to the extent it seeks discovery inconsistent with the class action nature of this case. This objection applies to several requests in Plaintiffs' RFP, but Request No. 1 amply illustrates the merit of Defendants' class action scope objection. In Request No. 1, Plaintiffs seek “all documents, records, and tangible things” that “refer to or relate to the

IIM accounts” of thirty-eight individuals listed only by name on Appendix A to Plaintiffs’ RFP,¹⁰ as well as to accounts of all “predecessors-in-interest” of any persons named in Appendix A. The request seeks “without limitation, all documents reflecting the land, title, ownership interests, statements and disbursements for all allotments” relating to “the individuals on Appendix ‘A.’”¹¹ Although flawed in several other respects (as demonstrated *infra*, Part II. B.), Request No. 1 encompasses thousands upon thousands of pages of transaction records and related documentation. Plaintiffs baldly assert that these people are “IIM beneficiaries,” but they provide no evidence of that status, no account number, not even an address. There is no allegation that these claimed “beneficiaries” are even members of the class as defined.¹² Defendants (and the Court) are also left to divine who the predecessors are and their number.

More important, however, not one person named in Plaintiffs’ Appendix A is a named party-plaintiff. Wherever the requests lack a nexus to the claims of a representative party-plaintiff, Plaintiffs’ RFP veers off sharply into irrelevance. No one on Appendix A has an

¹⁰ Although Plaintiffs’ Appendix A, attached to their request, lists forty names, the last two names on that list appear to be duplicates.

¹¹ The full text of Request No. 1 is: “Produce all documents, records, and tangible things which embody, refer to or relate to the IIM accounts of the selected IIM beneficiaries listed in Appendix ‘A’ to this Request and their predecessors-in-interest, including, without limitation, all documents reflecting the land, title, ownership interests, statements and disbursements for all allotments for which any of the individuals on Appendix ‘A’ have or had a beneficial interest.” Plaintiffs’ RFP at 1.

¹² Class membership cannot be assumed. The class certified over a decade ago by the Court does not include every IIM account holder nor every owner of allotted land. For example, a land owner who never had an IIM account interest is not a class member; nor is a person who first became an IIM account holder after the date of class certification. The class is instead clearly defined as a “plaintiff class consisting of present and former beneficiaries of Individual Indian Money accounts (exclusive of those who prior to the filing of the Complaint herein had filed actions on their own behalf alleging claims included in the Complaint).” Order Certifying Class Action at 2-3 (February 4, 1997) [Dkt. 27].

individual claim before the Court. The merits of their claims are wedded to the pending outcome of the claims of the representative party-plaintiffs. Thus, the request is neither relevant to a claim or defense of any party nor reasonably calculated to lead to admissible evidence.

Moreover, the Court's consideration of such individual claims would do violence to the class action procedure. Each of the four class representatives' claims has been considered and found to be typical of the class as a whole, but no such assurance comes with anyone named in Plaintiffs' Appendix A. Because "typicality" is a prerequisite to class action treatment and because each class representative must be adjudged "adequate" to represent the class under Rule 23, Fed. R. Civ. P. 23(a), consideration of claims belonging individually to unnamed class members¹³ places the entire class proceeding in jeopardy. See General Tel. Co. of Southwest v. Falcon, 457 U.S. 147, 158 (1982) ("it was error for the District Court to presume that respondent's claim was typical of other claims"). In the ten years since certification of the class, Plaintiffs have never moved to amend their Complaint or to add new individuals as party-plaintiffs, and they tender no reason for ignoring the accounts of their chosen class representatives here.¹⁴ Either the class representation Plaintiffs have had for all this time is adequate and discovery should proceed accordingly, or Plaintiffs should have sought to amend their Complaint, as well as the class certification order, long ago in order to assure adequate class representation. As presently constituted, however, Request Nos. 1-6, 9, 11-13, 15-17, 19, and 20 (Appendix C, Item 25) are improper in light of the class action as presently certified.

¹³ We assume here, for sake of argument, that those listed on Plaintiffs' Appendix A are actually class members in this case, but the record lacks even this fundamental proof.

¹⁴ The change in focus is particularly odd when one considers that Plaintiffs already have had access to much, if not all, of the corresponding documentation for the named plaintiffs and their predecessors as a result of the Paragraph 19 exercise.

C. Even If Limited Additional Discovery Is Allowed, Plaintiffs' RFP Is Overbroad Because It Exceeds The Scope Of Discovery Already Defined By The Court And Includes No Reasonable Date Limits For Most Requests

In addition to the APA and class action objections asserted above, Plaintiffs' RFP is improper because many requests far exceed any reasonable limitation on the proper scope of discovery under Rule 26. In particular, Request Nos. 1-3, 5-9, 10-12, 14-17, 19, 20 (Appendix C, Items 3, 7, 11, 12, 19, 22, 24, 26 and 28) are objectionable as overly broad. Most of these defy discovery limits already established by previous decisions of the Court, which makes their impropriety easy to spot.

Subparagraph 26(b)(1) of the Federal Rules provides in pertinent part that:

Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party. . . . Relevant information need not be admissible at trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.

Fed. R. Civ. P. 26(b)(1) (emphasis added). In denying a motion by Plaintiffs to compel discovery in 2005, the Court stated that "the only 'live' claim in this litigation" involves the accounting mandated by the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. § 4041 et seq.). Cobell, 226 F.R.D. at 76. Consequently, the Court ruled that the "current scope of this case, and thus of general discovery under Rule 26, is limited to matters relevant to the plaintiffs' statutory claim that the defendants have breached their statutory duty to provide an accurate accounting of all money in the IIM trust held in trust for the benefit of the plaintiffs" Id. at 79. Plaintiffs' RFP ignores this established limitation on discovery in order to seek documents about such far flung matters as probate proceedings (Request No. 11), cadastral land surveys (Request No. 20, App. C, Item 28), land title (Request Nos. 1; 20, App. C, Items 19 & 20), land appraisals (Request No. 20, App. C, Item 24), other asset management issues (Request

Nos. 19; 20, App. C, Item 19, 22 & 24), and even tribal records (Request Nos. 8; 12; 15; 20, App. C, Items 3, 7, 11 & 26).

The Court has rebuffed Plaintiffs' previous efforts to expand the scope of discovery to reach land appraisals and should enforce the same reasonable limits here. See 226 F.R.D. at 79. The Court denied discovery concerning land appraisals because such discovery would delve into matters of asset management, and claims about how assets were managed are not part of this case. Id.; Cobell v. Norton, 220 F.R.D. 106, 109 (D.D.C. 2004) (denying discovery of "appraisal records for purposes of evaluating management of trust assets" because they "may stray beyond the scope of the underlying litigation"); Cobell v. Babbitt, 91 F. Supp. 2d 1, 18 (D.D.C. 1999) ("[A]sset management is not part of this lawsuit . . ."). Just as the Court ruled that land appraisal matters lie beyond the scope of discovery here, all other land management subjects – land title recordation, land surveys, and similar topics – lie outside the scope of discovery. Indeed, all other asset management matters – whether it be proceedings in probate, investigation into a loss or theft of funds, or investment of deposited funds by the government – involve asset management topics that lie beyond the sole live claim in this case and, thus, all fall outside the proper scope of discovery. Tribal records also lie beyond the proper boundary for discovery. Every request in Plaintiffs' RFP that seeks such irrelevant and needless discovery into non-IIM or non-accounting matters should be rejected.

Even as to the accounting documents Plaintiffs seek, most are relevant only to a consideration of specific, individual historical statements of account, but the October 10, 2007, hearing will be concerned with the adequacy of the accounting process, not the accuracy of individual statements of account. The upcoming hearing in October cannot be what the Court earlier conceived as a "Phase II" trial, because the accounting work is not complete.

Accordingly, individual transaction documentation will not be useful to the October hearing. Plaintiffs' RFP, however, seeks almost every piece of paper generated in connection with the historical accounting for judgment and per capita accounts, as well as for land-based accounts, regardless of their actual relevance to the hearing. It appears that Plaintiffs desire to embark on a fishing expedition prohibited by Rule 26 in order to reconstruct and review each and every discrete task of the historical accounting, effectively reenacting the whole undertaking, for self-selected subsets of the class. Plaintiffs proffer no basis for relevance, but even if some marginal relevance existed, the cost of affording the discovery, in terms of time, dollars, and distraction of employees from their regular duties (including, notably, the accounting itself), far exceeds its scant probative value. Therefore, even were this case considered an ordinary civil action, Plaintiffs' overreaching discovery demands run afoul of Rule 26 and should be denied.

Finally, many of Plaintiffs' requests are also unbounded as to time, and thus in many cases presumably expect Defendants to search a century or more of historical documents for responsive materials. Even requests that appear to relate to more contemporary events (such as Request Nos. 4 and 5, which relate to accountings for Judgment and Per Capita accounts) contain no time limitations, and thus could encompass (and would require a search of) documents created at any time. Such requests are overly broad. In no event should any request require Interior to search records prior to 1938, as the American Indian Trust Fund Management Reform Act of 1994, Pub. L. No. 103-412, 108 Stat. 4239 ("1994 Act") requires Interior to account for funds deposited "after the Act of June 24, 1938." Cobell v. Norton, 240 F.3d 1081, 1102 (D.C. Cir. 2001). See Defendants' Responding Brief Regarding the Nature and Scope of the Historical Accounting at 23-24 (June 11, 2007).

D. Several Requests Are Also Improper Because Of The Undue Burden They Would Impose On Defendants

Certain of the requests propounded in Plaintiffs' RFP also present formidable and undue burdens and may be rejected on that basis alone. Request No. 1, as already noted, seeks production of every transaction record, every land record, every check, every bookkeeping entry, as well as every piece of paper that relates to these underlying documents for thirty-eight individuals named on Appendix A to Plaintiffs' request. The request also seeks the same materials for every "predecessor in interest" of each of the thirty-eight persons appearing on Appendix A. Through this one request, Plaintiffs seek to reprise the mammoth document search undertaken in 1999, which became known as the "Paragraph 19" production. To summarize, this is the Court's own description of that exercise:

Paragraph 19 of the court's November 27, 1996 First Order of Production required all of the defendants to produce "[a]ll documents, records, and tangible things which embody, refer to, or relate to IIM accounts of the five named plaintiffs or their predecessors in interest." First Order of Production of Information ¶ 19. This language was proposed to the court by agreement of the parties. Transcript of November 27, 1996 Status Call at 3. As proposed by the parties, this first order required production "as soon as practicable." First Order of Production of Information at 1. . . .

* * *

The amount of time, effort, and money required to produce predecessor-in-interest documents, as required by the court's November 27, 1996 Order as stipulated to by the defendants, can only be categorized as substantial. The testimony of every witness that testified on this topic supports that conclusion. The defendants in their brief admit that the document production outstanding "is significant in terms of the time it will take" to produce. Defendants' Response at 30. Arthur Andersen, who the defendants have contracted with to continue the document production efforts, stated that searching for predecessor documents could "add a significant amount of time" to the compliance effort, and unequivocally stated that the process would be "significantly more expensive." Transcript at 560, 564. Christie, formerly the head of document production for the Office of Special Trustee, stated that the predecessor search would "greatly" expand the efforts needed for a document production that would be responsive to

paragraph 19 of the First Order of Production of Information.

Cobell v. Babbitt, 37 F. Supp. 2d 6, 19-20 (D.D.C. 1999). That document production effort spanned more than two years, required thousands of hours of labor, and total costs exceeding \$20 million dollars for the Department of the Interior and Treasury. Even though Treasury has a relatively minor role in this case, Treasury's Document Production Coordinator for this case from March, 1999 to April, 2003, recounts that Treasury's "search took 14 months, required research at 37 facilities in 24 cities, considered over 6 billion records, involved the work of 2,200 people, and cost over \$3,900,000." Second Declaration of Rita Bratcher ¶ 5 (June 11, 2007) ("Bratcher Decl.") (Exhibit A). The estimated cost to the Department of the Interior for Paragraph 19 was approximately \$20 million. Declaration of Bert T. Edwards ¶ 6 (June 13, 2007) (Exhibit D).

Much has changed in the document collection and indexing arena since the time of the Paragraph 19 production, but that does not mean that the request Plaintiffs now propose would be less substantial. The scope of the Paragraph 19 production was just the five named Plaintiffs and an agreed-upon list of their predecessors in interest. Request No. 1 includes thirty-eight named individuals, plus an unknown number of predecessors. Just comparing the five named Plaintiffs used in Paragraph 19 to the thirty-eight individuals named on Appendix A of Plaintiffs' RFP suggests that the new request could be more than seven times bigger in scope. Bratcher Decl. ¶ 3. The unknown number of predecessors only adds to the complexity and breadth.

Declarations from appropriate officials at both the Department of the Interior and the Department of the Treasury are submitted as exhibits to this Response to demonstrate the enormous burden that several of Plaintiffs' requests would impose. The annexed declarations of Rita Bratcher and John R. Swales III are submitted on behalf of Treasury (see Exhibits A and B). Ms. Bratcher is presently the Assistant Commissioner, Debt Management Services, and has 35

years experience with the Department of the Treasury, Financial Management Services (“FMS”). Bratcher Decl. ¶ 1. As noted above, she also had extensive experience as Treasury’s Document Production Coordinator for the Paragraph 19 document production. Id. Treasury’s second declarant, John R. Swales III, is Assistant Commissioner for the Office of Retail Securities of the Bureau of the Public Debt, who has more than thirty years experience as a Treasury employee, and who also had experience with the search for savings bonds and marketable securities records as part of the Paragraph 19 production effort. Declaration of John R. Swales III ¶ 1 (June 11, 2007) (“Swales Decl.”) (Exhibit B).

Ross Swimmer, who has served as the Special Trustee for American Indians since 2003, has executed a declaration that details the enormous effort that the Office of Special Trustee, which has core responsibility for IIM trust records at the Department of the Interior, would have to expend if the Interior Defendants are required to fulfill certain of Plaintiffs’ document requests. Declaration of Ross Swimmer ¶ 1 (June 12, 2007) (“Swimmer Decl.”) (Exhibit C). Bert Edwards, Executive Director of the Office of Historical Trust Accounting (“OHTA”), which is the office in the Department of the Interior with direct responsibility for the planning and conduct of the historical accounting of IIM funds, has also executed a declaration attesting to the burden that several of Plaintiffs’ requests would impose on OHTA and its ability to conduct the historical accounting. Declaration of Bert Edwards ¶ 1 (June 13, 2007) (“Edwards Decl.”) (Exhibit D).

As all of the submitted declarations establish, Plaintiffs’ Request Nos. 1 and 2 seek a vast volume of records that would entail thousands of hours of labor, cost millions of dollars, and require months at a minimum to complete. Special Trustee Swimmer, for example, describes the many steps needed to identify the individuals and their accounts, and then use that information to

begin a search for corresponding records.¹⁵ Swimmer Decl. ¶¶ 3-5. Mr. Swimmer also notes that “[i]n order to obtain ‘all’ documents relating to the IIM account(s) of the individual, the next step would be to begin a search for documents at OST, the Bureau of Indian Affairs (BIA), and the American Indian Records Repository (AIRR) in Lenexa, Kansas.” Id. ¶ 5. Of the 151,000 boxes of records housed at the AIRR, about 117,000 contain trust-related records. Id. ¶¶ 6-7. The Box Index Search System (“BISS”), which is a computer-based index at the “folder level” can be used to narrow the search for specific responsive records. Id. ¶ 7.

To the extent, however, that Plaintiffs seek all related documents, Mr. Swimmer states, “[i]n order to locate ‘all’ of the documents at AIRR related to the IIM accounts of the persons named in Plaintiffs’ Appendix A, it might be necessary to search all of the boxes at the American Indian Records Repository which contain trust or related records. If the examination of each box required between 2 and 8 hours, the effort could consume between 234,000 and 936,000 employee hours.” In addition to the AIRR search, Mr. Swimmer estimates that a search for responsive documents at OST would require approximately 70,000 employee hours at a cost of approximately \$2.8 million. Swimmer Decl. ¶ 10. Mr. Swimmer states that responding to Request No. 2 presents similar time-consuming burdens, and although somewhat less onerous than Request No. 1, would still “require approximately 5300 employee hours at a cost of approximately \$225,000” just to search OST’s records. Id. ¶ 11. Such an onerous production request is unduly burdensome.

The declaration of Bert Edwards, the Executive Director of OHTA, provides further

¹⁵ Special Trustee Swimmer also notes the added difficulty presented here where Plaintiffs provided only the names for thirty-eight individuals on their Appendix A. For one name on Appendix A, for example, the Trust Funds Accounting System has forty-six variations. Swimmer Decl. ¶ 3.

substantiation of the undue burden that Plaintiffs' requests, particularly Nos. 1 and 2, would impose on the Interior Defendants. Mr. Edwards describes the steps that would likely be involved in the document search and production effort. Edwards Decl. ¶¶ 4-6. He indicates that the search effort would be complicated by the fact that Plaintiffs have provided only name information. Id. ¶ 3. The complication would be exacerbated by the fact that "there may be several individuals with the same name." Id. Based on the Interior Department's expenses for the Paragraph 19 production, together with the vastly expanded number of names included in this request, Mr. Edwards estimates the cost of production would be approximately \$24 million and consume 24 months. Id. ¶ 7. Providing documents in response to Request No. 2 would be an additional large expense. Id. ¶ 8.

Treasury also would experience an undue burden if required to produce documents responsive to Request Nos. 1 or 2. Ms. Bratcher states that Request No. 1 is "nearly identical in substance and scope to the [previous] Paragraph 19 request," except the new request could actually "be more than seven times bigger in scope" due to the greatly expanded number of names on Appendix A. Bratcher Decl. ¶ 4-5. Given the similarity of the Paragraph 19 exercise to the new requests, Ms. Bratcher considers that experience to be a "useful reference for evaluating the work, time, and cost that would be involved" here. Id. ¶ 5. She describes the search planning that would be required to target the massive records to review, which she believes would require several months to prepare. Id. ¶ 6. Ms. Bratcher expects that the new search would roughly approximate some of the Paragraph 19 experience, which had included large tasks such as approximately 188 million pages of National Archives records, about one billion pages of records stored at Federal Record Centers in eleven locations; records at Federal Reserve Banks in eight cities; and as many as three billion check-related records that can only be searched with predicate

identifying information supplied by the Department of the Interior.¹⁶ Id. ¶ 7. The associated cost could exceed \$3.9 million and “would pose a substantial burden on Treasury.” See id. ¶ 8; see also Swales Decl. ¶ 10 (Paragraph 19 search also involved “over 4 billion savings bond records and review [of] approximately 10,500 reels of microfilm” and “took over 1,550 person-hours to complete”). Treasury’s response to Request No. 2 would involve the “same scope search and take substantially the same effort as that required by Plaintiffs’ Request No. 1,” and would “pose an unreasonable burden on Treasury” as well. Id. ¶ 9.

Request Nos. 12 and 19 would pose similar hardships on the Interior Defendants, while Request No. 8 would impose another undue burden on the Treasury Defendant. Request No. 12 seeks all documents that are “related” to deposits to or withdrawals from the 14X6039 account at Treasury.¹⁷ Special Trustee Swimmer states that this account “represents the primary operating account for IIM funds.” Swimmer Decl. ¶ 12. Thus, Request No. 12 encompasses

the initial IIM cash receipt, the investment of those receipts, all disbursements, and all documents supporting the receipt or disbursement from the account, i.e., leases, bills of collection, invoices, receipts, deposit tickets, investment transactions, and other documents "related" to transactions in account 14X6039. Because of the

¹⁶ Because the Department of the Interior administers the IIM accounts for beneficiaries, and because Treasury does not maintain individual IIM accounts for Interior, Treasury requires certain identifying information from Interior (known as “predicate information”) when it conducts a search for account-specific records or information.

¹⁷ Request No. 12 states: “Produce any documents related to the deposit to, or withdrawal from, the 14X6039 account and predecessor or alternative accounts at Treasury and its agents, fiscal and otherwise, that hold trust funds, including, without limitation, (a) withdrawals made for the purpose of purchasing Treasury securities, savings bonds and any other financial instrument, (b) specific securities purchased, (c) specific securities redeemed including bearer notes and bonds and securities purchased in the names of individual Indians or the department, bureau superintendents, the Secretary and any other Treasury or Interior official, or tribe on behalf of individual Indians, (d) specific deposits of funds made into 14X6039 from the redemption of such securities and (e) the discount rate, yields, and/or interest related to each such security.”

very broad description of documents "related to" the account, the category of potentially responsive documents would include land and resource appraisals, lease agreements, royalty agreements, distribution information, supporting financial documents and work tickets, investment trade tickets and supporting documents, copies of checks, system printouts, regulatory and managerial reports, account holder statements, financial statements with workpapers, audit workpapers, and daily and monthly reconciliation files. Indeed, it is difficult to conceive of a document related to individual Indian monies that would not be subject to this request.

Id. Given the breadth of the request, and the fact that between 1985 and 2000, there were approximately 30 million transactions in the 14X6039 account, Mr. Swimmer estimates that searching records just going back to 1985 would require 286,000 hours of labor, with the cost of production about \$11.4 million. Id. Because these requests contain no time limitation, they would presumably require the Interior Defendants to search back an indeterminate number of years for responsive materials.

Request No. 19 poses a slightly different but no less significant hardship on the Interior Defendants.¹⁸ Trustee Swimmer states that this request is “so broad, and potentially responsive documents could be discovered in such diverse locations, that it is difficult to estimate the level of effort that would be necessary to respond.” Swimmer Decl. ¶ 14. He notes that the request appears to include simple correspondence sent to Interior at any time in the history of the IIM trust complaining about any alleged “impropriety” with an account, and the search for such responsive documents would entail “searches of various Federal Records Centers in addition to AIRR.” Id. OST also operates a nationwide toll-free help line that receives inquiries and complaints from beneficiaries. Those calls generate documents and follow-up tasks, all of which

¹⁸ Request No. 19 states: “Produce any documents which identify or address the actual or attempted loss, misappropriation or theft of funds of any IIM trust beneficiary, or the improper payment of any such funds to any person or entity, and any investigation of such loss, misappropriation, theft or improper payment.”

would need to be searched in response to Request No. 19. Id. Mr. Swimmer also observes that every “audit or inspection by the Minerals Management Service or the Bureau of Land Management of the use of and payment for a natural resource might include potentially responsive documents.” Id. Although unable to specify exactly how much time it would take to conduct these searches, Mr. Swimmer notes that fulfilling such a request “would require a search for documents by multiple offices of at least seven of the Interior bureaus, which would consume thousands of employee hours.” Id. There can be no doubt the marginal informational value of these documents is clearly outweighed by the cost involved in searching for and retrieving these documents.

The Treasury Defendant also faces an undue burden with respect to Request No. 8. This request seeks a large volume of documents relating to thousands of disbursement and investment transactions for IIM funds.¹⁹ Ms. Bratcher describes the burden that Treasury would face if it had to search for all the documents encompassed by Request No. 8. Bratcher Decl. at pp. 6-8. Treasury estimates “that there are perhaps 300,000 to 500,000 checks” for the relevant Interior code “for the period specified by the request.” Id. at 7. By way of example, Ms. Bratcher notes that in order to produce 41,000 check copies, a search would take “between four and ten months.” Id. at 6-7. Thus, fulfilling Request No. 8 would impose an unreasonable time burden on Treasury, and would also likely impose on the preparation schedule for the hearing that the Court has scheduled to commence on October 10, 2007.

Indeed, as Mr. Swimmer notes in his declaration, responding to these requests in full

¹⁹ Request No. 8 states: “Produce all documents related to the disbursement of trust funds between June 1, 1998 and December 31, 1999 not otherwise produced in ¶ 7, above, including electronic fund transfers and requests for electronic disbursements.”

would also have a detrimental effect on regular operations, because the people that OST, for example, would call upon to find responsive documents include many who also serve beneficiaries that comprise the plaintiff class. As Mr. Swimmer states, “Performance of the regular work of the Office of the Trustee would have to be delayed substantially in order to fulfill the Plaintiffs' document request.” Swimmer Decl. ¶ 13. A similar impact could be expected on other work that the Department of the Interior and Treasury provide to the public, including progress on the historical accounting.²⁰ Mr. Edwards echoes this concern, “The personnel who would need to devote themselves to the reproduction of the documents . . . are in many instances the same personnel whose responsibilities include the historical accounting.” *Id.* ¶ 9. Mr. Edwards concludes with his concern that “performance of such a large production project would be likely to delay the completion of the historical accounting by those personnel.” *Id.* (emphasis added).

II. SUBJECT TO AND FULLY RESERVING ALL OBJECTIONS ABOVE, DEFENDANTS OFFER THE FOLLOWING SPECIFIC RESPONSES TO THE NUMBERED DOCUMENT REQUESTS

A. Reservation Of Certain Objections

Defendants hereby reserve certain specific objections to each one of the requests in Plaintiffs' RFP. As of the date of this Response, Defendants are not aware that any documents will be withheld solely on the basis of any these objections, except as expressly noted in the specific responses that follow in Part II. B. It is possible, however, that documents subject to one or more of these objections could come to light at a later date, and Defendants desire to reserve

²⁰ The large diversion of resources that would be required to respond to these requests would also prejudice Defendants' ability to prepare for the upcoming hearing. Many of the same accounting and other professionals who will be assisting in the government's preparation for the hearing would probably be called upon to assist with any accelerated document search.

these objections for such contingencies:

1. Defendants object to Plaintiffs' RFP to the extent any request can be construed as seeking information or documents protected by the attorney-client privilege; work product doctrine; deliberative process privilege; the right to privacy under applicable law; any joint defense, common interest or party communications privilege; investigative privilege; or any other applicable privilege, doctrine or right that would protect or make the information or documents immune from discovery. Based on the other numerous objections set forth herein, Defendants do not presently expect to withhold production based solely upon a claim of privilege and so object to conducting any privilege review or providing a privilege log in lieu of production but fully reserve their right to do so if circumstances later warrant. (Notwithstanding the foregoing, should Defendants make any inadvertent production hereunder of information protected by any of these privileges, doctrines, or rights, Defendants reserve their right to assert a privilege and such production shall not be deemed a waiver of the protections that those privileges, doctrines, or rights afford.)

2. Defendants object to Plaintiffs' RFP to the extent any request seeks disclosure of confidential personal, employment, or personnel information. The Requests are improper to the extent they seek information covered by the Privacy Act of 1974 but outside the scope of the Order entered November 27, 1996 [Dkt. 16], or the scope of any other applicable statute or order. Second, Defendants object to Plaintiffs' RFP to the extent any request seeks documents containing confidential business, financial or trade secret information belonging to third parties, including Tribes, contractors or the regulated community, or information that, if publicly released, could violate 18 U.S.C. § 1905, cause harm to a third party, or compromise any regulatory or law enforcement activity of any Defendant. Finally, Defendants object to these requests to the extent

they call for production of any document or data, not covered under the April 22, 2005 protective order [Dkt. 2937], that would result in the unrestricted disclosure of information concerning any of Defendants' computer systems or any security measures or countermeasures relating to such systems that would place the security of such systems at risk. Defendants, therefore, object to requests for such documents and refuse to produce such documents unless and until an appropriate protective order is entered.

3. Defendants object to Plaintiffs' RFP to the extent any request seeks to require any Defendant to contact and/or discuss issues in this litigation with class members contrary to court order. See Order of December 23, 2002 [Dkt. 1692]; Order of November 17, 2004 [Dkt. 2763].

B. Defendants' Specific Responses To The Enumerated Requests

Without waiving any of the foregoing objections and expressly subject to them, Defendants respond to each individual request as follows:

Request No. 1. Produce all documents, records, and tangible things which embody, refer to or relate to the IIM accounts of the selected IIM beneficiaries listed in Appendix "A" to this Request and their predecessors-in-interest, including, without limitation, all documents reflecting the land, title, ownership interests, statements and disbursements for all allotments for which any of the individuals on Appendix "A" have or had a beneficial interest.

Response: As demonstrated above, this request seeks material that is not relevant to a claim or defense in the case, much less any part of the hearing set for October 10, 2007, nor is it reasonably calculated to lead to admissible evidence. Rather, the entirety of this request seeks documents concerning individuals who are not among the named class representatives and for whom Plaintiffs have not even demonstrated class membership. Their specific circumstances are not part of the "claims or defenses," for no one listed in the referenced Appendix is a co-plaintiff, so the request is also objectionable as overly broad. The request is also overly broad, because it is unbounded as to time, and because it seeks documents going beyond that used by the government

to perform the historical accounting. Furthermore, Defendants object to the request as vague, because it provides only names with no other identifying information and no information whatsoever as to any predecessor in interest.

Alternatively, the Court should deny the request because the *de minimis* probative value of the documents is outweighed by the huge costs Defendants would have to incur to fulfill the request. Because the Paragraph 19 production previously afforded Plaintiffs access to transaction documents for the named party-plaintiffs and an agreed-upon list of their predecessors, Defendants also object to this request as needlessly duplicative and cumulative. Completion of this one request would likely require more time to complete than is available prior to the October 10, 2007 hearing. The declarations attached as Exhibits A-D, further attest to the undue burden the request would impose on Defendants.

Request No. 2. Produce all documents, records, and tangible things which embody, refer to or relate to the IIM accounts of the selected Judgment and Per Capita beneficiaries listed in Appendix "B" to this Request.

Response: Defendants incorporate by reference their response to Request No. 1 above.

Request No. 3. Produce the judgments, agreements or settlements serving as the basis for establishment of each Judgment or Per Capita account for which an historical statement of account was prepared and identify all other beneficiaries of such judgments, agreements or settlements.

Response: This request seeks production of all source documents that provide the terms for settlement or per capita distributions into any IIM accounts, and improperly poses an interrogatory requesting that Defendants "identify all other beneficiaries." Defendants object to the interrogatory question as wholly improper in what is supposed to be a Rule 34 document request and submit that the Court's limited invitation to consider a proposed document request did not contemplate interrogatories. See Tr. at 44. Defendants oppose the remainder of the

request on the ground that it seeks documents that are not relevant to the matters that the Court will likely consider at the hearing on October 10, 2007.²¹ These documents are not germane to the accounting process, and there is no proof that any such documents are relevant to the claims of any named plaintiffs. Thus, the request is overly broad and seeks documents that are not relevant to a claim or defense nor reasonably calculated to lead to admissible evidence.

Request No. 4. Produce any reports, studies, analysis or documents which identify or address any weaknesses, deficiencies or problems in the accountings for Judgment or Per Capita accounts.

Response: Defendants object to this request as vague and overly broad in that it is unbounded as to time and includes “any weaknesses, deficiencies, or problems,” regardless of the triviality of the “problem” or whether the issue was subsequently remedied or resolved. It is also possible that the Interior Defendants’ accounting plan corrected a previous weakness. It is unclear what Plaintiffs mean by the term “accountings,” and Defendants will interpret the term to refer to the preparation of the historical statements of account. Subject to and fully reserving all objections, Interior Defendants state that they intend to provide reports by Grant Thornton on each batch of Judgment and Per Capita accountings performed and CD&L reports on the results of the accountings as part of the AR that would be responsive to this request.

Request No. 5. Produce any documents constituting or addressing plans, policies and procedures for the preparation of accountings for Judgment and Per Capita account holders, and beneficiaries of Land-Based IIM transactions, including, without limitation, the compiling of information and calculation of balances for the IIM Trust beneficiaries.

²¹ For brevity, every objection in this Response on grounds of relevance means an objection pursuant to Federal Rule of Civil Procedure 26(b)(1) that the matter sought is neither “relevant to the claim or defense of any party. . . [nor] reasonably calculated to lead to the discovery of admissible evidence.” Fed. R. Civ. P. 26(b)(1).

Response: Defendants object to this request because it is overly broad and seeks documents that are not relevant to a claim or defense nor reasonably calculated to lead to admissible evidence. It is also unclear what Plaintiffs mean by the term “accountings,” and Defendants will interpret the term to refer to the preparation of the historical statements of account. This request seeks production of “all” documents that in any way address the accounting plans and practices for “all” accounts. The final clause demonstrates this overbreadth with its demand that documents concerning the “compiling of information and calculation of balances” for all IIM trust beneficiaries be included without limitation. Most every IIM trust beneficiary is not a party-plaintiff, and so the specifics concerning the preparation of accountings for them are not relevant to a claim or defense in the case. The request is also premature to the extent it seeks documents for accounting work that is in process or not completed. Subject to and fully reserving all objections, Interior Defendants state that they expect the AR will contain documents concerning the adoption of the accounting plan and revisions thereto, which would likely be responsive to this request.

Request No. 6. Produce any reports, reviews, opinions, assessments and studies by defendants, any accounting or auditing firm or any other contractor or service provider concerning the quality, feasibility or potential performance of an accounting for Judgment and Per Capita account holders, or beneficiaries of land-based IIM transactions.

Response: Defendants object to the phrase “potential performance” as vague and confusing. Defendants also object to the request on the ground that it is overly broad, because it is unbounded as to time, and seeks older and superseded documents that are not relevant to the present historical accounting. Defendants further object to the extent it seeks any document containing pre-decisional information that is protected by the deliberative process privilege. Opinions or assessments addressing only specific accounts or transactions of unnamed class

members are also not relevant to a claim or defense in the case, nor are they relevant to the issues likely to be considered at the October 10, 2007 hearing. Subject to and fully reserving all objections, Interior Defendants state that they expect the AR to include certain quality assessments and like materials that form part of the decision making process for the accounting plan and its revisions, and that such documents are likely responsive to this request.

Request No. 7. Produce all documents related to the Treasury “Study of Check Negotiation Practices for Office of Trust Funds Management-Issued Checks, Financial Management Service,” dated May 31, 2000, and all canceled checks, signature cards, authorizations for disbursement, social service documentation relied on in that study.

Response: This request concerns a Treasury study that was done to understand how trust fund disbursement checks are negotiated and cleared. Plaintiffs may desire this discovery in order to argue that interest on deposited IIM trust funds was somehow underpaid, but that issue – whether more interest should have been credited – is an asset management issue, and the Court has already ruled that asset management claims are not part of this case. The study is not part of the historical accounting project and does not address any aspect of the Interior Defendants’ accounting plan. Thus, the request is overly broad and seeks documents that are not relevant to a claim or defense nor reasonably calculated to lead to admissible evidence. Defendants also object to the undefined term “signature card,” as the term has multiple meanings in the banking field. Defendants further object to producing documents that either have been provided already to Plaintiffs or are available to them as a public record; the text of the study cited in this request was filed in this case as an Exhibit K to Treasury’s Second Quarterly Report, dated July 1, 2000 [Dkt. 510].

Request No. 8. Produce all documents related to the disbursement of trust funds between June 1, 1998 and December 31, 1999 not otherwise produced in ¶ 7, above, including electronic fund transfers and requests for electronic disbursements.

Response: This request seeks all transaction documents like those responsive to Request No. 7 above that were not used in the referenced study, and for this reason, Defendants incorporate by reference their response to Request No. 7 above. Furthermore, the request as worded includes tribal fund disbursements and so is objectionable as overly broad. To the extent this request seeks the production of check copies, Treasury estimates that as many as 300,000 to 500,000 checks would need to be pulled and copied for the relevant time period. Given that Treasury previously estimated a search time of four to ten months for the production of 41,000 checks, insufficient time remains prior to the October 10, 2007 hearing for Treasury to fulfill this request and the effort required would impose an unreasonable burden on Treasury. Declaration of Rita Bratcher at 6-8 (Exhibit A).

Request No. 9. Produce all reports, studies, compilations or analyses of disbursements of funds to IIM trust beneficiaries.

Response: This request seeks all reports and studies concerning the disbursement of IIM funds, and so is understood to be requesting reports on studies similar to the one referenced in Request No. 7. To this extent, Defendants incorporate by reference their response to Request No. 7 above. To the extent this request seeks reports or other documents concerning any individual disbursements, the request is overly broad and seeks documents that are not relevant to a claim or defense nor reasonably calculated to lead to admissible evidence, because individual account matters, especially those pertaining to unnamed class members, are not relevant in any respect to the hearing set for October 10, 2007.

Request No. 10. Produce any documents supporting or relating to the conclusion that \$13 billion in revenue was collected by defendants on behalf of individual Indian trust beneficiaries as testified to by James Cason in his declaration dated November 10, 2003.

Response: Defendants object to the request as overly broad to the extent it seeks all documents “relating to” the referenced statement. To the extent this request merely seeks the supporting document(s) on which Associate Deputy Secretary of the Interior, James Cason, relied for his statement that the IIM trust has had approximately \$13 billion in throughput since inception, Plaintiffs are seeking a NORC report titled, “A Statistical Estimate of Receipts Credited to IIM Trust Funds,” dated July 30, 2002. Subject to and fully reserving all objections, Interior Defendants will provide a copy of that NORC report as part of the AR.

Request No. 11. Produce any reports, studies or analyses of delays, weaknesses, mistakes, inaccuracies, deficiencies or other problems in the probate process for individual Indian beneficiaries.

Response: This request is overly broad and seeks documents that are not relevant to a claim or defense in this case, nor reasonably calculated to lead to admissible evidence, because it seeks discovery into the conduct and administration of the probate process for individual Indian beneficiaries. Presumably, Plaintiffs desire to show that probate determinations affecting IIM accounts and land inheritances cannot be relied upon for accounting purposes. That argument, however, is an improper collateral attack on probated estates and poses an issue that is not properly before this Court. Plaintiffs’ collateral challenge defies all rules favoring finality of adjudications and disfavoring collateral challenges. Indian probate determinations, which generally conclude one trust relationship and define a new one, are the product of either administrative proceedings or state judicial proceedings that provide a full measure of due process to interested parties, as demonstrated in our brief addressing the nature and scope of the historical

accounting. See Defendants' Responding Brief Regarding The Nature And Scope Of The Historical Accounting at 20-22 (June 11, 2007). Accordingly, no discovery into probate is appropriate here.

Request No. 12. Produce any documents related to the deposit to, or withdrawal from, the 14X6039 account and predecessor or alternative accounts at Treasury and its agents, fiscal and otherwise, that hold trust funds, including, without limitation, (a) withdrawals made for the purpose of purchasing Treasury securities, savings bonds and any other financial instrument, (b) specific securities purchased, (c) specific securities redeemed including bearer notes and bonds and securities purchased in the names of individual Indians or the department, bureau superintendents, the Secretary and any other Treasury or Interior official, or tribe on behalf of individual Indians, (d) specific deposits of funds made into 14X6039 from the redemption of such securities and (e) the discount rate, yields, and/or interest related to each such security.

Response: This request concerns the 14X6039 account, which is an account through which deposited IIM trust funds pass. The request appears to seek investment information concerning the investment of deposits, but it is so broadly worded that it seeks virtually every document connected with the use and administration of that account. This would impose an undue burden on the Interior Defendants because almost any document relating to IIM income “relates to the deposit to” the referenced 14X6039 account. That burden is demonstrated in Part I. D. above. Given the request’s emphasis on investments (e.g., yields, discount rates, securities purchased), it appears that the request seeks documents for the purpose of challenging the amount of interest that should have been paid on IIM accounts. To the extent this is the purpose of this request, it is an asset management issue irrelevant to this case, and Defendants incorporate by reference their response to Request No. 7 above. To the extent the request seeks the documents for any other purpose, whatever trivial probative value they have to the hearing on October 10, 2007, is outweighed by the burdensome cost of identifying, pulling, and producing the vast

number of documents that would be responsive to this request. Defendants also object to the request as overly broad because it is unlimited in time.

Request No. 13. Produce any documents related to accruals and imputed income and interest associated with the 14X6039 account.

Response: This request seeks documents related to Request No. 12 above, and for this reason, Defendants incorporate by reference their response to Request No. 12 above. This request, with its references to the undefined term “imputed” income, appears to seek discovery into the irrelevant question about what dollar amounts *should* have been paid to beneficiaries, which, as demonstrated above, is not a proper inquiry for this case.

Request No. 14. Produce all opinions prepared by trust counsel (whether an employee of defendants or an outside counsel) relating to liability (whether direct, contingent, actual, and potential) for breaches of trust, the application of trust law and duties, and accounting or alternative remedies.

Response: This request seeks legal opinions by trust counsel on multiple subjects: (1) liability for breaches of trust; (2) the application of trust law and duties; and (3) accounting or alternative remedies. Defendants interpret this request as seeking formal legal opinions prepared by the Solicitor of the Department of the Interior or outside counsel specifically engaged to render trust advice.

The subject matters for which Plaintiffs seek discovery of opinions of counsel are not, however, relevant to a claim or defense in this case nor reasonably calculated to lead to admissible evidence. The only “liability” for a breach of trust at issue here would necessarily involve the duty to account, but liability for that breach has already been adjudicated by the Court at the Phase I trial. No further discovery on that subject, therefore, is warranted; it is not relevant to any “live” issue in the case. The “application of trust law and duties” is both vague and overly

broad, for the only trust duty actionable here is the duty to account, and that duty, as noted, has been adjudicated. For the same reason, a legal opinion of trust counsel about any “alternative remedy” to the accounting, if such matter even exists, would not be relevant to this case, because the Court lacks jurisdiction to order alternative relief. Moreover, Plaintiffs have not demonstrated that any other trust duty, much less an opinion about it, is at all relevant to the October 10, 2007 hearing. Defendants further object to the request as overly broad, because it contains no time limitations as to scope.

To the extent the request seeks an opinion of counsel issued in support of this particular litigation (or other litigation) as opposed to advice on trust administration, Defendants object on the grounds of the privileges applicable to attorney-client communications and to attorney work product. Subject to and fully reserving all objections, the Interior Defendants state that an opinion of trust counsel concerning the historical accounting itself may be relevant, depending on the particular subject matter and the date of preparation, and the Interior Defendants state that they will provide, as part of the AR on the accounting plan, certain opinions of trust counsel that were considered in developing, adopting and revising the historical accounting plan.

Request No. 15. Produce any documents, reports, analyses or studies identifying or discussing weaknesses, deficiencies or problems with the collection of documents at AIIR in Lenexa, Kansas, the indexing of documents at AIIR, the lack of completeness of records at AIIR or the results of any tests or evaluations of the usefulness of the AIIR and/or Box Index Search System.

Response: This request apparently seeks “any” documents that identify or discuss problems (1) with the American Indian Records Repository (“AIRR” not AIIR), a document archival facility in Lenexa, Kansas; (2) with the indexing of documents; (3) with any “completeness” of the records; or (4) with the “usefulness” of Box Index Search System. The

request is overly broad in several respects. First, because a substantial portion of records housed at Lenexa are non-IIM records (i.e., either non-trust Indian records or tribal records), the request encompasses storage and retrieval issues that have no bearing on any issue in this case. Second, because the request is unlimited in scope, it also encompasses any document that might remark on specific, sporadic, isolated or trivial problems that are inconsequential, problems that concern non-trust or non-IIM records, or problems that have already been addressed or resolved. Third, because the request is unlimited in time, it encompasses documents that may relate only to records not within the date range of the historical accounting. Subject to and fully reserving all objections, Interior Defendants state that, to the extent any exist, documents that discuss problems with (1) storage or retrieval of documents at the AIRR, (2) the indexing of documents, (3) any "completeness" of the records; or (4) the "usefulness" of the Box Index Search System, and that were considered in developing, adopting, or revising the historical accounting plan, will be included as part of the AR.

Request No. 16. Produce any reports, studies, analyses or recommendations prepared by any accounting, auditing or other firm or contractor regarding the actual or potential performance of the historical accounting for IIM trust beneficiaries, including, without limitation, such documents from: (a) Arthur Andersen; (b) CD&L; (c) Grant Thornton LLP; (d) NORC; (e) KPMG; (f) Deloitte & Touche LLP; (g) Gustavson Associates; (h) Ernst & Young LLP; (i) Bank of America; (j) Historical Research Associates, Inc.; (k) Morgan, Angel & Associates, LLC; (l) Hughes & Bentzen; or (m) Upper Mohawk.

Response: Defendants object to the phrase "potential performance" as vague and confusing. Defendants also object to the request on the ground that it is overly broad because it is unbounded as to time and seeks older and superseded documents that are not relevant to the present historical accounting. Moreover, reports, recommendations, and the like that address only specific accounts or transactions of unnamed class members are also not relevant to a claim

or defense in the case, nor are they pertinent to the issues likely to be considered at the October 10, 2007 hearing. The huge volume of material that would need to be collected from sites across the country in order to respond to this request would also impose an unnecessary burden on the Interior Defendants. Subject to and fully reserving all objections, Interior Defendants state that they expect the AR to include reports and studies responsive to this request that were considered or used in adopting the accounting plan or revisions thereto.

Request No. 17. Produce any documents relating to the actual or potential accounting for any IIM trust beneficiary prepared by or reviewed by any witness who may or will testify at the October 10, 2007 evidentiary hearing.

Response: Defendants object to this request as both premature and patently unreasonable. The request is premature, because Defendants have not yet chosen any witnesses to testify at the October 10, 2007 hearing, nor have they identified the subject of testimony to be offered. This request is also patently unreasonable, because it appears to impose some form of advance disclosure requirement on all witnesses, whether fact or expert. Indeed, the request seeks “any documents . . . prepared or reviewed” by a witness regardless of whether the testimony will even concern the documents. No such sweeping disclosure requirement should attach to any fact or, for that matter, expert witness. To impose such a requirement could, depending on the witness, impose a huge document search task, and Plaintiffs have demonstrated no need whatsoever for such an onerous requirement.

Request No. 18. Produce the Treasury and GAO settlement packages selected and reviewed by NORC which are referenced on page 3 of the Twenty-Ninth Quarterly Status Report.

Response: Defendants object to this request to the extent it is cumulative and duplicative of previous discovery. “Settlement packages” were previously requested by Plaintiffs

in 1999, and Defendants invited Plaintiffs to inspect them in 2001. On December 31, 1999, Plaintiffs requested “[a]ll audits and reports from the General Accounting Office relating to allotted Indian trust lands or the IIM Trust Fund or both from the period 1887 to 1999.” Plaintiffs’ Sixth Formal Request for Production ¶ 35 (Dec. 31, 1999). On June 1, 2000, Defendants served a supplemental response to this specific request, which states:

Request 35 seeks audits or reports of the General Accounting Office of allotted lands or the IIM Trust Fund. While not covered by that request, *we are supplementing our response by advising you of audits by the General Accounting Office and the Department of the Treasury of the accounts of Indian Disbursing Agents. Those audits contain information on disbursements to individual Indian allottees. Complete sets of these documents are housed at the National Archives II in College Park, Md. To the extent that any of these record documents pertain to the five named Plaintiffs and their predecessors, they are within the scope of the Paragraph 19 search and will be provided.*

* * *

If you would like to look at the Archives II record collections, it would be useful for us to meet first so that we can discuss how guided access to them can be arranged. Please let me know at your earliest convenience.

Letter from David F. Schuey to Keith Harper at 1-2 (June 1, 2000) (Exhibit E hereto). Since that letter seven years ago, Defendants are not aware that Plaintiffs ever availed themselves of the inspection opportunity. Defendants, thus, object to this new request to the extent that fulfilling it would require a duplication of effort that could have been accomplished years before the scheduling of the October 10, 2007 hearing. Subject to and without waiving any objections, Defendants state that although they do not plan to include the settlement packages in the AR, they do intend to include the NORC report referenced in this request.

Request No.19. Produce any documents which identify or address the actual or attempted loss, misappropriation or theft of funds of any IIM trust beneficiary, or the improper payment of any such funds to any person or entity, and any investigation of such loss, misappropriation, theft or improper payment.

Response: This request is overly broad and seeks documents that are not relevant to a claim or defense in this case, nor reasonably calculated to lead to admissible evidence, because it seeks discovery into the theft of funds or improper payments of IIM trust funds, as well as the investigations into such incidents. A loss of funds, whether due to lax security, waste or negligence, is an asset management issue. As demonstrated in Part I above, it is law of the case that asset management matters lie outside the Court's limited jurisdiction, Cobell v. Norton, 226 F.R.D. 67, 76-79 (D.D.C. 2005). Therefore, the subject of this document request falls equally outside this case. Defendants also object to this request on privacy grounds that responsive documents would be likely to identify personnel who were questioned in connection with an investigation or contain other sensitive, personal information that is not relevant to any claim or defense in the case and should not be made available for public consumption. In addition, to the extent the request seeks production of any documents relating to any ongoing investigation of the Inspector General of the Department of the Interior or any matters referred for other law enforcement investigation, Defendants will assert a claim of investigative privilege.

Request No. 20. Produce the reports, studies and documents referenced in the Quarterly Status Reports which are identified in Appendix "C" to this Request:

Response: As a general matter, Defendants respectfully assert that just because a document or subject is referenced in a Quarterly Report does not automatically make that document or topic relevant to any evidentiary proceeding. When Plaintiffs made a similar assertion earlier in this case, the Court rejected Plaintiffs' attempt to use the contents of the Quarterly Reports as a touchstone for determining relevance. Cobell, 226 F.R.D. at 78- 79

(observing that not everything reported in the Quarterly Reports concerns the breach of a trust duty). Defendants set forth their specific response for each item listed on Appendix C below:

Appendix C, Item 1: NORC's reports of the Horton Agency and Coville Agency pilot tests referenced on page 3 of Quarterly Status Report No. 29.

Response: The referenced document(s) will be provided as part of the AR.

Appendix C, Item 2: NORC's analysis referenced in the last paragraph of page 3 of Quarterly Status Report No. 29 under the heading "Treasury and GAO Settlement Process."

Response: The referenced document(s) will be provided as part of the AR.

Appendix C, Item 3: Electronic copy of the Box Index Search System referenced on page 15 of Quarterly Status Report No. 29 regarding the American Indian Records Repository in Lenexa, Kansas.

Response: Defendants object to this request as vague and confusing. The Box Index Search System ("BISS") is a commercial computer program that Interior has licensed for use in searching BISS data. Interior is not licensed to provide copies of the software to third parties. The data stored on the BISS database can be exported onto CD for retrieval by other means in search query language ("SQL") format, but it is unclear whether this request seeks the BISS itself or only the underlying data. In any event, Defendants object to producing the data in BISS, on the grounds that the request is vastly overly broad. The BISS includes data for all 151,000 boxes at AIRR, down to a folder level only. These boxes include non-IIM and non-accounting documents in addition to the IIM-related materials. See Declaration of Ross Swimmer, ¶¶ 6, 15 (Exhibit C). The request is also overly broad to the extent it encompasses information concerning the records of unnamed class members. Finally, Plaintiffs' access to BISS data would not meaningfully aid their preparation for the October 10, 2007 hearing. The data constitute an index that identifies the general contents of boxes stored at the AIRR, to the folder level, and does

not provide transaction details for accountings nor information concerning how archived documents have been used in the historical accounting project. See id. ¶ 15. Consequently, Interior Defendants further object to this request on the ground that any indirect or marginal probative value that could be gained by satisfying this request would be outweighed by its cost.

Appendix C, Item 4: OIG’s Notice of Findings and Recommendations dated on or about March 13, 2007 referenced on page 45 of Quarterly Status Report No. 29.

Response: This request seeks a copy of the Inspector General’s findings in connection with the OIG’s ongoing testing of IT security of the computer systems within the Department of the Interior. Defendants object to this request on the ground that IT security – especially current IT security – is not relevant to any issue concerning the historical accounting project, which employs off-line systems and has an end date of December 31, 2000. Thus, this request is neither relevant to the subject matter of the October 10, 2007 hearing nor is it reasonably calculated to lead to admissible evidence. Moreover, the report contains security sensitive information that should not be disclosed outside the Department of the Interior without sufficient safeguards in place to assure its confidentiality.

Appendix C, Item 5: Electronic copy of the Accounting Standards Manual referenced at the bottom of page 6 of Quarterly Status Report No. 29.

Response: An electronic copy of the referenced document(s) will be provided as part of the AR.

Appendix C, Item 6: Report designated GAO-07-295R entitled “Office of Special Trustee for American Indians: Financial Statement Audit Recommendations and the Audit Follow-up Process,” referenced on page 10 of Quarterly Status Report No. 29.

Response: As indicated by the “GAO” document number in the request, the request seeks a report published by the Government Accountability Office. This is a publicly available document and will not be part of the AR, and Defendants object to producing any documents that are a matter of public record or otherwise available to Plaintiffs. Moreover, it appears that Plaintiffs already have access to the referenced report, based upon Plaintiffs’ February 6, 2007, Press Release, which is posted on their website and contains a link to the GAO’s electronic copy of the report.²²

Appendix C, Item 7: OIG’s 1992 report regarding Palm Springs and OIG’s responses to the recent congressional inquiries regarding Palm Springs referenced on page 10 of Quarterly Status Report No. 29.

Response: Defendants object to producing the documents sought by this request. The OIG’s 1992 report and subsequent statements concerning the Palm Springs office concern tribal account record-keeping and lease administration. Therefore, none of the requested material is relevant to the accounting for IIM funds or any topic likely to be considered by the Court at the October 10, 2007 hearing, nor is it reasonably calculated to lead to admissible evidence. The Interior Defendants further object to the extent the request seeks responsive documents containing personnel or personal information protected by the Privacy Act of 1974.

Appendix C, Item 8: Any reports on reconciliation work on high-dollar transactions and on national sample transactions and land-based IIM accounts referenced on page 25 of the Twenty-Second Quarterly Report.

²² See http://indiantrust.com/index.cfm?FuseAction=PressReleases.ViewDetail&PressRelease_id=173&Month=2&Year=2007 (link on press release goes directly to the GAO’s copy of the report on the internet) (screen capture from May 21, 2007 annexed hereto as Exhibit F).

Response: The referenced document(s) will be provided as part of the AR.

Appendix C, Item 9: The "Historical Accounting for Indian Monies: A Progress Report" referenced on page 3 of the Twenty-Third Quarterly Report.

Response: This request seeks production of a document that is not only publicly available but one that Plaintiffs already possess, as demonstrated by their publication of an internet link to the same document on their own website over a year ago.²³ Defendants generally object to producing any documents that are a matter of public record or otherwise available to Plaintiffs, but subject to and reserving all objections, Interior Defendants also state that another copy of the referenced document was already provided to Plaintiffs as part of the Historical Accounting Project Document, which was filed May 31, 2007.

Appendix C, Item 10: The report regarding litigation support accounting project for the electronic records era (1985-2000) for land-based IIM accounts referenced on page 16 of the Twenty-Third Quarterly Report.

Response: Defendants note that this request seeks the same documents as identified in Item 8 of Appendix C above. The referenced document(s) will be provided as part of the AR.

Appendix C, Item 11: The independent auditor's report on the tribal and other trust funds and individual monies trust funds financial statements for fiscal years 2004 and 2005 referenced on page 18 of the Twenty-Fourth Quarterly Report.

Response: The referenced document(s) will be provided as part of the AR.

²³ See <http://indiantrust.com> (link on site's front page labeled, "Click here for the government's brochure," links directly to an Interior site that offers the document) (screen capture from November 22, 2005 annexed hereto as Exhibit G).

Appendix C, Item 12: All DQ&I trust record and site assessments.

Response: The request seeks Data Quality and Integrity assessments that are broad administrative assessments undertaken by the Department of the Interior for regions of the Bureau of Indian Affairs for trust reform purposes. The scope of the assessments are diverse and include such activities as the study of office space, administrative backlogs, and document coding reconciliation. Such trust reform activities are not relevant for purposes of the October 10, 2007 hearing. To the extent the documentation concerns DQ&I work performed after December 31, 2000, the information sought is also outside the relevant time period for the historical accounting and is not relevant to this proceeding.

Appendix C, Item 13: The report dated on or about June 23, 2006 by NORC on meta-analysis study of reconciliations and audits of IIM and tribal funds referenced on page 14 of the Twenty-Sixth Quarterly Report.

Response: The referenced document(s) will be provided as part of the AR.

Appendix C, Item 14: The reconciliations and audits referenced on page 14 of the Twenty-Sixth Quarterly Report.

Response: The referenced document(s) will be provided as part of the AR.

Appendix C, Item 15: The studies identified by NORC regarding the soundness of the trust system referenced on page 14 of the Twenty-Sixth Quarterly Report.

Response: The referenced document(s) will be provided as part of the AR.

Appendix C, Item 16: The report by NORC entitled "Reconciliation of the High Dollar and National Sample Transactions from Land-Based IIM Accounts (All Regions)" referenced on page Appendix C, Item 5 of the Twenty-Seventh Quarterly Report dated on or about September 30, 2005 and any updates to it, including, without limitation, the memorandum dated on or about December 31, 2006 referenced on page 3 of the Twenty-Eighth Quarterly Report.

Response: The referenced document(s) will be provided as part of the AR.

Appendix C, Item 17: The reports from the independent accounting firm working for OHTA which was reviewing samples of Treasury and GAO settlement packages which was referenced on page 3 of the Twenty-Seventh Quarterly Report.

Response: The referenced document(s) will be provided as part of the AR.

Appendix C, Item 18: The report from the historical accounting project of IIM accounts held by the Agua Caliente Indians which was referenced on page 25 of the Eighth Quarterly Report.

Response: The referenced project was a pilot project that was not pursued and, therefore no report was generated.

Appendix C, Item 19: The reports from NORC or others contractors as a result of the land title project referenced on page 28 of the Eighth Status Report.

Response: This request seeks documents concerning land title and recordation. Land title matters are an asset management issue, similar to land appraisals, which the Court has previously ruled are not proper subjects for discovery in this case, because asset management issues are not part of this case. Cobell, 226 F.R.D. at 77-78 (D.D.C. 2005). Consequently, Defendants object to this request as being beyond the proper scope of discovery as defined by the Court under Fed. R. Civ. Rule 26(b).

Appendix C, Item 20: Reports from the work regarding land title and record offices referenced on page 56 of the Tenth Status Report.

Response: Defendants incorporate by reference their response to Item 19 of Appendix C above.

Appendix C, Item 21: Deloitte & Touche's reports regarding a historical accounting for 37 IIM land-based accounts in the Eastern Region referenced on page 54 of the Eleventh Status Report.

Response: The referenced document(s) will be provided as part of the AR.

Appendix C, Item 22: Reports of Gustavson Associates regarding a pilot study to search and identify oil and gas records on allotted lands referenced on page 58 of the Eleventh Status Report.

Response: Defendants object to this request as neither relevant nor reasonably calculated to lead to admissible evidence to the extent it seeks discovery concerning asset management issues. Subject to and fully reserving all objections, the Interior Defendants state that the referenced document(s) will be provided as part of the AR.

Appendix C, Item 23: Reports from the contractor regarding the accounting and reconciliation work referenced on page 22 of Quarterly Status Report No. 20.

Response: The referenced document(s) will be provided as part of the AR.

Appendix C, Item 24: The independent studies performed by OST regarding appraisals referenced on page 27 of Quarterly Status Report No. 20.

Response: This request seeks documents concerning appraisals. The Court has already ruled that discovery regarding appraisals is improper, because appraisals are an asset management issue, and asset management is not part of this case. Cobell, 226 F.R.D. at 77-78. Consequently, Defendants object to this request as being beyond the proper scope of discovery as defined by the Court under Federal Rule of Civil Procedure 26(b).

Appendix C, Item 25: The Treasury report of checks and electronic funds and quality control reviews referenced on page 18 of Quarterly Status Report No. 17.

Response: This request refers to a large set of data, containing approximately 6.5 million entries of individual check or electronic funds information compiled by Treasury and used by the Department of the Interior in connection with certain historical accounting activities. Defendants object to production of individual transaction information, especially for unnamed class members, because such information is neither relevant nor reasonably calculated to lead to admissible evidence for purposes of the October 10, 2007 hearing. Subject to and fully reserving all objections, the Interior Defendants will include a copy of a NORC report in the AR that addresses the data set and its use by Interior.

Appendix C, Item 26: Any annual audits and other work performed by third party CPAs or accounting firms, including the annual trust fund financial audits referenced on page 38 of Quarterly Status Report No. 16.

Response: The request is objectionable as overly broad in that it includes “any annual audits and other work,” which would include audits of tribal funds and all other activities unrelated to the IIM trust funds. Subject to and fully reserving all objections, Interior Defendants state that audit reports concerning the IIM trust funds will be provided as part of the AR.

Appendix C, Item 27: The report dated on or about August 22, 2003 from OHTA’s quality control contractor referenced on page 28 of Quarterly Status Report No. 15.

Response: Defendants object to this request as vague and confusing, because the page of the Quarterly Report cited by the request contains no reference to a report as described. Moreover, if this request is actually seeking production of the quality control check that was performed in connection with the Paragraph 19 project, Interior Defendants believe said report

was previously produced to Plaintiffs and made available through a court filing. Subject to and reserving all objections, Interior Defendants state that document is titled, “Report on the quality control check of historical accounting by Ernst & Young LLP of IIM accounts for four plaintiffs and their agreed-upon predecessors related to the *Cobell et al. v. Norton et al.* litigation for U.S. Department of the Interior, Office of Historical Trust Accounting” (August 22, 2003), and it will be included in the AR.

Appendix C, Item 28: The report or results of the Cadastral Pilot referenced on page 34 of Quarterly Status Report 14.

Response: This request seeks documents concerning land boundary surveys. Land boundary matters are an asset management issue, which the Court has previously ruled is not a proper subject for discovery. Cobell, 226 F.R.D. at 77-78. Consequently, Defendants object to this request as being beyond the proper scope of discovery as defined by the Court under Rule 26(b).

CONCLUSION

For the foregoing reasons, Defendants object to Plaintiffs' RFP and submit that Defendants' provision of relevant documents in the Administrative Record will be sufficient for Plaintiffs' purposes in preparing for the October 10, 2007 hearing.

Dated: June 13, 2007

Respectfully submitted,

PETER D. KEISLER
Assistant Attorney General
MICHAEL F. HERTZ
Deputy Assistant Attorney General
J. CHRISTOPHER KOHN
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CERTIFICATE OF SERVICE

I hereby certify that, on June 13, 2007 the foregoing *Defendants' Response to Plaintiffs' May 18, 2007 Request for Production* 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

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ELOISE PEPION COBELL, *et. al.*,

Plaintiffs,

v.

DIRK KEMPTHORNE, Secretary of
the Interior, *et.al.*,

Defendants.

No. 1:96CV01285 ____

SECOND DECLARATION OF RITA BRATCHER

I, Rita Bratcher, hereby declare, pursuant to 28 U.S.C. §1746, as follows:

1. I am currently employed by the Department of the Treasury, Financial Management Service ("FMS"), as the Assistant Commissioner, Debt Management Services. I have been employed at FMS for over 35 years, and I served as the Document Production Coordinator for the *Cobell* litigation from March of 1999 through April of 2003. As the Document Production Coordinator, under the direction of the Commissioner of FMS, I coordinated efforts within FMS related to the Paragraph 19 searches in support of the Defendants' Response to the Court's First Order for the Production of Information, and the development of FMS' Inventory of Summary Level Accounting Records, dated June 21, 2000. Paragraph 19 called for the production of "all documents, records, and tangible things which embody, relate to, or refer to the IIM accounts of the five named

plaintiffs or their predecessors in interest.” I have personal knowledge of FMS’s document production protocols and efforts with respect to this litigation. I previously provided a declaration in this case on July 9, 2001. The facts set forth below are true to the best of my information, knowledge, and belief, or are as provided to me by employees of Treasury based on their knowledge, information, and belief.

2. This declaration is based on my review of the May 18, 2007, document requests and other document requests served in this case, my general familiarity with the process used to plan and execute the Paragraph 19 search, and facts about that search gathered by others that were included in Treasury’s Paragraph 19 Document Production Report, filed on January 31, 2001. This declaration is also based on my knowledge of Treasury documents, systems, and retention and preservation protocols and practices.

Plaintiffs’ Request No. 1

3. Paragraph 1 of the May 18, 2007, Plaintiffs’ Request for Production asks Defendants to produce “all documents, records, and tangible things which embody, refer to or relate to the IIM accounts” for 38 IIM beneficiaries identified in Appendix A and their predecessors-in-interest. This request is nearly identical in substance and scope to the Paragraph 19 request made by Plaintiff’s previously, with the exception that information is requested on 38 beneficiaries and an unknown number of predecessors-in-interest, instead of five and their predecessors-in-interest. Comparing the five plaintiffs used in the Paragraph 19

search with the 38 named in Appendix A of the new request suggests that Plaintiffs' new request could be more than seven times bigger in scope.

4. Treasury's Paragraph 19 search was designed to locate documents pertaining to the IIM accounts of particular individual Indian beneficiaries. The Plaintiffs' most recent document requests, served May 18, 2007, also seek documents pertaining to particular individuals, such as requests 1, 2, and 8, and possibly others. Because the Plaintiffs' document requests are similar, the Paragraph 19 search is a useful reference for evaluating the work, time, and cost that would be involved in producing documents that Plaintiffs requested on May 18.
5. Treasury began a comprehensive search for documents responsive to Paragraph 19 in 1999. We have described this search in several filings with this Court and in presentations to Special Master Balaran, some of which are listed below. The search took 14 months, required research at 37 facilities in 24 cities, considered over 6 billion records, involved the work of 2,200 people, and cost over \$3,900,000. For all this effort, the search found only 2,296 documents.
6. If Treasury were required to repeat the Paragraph 19 search for a new round of document requests, I would recommend that Treasury prepare a search protocol and plan as it did in 1999. It would not be prudent, in my opinion, to begin such a massive undertaking without a clear understanding of the task and general agreement that the plan was appropriate. I estimate that it would take several months to prepare a thorough search plan for Plaintiffs' most recent set of discovery, depending on the search scope (including locations to be searched), the contractor's schedule, cost, and other factors. If there was disagreement about

assumptions in the search plan, those disputes should be resolved before the search began.

7. The burden of undertaking a new Paragraph 19 search would depend heavily on assumptions in the search plan, and Treasury would propose a somewhat different plan than it used in 1999-2000. But if the Court required Treasury to use the same methodology used in the 1999 search for the 38 newly-identified beneficiaries and their predecessors in interest, and Treasury undertook the same search again changing only the names of the individual Indians, based on my experience with the planning and execution of the Paragraph 19 Report and my review of that Report, I estimate that the following data contained in the Paragraph 19 Document Production Report would roughly approximate some of the burden involved in the new search:

- a. During the Paragraph 19 production, Treasury searched 84,730 cubic feet of records (about 188 million pages) at the National Archives. These records took thousands of hours to search and contained only 1,573 responsive documents. **Tab 1, page 19.** However, because of the additional beneficiaries to be searched, the new search could take years instead of months.
- b. During the Paragraph 19 production, Treasury searched 374,072 cubic feet of records (about 1 billion pages) at Federal Record Centers in 11 different locations. These records took thousands of hours to search and contained no responsive documents. **Tab 1, page 25.**

- c. During the Paragraph 19 production, Treasury searched 454 boxes at Federal Reserve Banks in 8 cities. No responsive documents were found. **Tab 1, page 27.**
 - d. During the Paragraph 19 production, Treasury searched 250 boxes of check-related records, and 3 billion check-related records that can only be searched with predicate information from the Interior Department (check symbol and serial number). The search found 222 checks and 492 check-related records. **Tab 1, page 27-28.**
8. The cost of conducting another Paragraph 19 search is difficult to estimate, because it also depends heavily on assumptions in the search plan, such as the locations to be searched, the years to be searched, and many other factors. The original Paragraph 19 search cost approximately \$3.9 million, which included costs spent to design the search plan. Treasury might be able to avoid some design costs by relying on work done by its original contractor. On the other hand, the increased number of beneficiaries to be searched could significantly increase the cost of labor associated with the search. The search necessitated by this request would pose a substantial burden on Treasury.

Plaintiffs' Request No. 2

9. Plaintiffs' Request No. 2 seeks "all documents, records, and tangible things which embody, refer to or relate to the IIM accounts of selected Judgment and Per Capita beneficiaries...." To undertake this request would implicate essentially the

same scope of search and take substantially the same effort as that required by Plaintiff's Request No. 1 discussed above, and thus would pose an unreasonable burden on Treasury to comply with the request.

Plaintiffs' Request No. 8

Plaintiff's Request No. 8 asks Defendants to produce "...all documents related to the disbursement of trust funds between June 1, 1998 and December 31, 1999 not otherwise produced in Paragraph 7 above...." It is probable that the search necessitated by Plaintiffs' Request No. 8 would involve thousands of man hours and would take many months to complete, and place a substantial burden on the Treasury. In order to respond to this request, Treasury would need to search:

- a. The Treasury Check Information System ("TCIS") check data, check claims, and check case history files. Interior would need to provide to Treasury the check number and check serial number of each disbursement before a search could be performed. The time that it would take to perform this search would depend on the number of items identified by Interior to be searched. Search time would also be affected by the date of the items, and whether the information provided by Interior were in paper or electronic form. As an example, it is estimated that it would take approximately two months to produce 15,000 check copies, if electronic data is provided, and approximately six months if paper is provided. For 41,000 check copies, a search

would take between four and ten months. For the period cited in Plaintiffs' Request No. 8, it is estimated that there are perhaps 300,000 to 500,000 checks for the relevant Interior code.

- b. "Mass Cancel File" of outstanding checks that were cancelled in 1999 pursuant to 31 U.S.C. § 3334(b). As long as check numbers and check serial numbers are provided by Interior, the search time for this electronic database would be minimal.
- c. Summary-level disbursement documents. This includes documents which do not contain individuals' names, but only summary level data about disbursements by or on behalf of Interior, at an aggregate level, which may or may not involve Individual Indian Money. These records are therefore not searchable by beneficiary name. I estimate that there are approximately 386 boxes located at seven locations across the country that contain records in the date range specified by Plaintiffs' Request No. 7 which would need to be located, retrieved and copied for production.
- d. Automated Clearing House ("ACH") data relating to electronic funds transfers. For the dates of the transactions occurring in the date range specified, information is available electronically. Searches involving transactions older than October of 1997 would involve manual review of paper files.

- e. Fedwire data relates to electronic funds transfers usually made in large dollar amounts. Even with the necessary search information provided by Interior, such a search would likely take months because of the need to scan paper records at Federal Record Centers for any transactions occurring earlier than 2005.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 11, 2007.


Rita Bratcher

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

RECEIVED
U.S. COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA
2007 JAN 31 PM 8:12

ELOUISE PEPION COBELL)
et al.,)
)
Plaintiffs,)
v.)
)
SECRETARY OF THE INTERIOR,)
et al.,)
)
Defendants.)
_____)

FILING DEPOSITORY

No. 1:96CV01285 RCL

**NOTICE OF FILING OF THE DEPARTMENT OF THE TREASURY
PARAGRAPH 19 DOCUMENT PRODUCTION REPORT**

The Department of the Treasury, with the assistance of Arthur Andersen LLP, has prepared a comprehensive report on its completion of its searches for, and production of, records responsive to Paragraph 19 of the Court's First Order for the Production of Information, dated November 27, 1996. The report details the efforts involved, the costs incurred, and the results obtained. In addition, the report includes Arthur Andersen's *Paragraph 19 Document Production Procedures and Findings Report* which details how the searches of records were carried out and includes all certifications attesting to the completion of the searches in accordance with the Treasury *Paragraph 19 Document Production Plan*. As set forth in the Certificate of Service attached hereto, these certifications were provided to Plaintiffs' counsel in both hard copy and on compact disks (CDs)^{1/2} containing the digital images of these documents.

^{1/2}Plaintiffs' counsel, Dennis Gingold, during our meet and confer on the *Secretary of the Treasury's Unopposed Motion for Leave to File on Compact Disk Digital Images of the Attachments To Department of the Treasury Paragraph 19 Document Production Report* indicated that he only wanted the appendices on CD. Mr. Gingold indicated that only one set of the appendices in hard copy need be provided; thus, we have provided a set of the appendices in

DEPARTMENT OF THE TREASURY
PARAGRAPH 19 DOCUMENT PRODUCTION REPORT
COBELL ET AL. v. SECRETARY OF THE INTERIOR, ET AL.

Date: January 31, 2001

TAB 1
OVERVIEW OF WORK PERFORMED

transferred to the permanent custody and control of the National Archives and Records Administration ("NARA").⁶ Records falling within the first category are stored on-site (i.e., at various Treasury facilities), at Federal Records Centers ("FRCs") and at Federal Reserve Banks, branches and their private storage facilities ("FRBs"). Records falling within the second category are stored in various National Archives facilities. Review of records in both categories required research at 37 facilities in 24 cities. (Figure 1.)

Figure 1: Facilities at which Records were Reviewed

City	Facility(-ies)
Atlanta, GA	FRC
Ardmore, MD	FMS Warehouse
Austin, TX	FMS Regional Financial Center
Baltimore, MD	FRB
Birmingham, AL	FMS Facility
Boston, MA	FRC
Chicago, IL	FMS Regional Financial Center FRC
College Park, MD	National Archives II Facility
Dallas, TX	FRB
Denver, CO	FRB
El Paso, TX	FRB
Ft. Worth, TX	FRC
Houston, TX	FRB
Hyattsville, MD	FMS Hyattsville Facility
Kansas City, MO	NARA Archives Central Plains Facility
Kansas City	FMS Regional Financial Center FRCs (2 Facilities)
Lanham, MD	Indian Trust Accounting Division Facility
Los Angeles, CA	FRB FRC
New Orleans, LA	FRB
Parkersburg, WV ⁷	BPD 3rd Street Facility BPD Park Center Facility BPD Warehouse
Philadelphia, PA	FMS Regional Financial Center
San Francisco, CA	FRB FRC FMS Regional Financial Center

⁶ Treasury notes that the records that it searched within the permanent custody and control of the National Archives and Records Administration are available for review by members of the public. Treasury searched these records despite F.R.Civ.P. 34 because of unique circumstances. By searching these records, Treasury does not waive its right to object to any other document regarding this case that it would have it search for records not in its possession, custody, or control. In addition, thousands of reels of microfilm that are ordinarily stored at the National Undersecretary of the Treasury facility in Boyers, PA on behalf of BPD were shipped to Parkersburg to expedite the search.

St. Louis, MO	FRC
Suitland, MD	Washington National Records Center
Washington, DC	BPD Headquarters
	BPD C Street Facility
	FMS Headquarters
	National Archives I Facility
	Treasury Department main building

In order to complete the searches as outlined in the Revised Protocol and Plan, it was necessary to consider over 6 billion records. As set forth in Figure 1 of the Arthur Andersen Paragraph 19 Document Production Procedures and Findings Report ("Arthur Andersen Report") filed contemporaneously with this report, the estimated volumes of records considered under the first four sections of the Plan are: (1) under section 001, Records Stored at the National Archives and Federal Records Centers, over 1 billion pages; (2) under section 002, Checks and Check-Related Records, over 3 billion records; (3) under section 003, Savings Bonds, over 4 billion records; and (4) under section 004, Marketable Securities, over 350 million records.

The total number of personnel who reviewed records, including general office file searches stands in excess of approximately 2,200 people (including general office file searches which involved over 2,000 Treasury employees). To conduct its searches, Treasury incurred three types of costs: (1) costs for external resources; (2) quantifiable costs for internal resources; and (3) unquantifiable costs for internal resources. (Figure 2.)

Figure 2: Estimated Costs of Searches

Cost Category	Amount
External Resources	In excess of \$2,900,000
Internal Resources	In excess of \$1,000,000 ⁸
Total	In excess of \$3,900,000

First, Treasury spent in excess of \$2.9 million for the services of external resources, including Arthur Andersen, Federal Reserve Bank staff, Office of the Comptroller of the Currency contractors, and imaging and indexing services provided by Aspen Systems Corporation. Second, Treasury estimates that it incurred internal costs in excess of \$1,000,000 for personnel who designed and/or conducted searches, or otherwise contributed to Treasury's compliance with Paragraph 19. While it may be obvious, Treasury notes that all of the funds that were expended on its search effort had been allocated for other uses and had to be diverted from these other activities.

Finally, Treasury's search effort resulted in the production of 2,296 documents. As indicated in the following chart, this total includes 1,573 primary and attachment documents (see below) produced from the National Archives and Federal Records

⁸ This figure is based on best estimates provided by individuals knowledgeable with the search process.

Record Group	Description	Est. Vol. (Cu. Ft.) ²²	Tab
39	Bureau of Accounts	1,475	2
50	Treasurer of the United States	2,721	3
53	Records of the Bureau of the Public Debt	2,249	4
56	General Records of the Department of the Treasury	6,489	5
82	Records of the Federal Reserve System	1,201	6
101	Office of the Comptroller of the Currency ²³	18,608	7
217	Accounting Officers of the Department of the Treasury	34,512	8
	Sub-total:	67,255	
NA	Other Treasury related Records Groups Evaluated (18)	17,475	
	Total Evaluated:	84,730	

TABLE 2: ARCHIVES RECORD GROUPS REVIEWED

As a result of the thousands of hours Treasury and Andersen spent searching through the massive volume of records in the seven record groups (approximately 188 million pages), Treasury found and produced 1,573 documents. More specifically, 1 document was produced from RG 39 and 1,572 documents were produced from RG 217. No responsive documents were identified in Record Groups 50, 53, 56, 82, and 101.

Refer to Tabs 2-8 for a full description of the procedures performed, the complete findings, and any noted exceptions.

²² Volume per the *List of Federal Records-Holdings at the National Archives of the United States*. NARA uses a conversion of 2,800 pages of paper per 1 cubic foot of textual records.

²³ During the later stages of the detailed Record Group review process, Andersen identified selected records associated with Office of the Comptroller of the Currency ("OCC") that required review. Although it was highly unlikely that a responsive document could have been included in the records, Treasury elected to have them thoroughly searched as a matter of diligence. A detailed description of the search is included in Tab 7.

Record Group	Description	Total Volume ³⁹ (Cu. Ft.)	Review Volume ⁴⁰ (Boxes)	Tab
39	Bureau of Accounts	17,243	543	9
50	Treasurer of the United States	3,687	607	10
53	Records of the Bureau of the Public Debt	17,488	3,150	11
56	General Records of the Department of the Treasury ^{41,42}	9,786	193	12
82	Records of the Federal Reserve System	7,666	4	13
217	Accounting Officers of the Department of the Treasury	814	322	14
425	Financial Management Service ⁴³	317,388	30	15
Total:		374,072	4,849	

TABLE 3: FRC RECORD GROUPS REVIEWED

FEDERAL RESERVE BANKS

Among their other responsibilities, Federal Reserve Banks and branches (“FRBs”) collectively act, when designated by Treasury, as fiscal agent for Treasury. In such capacity, FRBs accumulate records related to functions they perform for the Bureau of the Public Debt (“BPD”) and Financial Management Service (“FMS”). Records accumulated by FRBs for BPD that could be subject to Paragraph 19 are mostly secondary records related to marketable and non-marketable Treasury securities. Records accumulated by FRBs for FMS are associated with the processing of Treasury checks (these were searched under Section 002 of the Plan); and records associated with processing deposits made by Federal Government agencies (these deposit records are summary level accounting documents and therefore not subject to Paragraph 19

³⁹ Total volume of records evaluated at the Finding Aid level (i.e., SF 135, 01 Report, ASD, DAC, RSD).

⁴⁰ Total number of boxes that required on-site evaluation (i.e., required some level of physical box review).

⁴¹ Records relating to Departmental Offices.

⁴² Includes 39 boxes not listed on the 01 Report but verified by physical inventory.

⁴³ RG 425 is an active Record Group maintained by NARA consisting of current FMS records (non-historical). Although it appears as a Historical Record Group in the GFRNA, it does not contain historical records that have been permanently transferred to the National Archives; and therefore exists as a Federal Records Center Record Group only.

required manual searching (*i.e.*, a date range where prior electronic searches would not have been effective in locating responsive records). In some instances, Treasury and Andersen conducted high-level box reviews to verify the contents or understand the nature of the records. Where a box was identified as requiring a review, a thorough page-by-page review was conducted at each FRB location (Table 4).

Federal Reserve Bank	Volume ⁴⁶ (Boxes)
Baltimore	3
Dallas	110
Denver	4
El Paso	65
Houston	257
Los Angeles	1
New Orleans	1
San Francisco	13
Total:	454

TABLE 4: FRB BOXES REVIEWED

D. SUMMARY

FRBs in 8 cities across the country required detailed searches. Andersen and BPD performed searches of these facilities in accordance with the methodologies set forth in the Plan. The thorough searches conducted at each location resulted in finding no responsive documents. Described in Tab 16 are the detailed procedures and findings for searches conducted at FRBs, and any noted exceptions.

002. CHECKS AND CHECK-RELATED RECORDS

The Plan sets forth the processes necessary to search for and identify checks and check-related records related to Individual Indian Money disbursement transactions for which Treasury receives necessary predicate information (check symbol and serial

⁴⁶ Boxes identified by Andersen and BPD that required an on-site evaluation (*i.e.*, were opened by the reviewer to assess content). Noted exceptions: 2 boxes were not located in El Paso, and 7 boxes were not located in Dallas (see Detail below).

number) from the Department of the Interior (“Interior”). FMS, and its agents, Federal Reserve Banks, maintain checks and check related records.⁴⁷ Andersen performed additional procedures to assess the Plan’s approach to identify documents responsive to Paragraph 19. Described below is an overview of Andersen’s procedures.

A. OBJECTIVE

Andersen, in advising FMS in the development of the Plan, focused on the need to effectively identify responsive checks and check-related records. In performing this task, Andersen assessed whether the procedures followed by FMS constituted a thorough and consistent search. In addition, Andersen also carefully evaluated the level of quality assurance and controls implemented by FMS during the search and identification process.

B. RECORD ORGANIZATION

As outlined in the Plan, checks and check-related records historically were indexed by check symbol and check serial number and cross-referenced to a Document Identification Number (“DIN”). The DIN allows access to the physical negotiated checks, microfilm copies of negotiated checks, and digital images of negotiated checks. Therefore, the only practical way to search these records was by using predicate information provided by Interior. This information provided the only practical basis to identify plaintiff and predecessor names among over three billion records that are not stored alphabetically due to the use of the DIN as an index to the checks.

C. RECORDS REVIEW

In performing the process evaluation, Andersen conducted on-site visits to FMS’ Hyattsville location to perform several interviews with the functional-technical and information-organizational experts at FMS. The evaluation process spanned the period prior to, during, and after the Plan was developed and covered the following records:

1. Copies of Negotiated Checks
2. Check Claim Case History Folders for Negotiated Checks
3. Check Cancellation Information for Checks issued from 1956 to the present
4. Check Cancellation Information (Limited Information) for Some Checks Issued From 1866-1955

⁴⁷ A narrative on the check disbursement processes and records management is included in the introduction to *Section 002 Checks and Check-Related Records* in the Plan.

005. GENERAL OFFICE FILES

Andersen assisted Treasury in verifying that comprehensive and thorough general office files searches were completed. Upon completion of Treasury's searches, Andersen met with representatives from selected areas within BPD, FMS, and the Departmental Offices ("DO") to perform a quality review of the search processes that were implemented.

A. OBJECTIVE

Andersen's objective was to establish that the searches were complete, thorough, and consistent with the Plan. Described below are the procedures Andersen performed in its quality review of the general office files searches. A more detailed description of the processes Andersen undertook to evaluate the general office files searches is described in Tab 20.

B. BACKGROUND

As a follow-up to an earlier search conducted in June of 1999, senior officials at DO, BPD, and FMS sent additional memoranda to those offices they had determined to be pertinent, directing them to conduct a supplemental search. The December 1999 memoranda include an explanation of a responsive document, what records should be searched, how the search should be conducted, what to do with responsive documents that are located, and how to provide assurance that the search was completed. In addition to these guidelines and explanations, an updated list of the plaintiffs' and predecessors' names and aliases was provided to the searchers. The December Memoranda served as the primary directive in conducting the search. Moreover, to limit discretion and / or inconsistent interpretation of the directive, searchers were instructed to seek clarification if necessary from the Treasury Department's Office of the General Counsel, or the Chief Counsel's Office of BPD, or the Chief Counsel's Office of FMS. This approach enabled the process to be consistent among the various offices and bureaus.

C. PROCEDURES

1. GENERAL OFFICE FILES SEARCHES

From April 2000 to November 2000, Andersen met with various Treasury representatives from DO, BPD, and FMS. Andersen's primary objective during the interviews was to establish that the searchers demonstrated adequate understanding of the requirements of the search and performed a thorough and consistent search as required by the Plan. To achieve this objective, Andersen created a standard set of interview questions that were asked at each meeting (Appendix 55, *General Office Files Searches – Interview Question*). The

DETAILED PROCEDURES

001. RECORDS STORED AT THE NATIONAL ARCHIVES AND FEDERAL RECORDS CENTERS

AGENCY RECORDS

RG 425: FINANCIAL MANAGEMENT SERVICE

A. RECORD REVIEW

Andersen worked closely with representatives from FMS. This enabled Andersen to make an informed evaluation of FMS' records and their relationship to Paragraph 19. Due to the large volume of records in Record Group 425, Andersen devised a methodical review process designed to employ all available Finding Aids before examining any records page-by-page. The attached flowchart, "FRC Decision Tree",²⁰⁷ illustrates an overview of the steps performed.

Andersen worked with FMS to gain an understanding of FMS' accounting systems and accounting records in order to make an independent determination regarding the relevance of the records to Paragraph 19. Although unable to review each record in RG 425 due to their enormous volume, Andersen followed a methodical and reasonable approach to determine which records needed a box review.

Record Group 425 consists of 4,608 accessions, totaling 317,388 cubic feet of textual records (or approximately 880 million pages). FMS records consist primarily of summary level accounting information, including registers of transactions, ledgers, Treasury checks, journal vouchers, undisbursed appropriation account ledgers, certificates of deposit,²⁰⁸ and other aggregate summary accounting records.

B. FINDING AIDS

1. 01 REPORT

The 01 Report contains a listing of all accessions in a FRC for a specific RG. RG 425 consists of 4,608 accessions. Each accession is a group of records transferred by an agency to an FRC. The 01 Report contains summary level data about each accession and can be used as a high level Finding Aid (*i.e.*, the report contains information about the center location, volume, disposition authority code

²⁰⁷ See Appendix 58, *FRC Decision Tree*.

²⁰⁸ Certificates of deposits refer to present day deposit tickets that are not investment vehicles.

DETAILED PROCEDURES

001. RECORDS STORED AT THE NATIONAL ARCHIVES AND FEDERAL RECORDS CENTERS

FEDERAL RESERVE BANKS

A. RECORD REVIEW

Via the Federal Reserve's Cash Fiscal Product Office, BPD contacted all FRBs to determine whether Treasury related records might be stored either at their facilities or at independently contracted storage areas. BPD and Andersen determined that some documents stored by FRBs related to government securities, and therefore, could not be excluded. All FRBs turned over inventories of documents stored at their on site and independent storage locations. These record inventories indicated that the records in question were similar to the record types searched at the FRCs. Therefore, Andersen used the same exclusion criteria as was used for BPD records stored at FRCs. The primary means of excluding these FRB records was date based: records dated post-1973 were excluded from further review. BPD representatives reviewed the FRB inventories and concluded that 8 FRBs could not be excluded from review.²¹⁵ Andersen performed two of the 8 FRB site searches: San Francisco, CA, and El Paso, TX. BPD directed the remaining FRB sites reviews at Baltimore, MD, Dallas, TX, Denver, CO, Houston, TX, Los Angeles, CA, and New Orleans, LA.

Although SF 135 forms did not exist at the FRBs, the descriptions on the document inventories served as highly useful tools in assessing the potential for responsive documents. Andersen requested that all boxes identified for review be pulled prior to arrival in order to perform a preliminary search of box contents (previously referred to as "indexing"). Following this final exclusion step, a thorough page-by-page review was conducted for the remaining boxes.

B. FRB SITE SEARCHES

1. TARGET SHEET CREATION

a. Name List

The process for creating the Name List on FRB target sheets is identical to the process described for FRC site searches. Accordingly, each sheet displays an entire alphabetized list of valid plaintiffs, predecessors, aliases, tribes and agencies. Moreover, Andersen includes the Bureau of Indian Affairs,

²¹⁵ See Appendix 42, *FRB Review-Transmittals*.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELUISE PEPION COBELL, et al.,)

Plaintiffs,)

v.)

DIRK KEMPTHORNE, Secretary of the Interior, et al.,)

Defendants.)

Case No. 1:96CV01285
(Judge Robertson)

DECLARATION OF JOHN R. SWALES III

I, John R. Swales III, declare, pursuant to 28 U.S.C. § 1746, as follows:

1. I am Assistant Commissioner for the Office of Retail Securities (Retail), Bureau of the Public Debt (BPD), Department of the Treasury. BPD issues and accounts for United States Treasury securities, including savings bonds, and marketable Treasury bills, notes, bonds and Treasury Inflation Protected Securities (TIPS).
2. As Assistant Commissioner, I provide overall program direction and policy direction to the Office of Retail Securities. I have been Assistant Commissioner since August 12, 2001, and an employee of BPD since December 8, 1974. Among other responsibilities, I participated in the search for Paragraph 19 documents in 1999-2000, and I am generally familiar with the overall efforts made to locate savings bonds and marketable security records within the scope of that paragraph.
3. I have reviewed Plaintiffs' May 18 document requests, particularly requests 1 and 2, seeking documents pertaining to the IIM accounts of particular individual Indian beneficiaries. It is my understanding that requests 1 and 2 could include savings bond and marketable securities records relating to IIM beneficiaries.
4. BPD has previously searched its savings bond and marketable securities records for documents pertaining to the IIM accounts of the five named plaintiffs and their predecessors in interest. This search was in response to Paragraph 19 of the Court's First Order for the Production of Information (filed November 27, 1996), calling for the production of "all documents, records, and tangible things which embody, relate to, or refer to the IIM accounts of the five named plaintiffs or their predecessors in interest."
5. During the Paragraph 19 search, BPD developed a protocol and plan that described the methods and assumptions BPD would employ during the search. If Treasury had to conduct a similar search, we would likely need to develop another plan with comparable assumptions. For instance, the plan would need to include assumptions about the names to

be searched, such as the names of predecessors in interest. The Plaintiffs' most recent document requests do not include these names.

6. Because Paragraph 19 is similar to Plaintiffs' most recent requests, the Paragraph 19 search is a useful reference for evaluating the work, time, cost, and assumptions that would be involved in producing all documents that Plaintiffs requested on May 18.
7. **Savings Bonds** - As detailed in Treasury's Paragraph 19 Report, Treasury has issued two different types of savings bonds over the years: accrual savings bonds and current income savings bonds. Interest that accrues on an accrual bond is paid at redemption; interest that accrues on a current income bond is paid every six months to the bond owner or his authorized representative. Records of these different types of savings bonds are stored and searched differently. In addition, records for bonds of the same type are stored and searched differently depending on the time period in which they were created.
8. Accrual savings bond registration records are microfilmed alphabetically by bondholder name and numerically by serial number (March 1935 through September 1957 and prior); microfilmed according to the submitting Federal Reserve Bank, transfer date, and batch (October 1957 through 1993); or stored electronically on Computer Output to Laser Disk (January 1988 and after). Current income savings bond registration records are microfilmed alphabetically by bondholder name (May 1941 through March 1991); records of current income bonds issued April 1991 and after are maintained electronically by interest payment account numbers.
9. Generally speaking, searching records of savings bonds issued from March 1935 through September 1957 would require a manual search of the alphabetic issue record microfilm. This process is an extremely laborious exercise involving manual frame-by-frame searching. For instance, if Treasury were required to search for records of accrual savings bonds issued between March 1935 and September 1957, a search for one name would require a manual search of at least 164 microfilm reels to identify responsive documents.
10. In response to Paragraph 19, BPD had to account for over 4 billion savings bond records and review approximately 10,500 reels of microfilm. The review of the microfilm and electronic indexes took over 1,550 person-hours to complete. No responsive documents were found.
11. If required to search BPD's savings bond records again in response to Plaintiffs' May 18 request, BPD would need to review at least as many reels of microfilm, and the search would most likely exceed the 1,550 person-hours necessary for the Paragraph 19 search because the May 18 requests involve significantly more IIM beneficiaries.
12. **Marketable Securities** - As detailed in Treasury's Paragraph 19 Report, BPD manages, among other things, registered and bearer marketable Treasury securities (bills, notes, bonds, and TIPS).
13. These securities are generally stored in electronic, paper, and/or microform format. The organization and search capability of these records differ depending upon the type of marketable security and the time period in which the security was created.

14. Searching for older registered marketable securities would require BPD to review approximately 5,800 reels of microfilm. During the Paragraph 19 search, BPD determined that 1,500 of the 5,800 reels required a more detailed manual search.
15. If required to search BPD's registered marketable securities on microfilm in response to the May 18 request, BPD's detailed manual search would most likely exceed the 1,500 reels searched during Paragraph 19 because the recent requests involve significantly more IIM beneficiaries.
16. BPD would also be required to search case file folders that are maintained with respect to certain marketable securities transactions. Although most searches of case files can be done electronically, during the Paragraph 19 search a subset required a manual search of 125 boxes that required approximately 370 hours of employee time to complete.
17. BPD also possesses bearer securities records that it can search, but only with the necessary predicate information from Interior. Bearer securities are paper certificates for which no ownership information is recorded. In order to search these records, BPD would need the CUSIP number (or loan title), denomination, and serial number.
18. The search of marketable securities records during the Paragraph 19 search identified one responsive document (a \$50 Liberty Loan bond issued in 1918 and paid in 1920), which was produced to the Plaintiffs in August 2000.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on June 11, 2007

A handwritten signature in black ink that reads "John R. Fowler, III". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

DECLARATION OF ROSS SWIMMER

1. I, Ross Swimmer, am Special Trustee of the Office of the Special Trustee for American Indians, United States Department of the Interior. I have held this position since 2003. The Office of the Special Trustee (OST) is responsible for accountability and management of Indian funds held in trust by the federal government.
2. I reviewed the Request for Production of Documents filed by the Plaintiffs on May 18, 2007 and determined that OST would be likely to possess documents potentially responsive to a number of the requests. However, production of some of the requested documents would be an extremely time-consuming and expensive project for OST, as described in the following paragraphs. It is important to note that the following estimates of time and expense relate to OST and do not include information about any search for or production of records in the possession of the Bureau of Indian Affairs, the Office of Historical Accounting, and other bureaus of the Department of the Interior.
3. Plaintiffs' Request Number 1 is addressed in paragraphs 3 through 10 of this declaration. Research based on an individual's name without additional identifying information would be extremely inefficient and potentially inaccurate if a number of different individuals have the same name. The first step would be to enter the name into the electronic Trust Funds Accounting System (TFAS) to look for account information. As an example, there are 46 variations on one of the names in Plaintiffs' Appendix A in TFAS. Additional information would be essential to identifying the correct individual.
4. If the individual has a current IIM account, TFAS will provide the account number or numbers. At that point an electronic historical inquiry may be made that reveals

transactions that took place in the electronic era. The transaction information may include such items as batch numbers, deposit ticket numbers, and coding that identifies the transaction as manual or electronic. For example, one of the names on Plaintiffs' Appendix A, when entered into TFAS, turned up approximately 160 transactions.

5. In order to obtain "all" documents relating to the IIM account(s) of the individual, the next step would be to begin a search for documents at OST, the Bureau of Indian Affairs (BIA), and the American Indian Records Repository (AIRR) in Lenexa, Kansas. Information retrieved from TFAS and the historical transaction database, if any, would determine the geographic locations searched with the BIA and would help formulate the search terms to be used at the AIRR.
6. At the AIRR there are approximately 151,000 boxes of documents. Of these, approximately 117,000 contain trust or trust-related records. Searches of those boxes of documents containing trust or trust-related records would have to be done manually, except for those boxes that have been electronically scanned by the Office of Historical Accounting (OHTA). According to OHTA, documents in approximately 9300 boxes have been scanned or partially scanned.
7. Selection of which of the approximately 117,000 boxes to search manually would involve use of the Box Index Search System (BISS) in order to locate boxes containing potentially responsive documents. The boxes are indexed on BISS at the "folder level" unless they are in a record series that relates to trust documents. Boxes of trust documents are indexed at the "document level." Each box contains approximately 2,000 pages of documents.
8. The boxes identified by the BISS in response to the first input of search terms would have to be searched for documents or information that might lead to a second search term that would then be used for a second tier search. This process may have to go on through several tiers of searches, with each tier involving the examination of every document in a folder or in an entire box, to retrieve a particular bill for collection, lease, or other document related to the IIM account holder. Depending on the nature of the examination, a reasonable number of hours needed to examine one box of documents is between 2 and 8 hours. Many of the boxes searched typically do not contain the documents for which the search is being undertaken.
9. In order to locate "all" of the documents at AIRR related to the IIM accounts of the persons named in Plaintiffs' Appendix A, it might be necessary to search **all** of the boxes at the American Indian Records Repository which contain trust or related records. If the examination of each box required between 2 and 8 hours, the effort could consume between 234,000 and 936,000 employee hours.

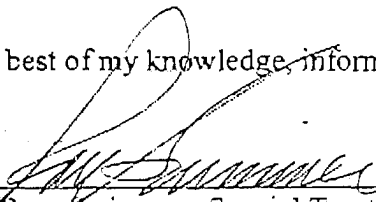
10. In order to fulfill Plaintiffs' Request Number 1, it would also be necessary to search boxes of documents located at OST. I estimate that approximately 70,000 employee hours would be required to perform that search, at a cost of approximately \$2.8 million.
11. Fulfilling Plaintiffs' Request Number 2 would also be extremely time-consuming and expensive for reasons similar to those described above. This request would be less onerous because the additional information provided on the individuals named on Plaintiffs' Appendix B would provide more effective search terms at AIRR, increasing the efficiency of the search process; and the additional information would also facilitate the searches at OST and BIA. I estimate that the search at OST would require approximately 5300 employee hours at a cost of approximately \$225,000.
12. With regard to Plaintiffs' Request Number 12, the 14X6039 account is the U.S. Treasury account symbol that represents the primary operating account for IIM funds. The documents requested would include those which supported the initial IIM cash receipt, the investment of those receipts, all disbursements, and all documents supporting the receipt or disbursement from the account, i.e., leases, bills of collection, invoices, receipts, deposit tickets, investment transactions, and other documents "related" to transactions in account 14X6039. Because of the very broad description of documents "related to" the account, the category of potentially responsive documents would include land and resource appraisals, lease agreements, royalty agreements, distribution information, supporting financial documents and worktickets, investment trade tickets and supporting documents, copies of checks, system printouts, regulatory and managerial reports, account holder statements, financial statements with workpapers, audit workpapers, and daily and monthly reconciliation files. Indeed, it is difficult to conceive of a document related to individual Indian monies that would not be subject to this request. I estimate that for calendar years 2001 through 2006, the volume of documents would be approximately 9,750 cubic feet, requiring 78,000 hours to produce at a cost of approximately \$3.1 million. Going back to 1985 the volume of documents would increase to approximately 35,750 cubic feet, requiring 286,000 hours to produce at a cost of approximately \$11.4 million. In the 15 years between 1985 and 2000 there were approximately 30 million transactions in this account.
13. Many of the employees who would need to be assigned to a document production request such as this are the same employees whose responsibilities include services to Indian beneficiaries, including the issuance of checks to account holders. Performance of the regular work of the Office of the Trustee would have to be delayed substantially in order to fulfill the Plaintiffs' document request.
14. Plaintiffs' Request Number 19 is so broad, and potentially responsive documents could be discovered in such diverse locations, that it is difficult to estimate the level of effort that would be necessary to respond. For example, correspondence from individual account holders alleging some impropriety with their accounts might exist from any period in the

history of allotments, and searches of various Federal Records Centers in addition to AIRR would be necessary to locate such documents. Inquiries to the Beneficiary Call Center with allegations of loss or improper payment may or may not be forwarded to field offices for research and response. Every audit or inspection by the Minerals Management Service or the Bureau of Land Management of the use of and payment for a natural resource might include potentially responsive documents. Responding to this request would require a search for documents by multiple offices of at least seven of the Interior bureaus, which would consume thousands of employee hours. It is impossible to estimate the volume of responsive documents that might be found, or the cost of collecting and producing the same.

15. Plaintiffs' Request Number 20 entails certain documents listed on Plaintiffs' Appendix C. The third item on that Appendix is an electronic copy of the Box Index Search System (BISS) used at the AIRR. The BISS is an index of data items corresponding to the identifying labels on folders or documents in the boxes of records at AIRR. It is designed to be searched by a computer software program licensed to the Department of the Interior. The BISS is a system of records which contains many types of information completely unrelated to Indian trust funds or IIM accounts, such as employee payroll, education, and law enforcement records.

I declare that the foregoing is true and correct to the best of my knowledge, information, and belief.

4/17/2007
Date



Ross Swimmer, Special Trustee
Office of the Special Trustee
United States Department of the Interior

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

DECLARATION OF BERT T. EDWARDS

1. I, Bert T. Edwards, am the Executive Director of the Office of Historical Trust Accounting (OHTA) United States Department of the Interior (Interior). I have held this position since July 2001. In that capacity, I am responsible for directing the activities of OHTA regarding the historical accounting of Individual Indian Money (IIM) accounts.
2. I reviewed the Request for Production of Documents filed by the Plaintiffs filed on May 28, 2007, and determined that Interior would possess a huge volume of documents potentially responsive to a number of the requests. However, production of some of the requested documents would be an extremely time-consuming and expensive project for Interior.
3. With regard to Plaintiffs' Request Number 1, Appendix A lists 38 individuals described as "IIM Beneficiaries," but gives no other information as to their 10-digit IIM account numbers, their tribe (the first three numbers in the 10-digit account number), their address or other useful information to identify the specific purported IIM account holder they may be. OHTA's experience is that names may be duplicated within tribes and that there may be several individuals with the same name. Further, Appendix A does not identify the approximate time periods the purported IIM account holders may have had an active account. Determining the exact account holder Plaintiffs seek information on will take a considerable amount of time particularly since OHTA is not permitted to contact the account holder pursuant to Court order.

4. If the individual is a current IIM account holder, the first step would be consultation of the electronic data set to obtain transaction information. Whether or not such information exists electronically, which depends on the timeframe in which the account was active, the production would then require research into the active files, that is, paper files at various locations within Interior in order to locate "all" documents related to IIM accounts of the individuals named on Plaintiffs' Appendix A. Such locations would include the Bureau of Indian Affairs (BIA) agency or agencies which administered the account during its existence, BIA regional offices, and other Interior agencies including OHTA. In addition, inactive records at the American Indian Records Repository (AIRR) and other Federal Records Centers would also have to be searched.
5. To identify predecessors-in-interest of the individuals named on Plaintiffs' Appendix A, it would be necessary to consult the Trust Asset and Accounting Management System (TAAMS), an electronic database of land records, which would provide additional information regarding previous owners of land interests, from whom the listed account holder acquired his or her ownership interest(s). At that point it would be necessary to locate the paper records of all such individuals in order to produce "all" documents requested by Plaintiffs. Those paper records could be in various locations as described in paragraph 4.
6. It is difficult to estimate the level of effort that would be required to undertake such a comprehensive record search, especially considering that the total number of individuals to be researched is currently unknown. Notwithstanding this difficulty, Request Number 1 would likely resemble the effort expended by Interior in the "Paragraph 19" record search for the named plaintiffs and their agreed-upon predecessors. The "Paragraph 19" record search and IIM account summarization dated back to the early teens of the past century and required an estimated \$20 million of Interior labor and contractor support.
7. OHTA used the "Paragraph 19" experience to estimate the cost in current dollars of complying with Plaintiffs' Request Number 1 and estimated this effort alone to cost \$24 million and consume an estimated 24 months to complete.
8. With regards to Plaintiffs' Request Number 2, Appendix B lists 50 individuals purported to be either Judgment or Per Capita IIM account holders. Locating "all" documents related to any accounts of these individuals would entail a lower level of effort than that described above for documents related to land-based accounts, but similar procedurally and therefore very expensive and time-consuming.
9. The personnel who would need to devote themselves to the reproduction of the documents described above are in many instances the same personnel whose responsibilities include performance of the historical accounting. Accordingly, performance of such a large production project would be likely to delay the completion of the historical accounting by those personnel.

I declare that the foregoing is true and correct to the best of my knowledge, information, and belief.

June 13, 2007

Date



Bert T. Edwards, Executive Director
Office of Historical Trust Accounting
United States Department of the Interior



U.S. Department of Justice
Environment and Natural Resources Division

REPLY TO:
David F. Shuey
General Litigation Section
P.O. Box 663
Washington, DC 20044-0663

Telephone (202) 305-0447
Facsimile (202) 305-0267
Email david.shuey@usdoj.gov

Keith Harper
Native American Rights Fund
1712 N. St. N.W.
Washington, D.C. 20036-2976

June 1, 2000

Re: Cobell, et al. v. Babbitt, et al., Civil Action No. 96-1285

Dear Keith:

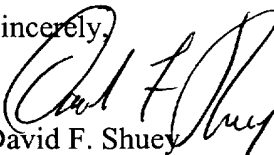
Enclosed is Defendants' Supplemental Response to Request 35 of Plaintiffs' Sixth Request for Production of Documents and a Supplement to Attachment B of Defendants' initial Response.

Request 35 seeks audits or reports of the General Accounting Office of allotted lands or the IIM Trust Fund. While not covered by that request, we are supplementing our response by advising you of audits by the General Accounting Office and the Department of the Treasury of the accounts of Indian Disbursing Agents. Those audits contain information on disbursements to individual Indian allottees. Complete sets of these documents are housed at the National Archives II in College Park, Md. To the extent that any of these record documents pertain to the five named Plaintiffs and their predecessors, they are within the scope of the Paragraph 19 search and will be provided.

In addition, I have attached a listing of other potentially relevant documents that are housed in Regional Archives and Records Centers. These lists, while not "listing indexes" per se, are responsive to Requests 6 and 7 of Plaintiffs' Second Formal Document Request. As you are no doubt aware, there are two publications which provide information on the National Archive collections -- from which the attached lists were created -- *Guide to Federal Records in the National Archives of the United States*, Washington, D.C., National Archives and Records Administration, 1995; and *Guide to Records in the National Archives of the United States Relating to American Indians*, Hill, Edward E, Washington, D.C.: National Archives and Records Service, General Services Administration, 1981.

If you would like to look at the Archives II record collections, it would be useful for us to meet first so that we can discuss how guided access to them can be arranged. Please let me know at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "David F. Shuey". The signature is written in a cursive style with a large, looping initial "D".

David F. Shuey
Department of Justice

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al.,

Plaintiffs,

v.

BRUCE BABBITT, Secretary of the
Interior, et al.,

Defendants.

Civil Action

No. 1:96 CV 01285 (RCL)

DEFENDANTS' SUPPLEMENTAL RESPONSE TO REQUEST 35 OF PLAINTIFFS' SIXTH FORMAL REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to Fed. R. Civ. P. 26 and 34, Defendants hereby supplement their response to Request 35 of Plaintiffs' Sixth Formal Request for Production of Documents. The General Objections, both to Definitions and Requests, contained in Defendants' Response to Plaintiffs' Sixth Request for Production of Documents are incorporated herein by reference and are thereby made applicable to this Request.

35. All audits and reports from the General Accounting Office relating to allotted Indian trust lands or the IIM Trust Fund or both from the period 1887 to 1999.

Objection:

Defendants object to this request as vague and ambiguous, over-broad, unduly burdensome and oppressive and not reasonably calculated to lead to the discovery of admissible evidence. It is unclear from this request which GAO reports or audits Plaintiffs are requesting, as

Plaintiffs have already obtained and utilized many GAO reports in the course of this litigation and at trial. Moreover, this request seeks documents which are available to Plaintiffs at various libraries and public sources.

Response:

Without waiving the foregoing general and specific objections, defendants supplement their prior response to this Request. Information potentially responsive to this Request is located in the National Archives II in College Park, Maryland, in Record Group 411 (Records of the General Accounting Office).

Record Group 411 contains records of settled accounts of Indian Disbursing Agents for the period from approximately 1920 to approximately 1950, when such audits were conducted by the General Accounting Office. These records are housed in approximately 16,000 boxes and can be accessed using the National Archives II index system as well as index books which contain the Indian Disbursing Agent's name and location. They are available for inspection at the National Archives facility in College Park, Md.

In addition, Record Group 217 (Treasury) contains records of settled accounts of Indian Disbursing Agents prior to 1920, when such audits were conducted by the Department of the Treasury. These documents are also located in the College Park facility, where they are available for inspection.

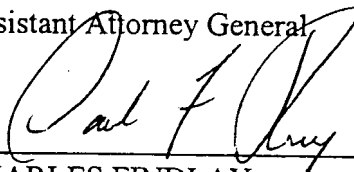
Defendants also attach a Supplement to Attachment B of their Response to Plaintiffs' Sixth Request for Production of Documents, which contains additional GAO reports that may be made available for Plaintiffs' inspection and copying.

Dated: June 1, 2000

Respectfully submitted,

AS TO OBJECTIONS

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SUPPLEMENT TO ATTACHMENT B TO

DEFENDANTS' RESPONSE TO PLAINTIFFS'
SIXTH FORMAL REQUEST FOR PRODUCTION OF DOCUMENTS

Cobell v. Babbitt, Case No.1:96CV01285

Date	ID No.	Document Title
10/29/81	AFMD-82-6	Oil and Gas Royalty Collections – Longstanding Problems Costing Millions
4/27/82	AFMD-82-55	Oil and Gas Royalty Accounting – Improvements Initiated but Continued Emphasis Needed to Ensure Success
7/27/82	EMD-82-104	Interior's Minerals Management Programs Need Consolidation to Improve Accountability and Control
8/10/82	EMD-82-86	Need for Guidance and Controls on Royalty Rate Reductions for Federal Coal Leases
9/5/82	AFMD-82-107	Overview of Department of Interior's and Selected States' Royalty Accounting Systems
1/27/83	AFMD-83-43	Interior Should Solve Its Royalty Accounting Problems Before Implementing New Accounting System
4/18/83	RCED A/C 008522	Possible Insufficient Royalty Collections on Natural Gas Liquid Products From Federal Leases
4/20/84	RCED-84-78	Improvements Needed in the Department of the Interior's Measurement of Offshore Oil for Royalty Purposes
5/3/85	RCED-85-52	Examination of Funds Received by the Federal Government under Leases of Mineral Rights on the Bullhook Gas Unit
6/26/85	RCED-85-139	Reasons and Current Outlook for the Sale of Federal Royalty Oil to Small and Independent Refiners
3/24/86	RCED-86-69	Delays in Processing and Disbursing Onshore Oil and Gas Bid Revenues
3/31/86	IMTEC-86-13	Interior Has Not Solved Indian Oil and Gas Royalty Payment Problems
6/24/86	RCED-86-110	Opportunities to Increase Onshore Oil and Gas Minimum Royalty Revenues
6/18/87	AFMD-87-21BR	Interior's Efforts to Collect Delinquent Royalties, Fines and Assessments
8/25/87	RCED-87-164	Coal Lease Readjustment Problems Remedied But Not All Revenue is Collected
9/17/87	RCED-87-207BR	Interior's Control Over Oil and Gas Allowances
11/5/87	RCED-88-45	Cost of Modifying Gas Royalty Provisions Overestimated by Interior
11/5/87	RCED-88-165	Corps of Engineers Management of Mineral Leases

11/24/87	RCED-88-49	Corps of Engineers Management of Mineral Leases
7/22/88	RCED-88-165	Information on Interior's Royalty Management Program
9/8/88	GGD-88-114	California Crude Oil – An Analysis of Posted Prices and Fair Market Value
5/8/89	RCED-89-108	Implementation of the Federal Onshore Oil and Gas Leasing Reform Act of 1987
6/5/89	RCED-89-167	Options to Accelerate Royalty Payment Audits Need Further Consideration
6/26/90	RCED-90-99	Shortcomings in Onshore Federal Oil and Gas Production Verification
7/27/90	IMTEC-90-65	Improvements Planned for Automated Royalty Management System
8/2/90	RCED-90-7	Collection and Distribution of Revenues From Acquired Lands
8/31/90	RCED-90-193	Progress Has Been Slow in Verifying Offshore Oil and Gas Production
2/22/91	RCED-91-93	Potential Cost to Repurchase Offshore Oil and Gas Leases
5/30/91	RCED-91-153	Interior Used Reasonable Approach to Assess Effect of 1988 Regulations
10/29/92	RCED-93-3	Improvements Made in Interior's Audit Strategy, But More Are Needed
9/22/94	AIMD-94-185	Focused Leadership and Comprehensive Planning Can Improve Interior's Management of Indian Trust Funds
2/27/97	RCED-97-31	Costs for Onshore Minerals Leasing Programs in Three States
8/19/98	RCED-98-242	Efforts to Revise Regulations and an Analysis of Royalties in Kind
9/17/98	RCED-98-261	Revenue Sharing Payments to States and Counties
2/10/92	RCED-92096BR	Indian Programs: Profile of Land Ownership at 12 Reservations

Archival And Federal Record Center Sources

Mineral Leasing of Allotted Land Records

National Archives.

Record Group 75, Records of the Bureau of Indian Affairs.

National Archives II.

Record Group 48, Records of the Secretary of the Interior.

Record Group 49, Records of the Bureau of Land Management.

Record Group 57, Records of the U.S. Geological Survey.

National Archives – Southwest Region.

Record Group 75, Records of the Bureau of Indian Affairs.

National Archives – Rocky Mountain Region.

Record Group 75, Records of the Bureau of Indian Affairs.

National Archives – Pacific Southwest Region.

Record Group 75, Records of the Bureau of Indian Affairs.

Federal Records Center – Denver.

Record Group 49, Records of the Bureau of Land Management.

Record Group 57, Records of the U.S. Geological Survey.

Record Group 473, Records of the Minerals Management Service.

Federal Records Center – Fort Worth.

Record Group 57, Records of the U.S. Geological Survey.

Record Group 75, Records of the Bureau of Indian Affairs.

Record Group 473, Records of the Minerals Management Service.

Agricultural and Grazing Leasing of Allotted Lands Records

	Records Location	Records Organization	Record Types
Aberdeen Area			
Cheyenne River Reservation	NA Kansas City	Cheyenne River Agency, 1869-present (a.k.a. Forest River Agency, 1892-1894)	Decimal files, 1958-1961; land lease files, 1914-1953; range and forestry reports, 1935-1953; grazing permit case files, 1936-1978; individual Indian folders, 1913-1915. IIM ledger sheets, 1913-1955.
Crow Creek Reservation	NA Kansas City	Crow Creek Agency, 1874-1954 (a.k.a. Crow Creek and Lower Brule Agency, 1882-1896)	Decimal correspondence, 1922-1956; land records, including lease records, 1906-1945. IIM case files, ledgers, and related records, 1909-1954.
	NA Kansas City	Pierre Agency, 1954-1972 (Crow Creek Agency is the current agency)	Decimal correspondence, 1941-1971; program decimal correspondence, 1949-1966, and cattle and agricultural program reports, 1940-1955; forestry and grazing reports, surveys, permits, and schedules, 1941-1956. IIM ledgers and posting and control records, 1918-1965; and case files, 1955-1961.
Fort Berthold Reservation	NA Kansas City	Fort Berthold Agency, 1864-present	Decimal correspondence, 1926-1968; decimal files, which includes official receipts; grazing permits; official receipts; various correspondence relating to farming and grazing leases; lease applications; leases; lease rental receipts; official field receipts; farm reports and records, 1928, 1934-1950; allotment lease files; lease case files; lease cards, 1909-late 1920s; farming, hay, and grazing leases. IIM ledgers, ledger cards, and ledger sheets, 1909-1958; posting and control records, 1951-1965; and accounts, 1915-1917, 1934-1937.

Omaha and Winnebago Reservations Nebraska	NA Kansas City	Winnebago Agency	Land records, 1867-1940, including leases, 1895-1940; and crop reports, 1924-1939; approved leases by lease number, 1918-1936; lease fees files, 1920-1925, 1940s; lease register books, 1895-1908; lease reports, 1958-1961, 1974-1975; master file lists, 1950s and 1960s (intermittent records) and computer print-outs, mid-1980s. IIM ledgers and related posting and control records, 1908-1946; IIM case files, 1926-1944, including correspondence regarding inquiries about leases proceeds; IIM control ledgers, 1938-1941.
	FRC Kansas City	Winnebago Agency	Land lease case files, 1893-1984; 1970-1989; 1990-1992.
Pine Ridge Reservation	NA Kansas City	Pine Ridge Agency, 1878-present	Central decimal correspondence, 1900-1965; records relating to land use, ownership, and allotment, 1875-1967; records of livestock, 1893-1922; records of the Oglala Sioux Tribal Council, 1936-1967, including Pine Ridge Village land and property leases, 1963-1967; grazing permits, n.d. IIM ledger cards and sheets, 1954-1966, 1969; records relating to IIM and special accounts, 1908-1954, case files, intermittent years, 1955-1967.
Rosebud Reservation	NA Kansas City	Rosebud Agency, 1878-present	Decimal correspondence, 1910-1917, 1930-1950; forestry, grazing, and miscellaneous land records, 1935-1958; land records, including records of land and mineral leases, 1908-1960; grazing permit case files, 1933-1963. IIM case files and related records, 1908-1944.
	FRC Denver	Rosebud Agency	IIM post records, 1969, 1975.

Standing Rock Reservation	NA Kansas City	Standing Rock Agency, 1873-present	<p>Grazing permits, 1914-1942; lease cards, 1912-1913; permittee cards, 1941-1946; land sales and leases, proposals for supplies, 1916; lease money, fund requests, 1917; correspondence relating to grazing leases, 1916; files of individual Indians, 1911-1918, 1939-1946, containing various information such as grazing permits and proposals and lease applications; letters transmitting checks for leases, 1915; miscellaneous receipts, 1916-1917, including hay and grazing permits; cattle contracts and reports, 1915; open market purchases, vouchers, 1908, which includes farming and grazing leases and vouchers for individual lease money; schedules of Official Receipts, 1917-1918, 1922-1946; farming land and timber correspondence, 1913, including some correspondence relating to grazing permits and land leases; Official Receipts, including fees for permits, rentals, and sales, 1917-1920; range unit cases. 1965.</p> <p>Letters, 1914, IIM; Miscellaneous financial records, including IIM documentation; IIM and Misc., 1912-1916; IIM accounts, 1915, 1917; bank statements - IIM, irregular labor report, 1917; First Natl. Bank, 1911-1918, including IIA and transfers, proceeds from land leases; List of banks (amounts, IIM); land and IIM correspondence, 1915; IIM correspondence and reports concerning IIM, 1916; IIM bank accounts and purchase orders, 1916-1918; IIM, deposit of funds, 1916-1918; IIM, 1919-1921; Recapitulations IIM special deposits, books 1 through book 12, Apr. 1, 1924-Dec. 31, 1937; IIA, 1916, correspondence relating to Indian accounts; IIM - special deposit accounts beginning Sept. 1, 1933, L.C. Lippert, Supt. SDA; IIM control sheets, 1931-1941; IIA control sheets, 1942-June 30, 1943, and 1946-June 30, 1946; IIM bank accounts, special deposits, and old accounts, 1924; IIM and special deposits ledgers, 1925-1957; IIM Accounts, 1920-1957; IIM and special deposits ledger sheets, 1948-1963; folders relating to IIM bonds, IIM checking, IIM deposits, etc.; schedule and voucher for misc. IIM & special deposits, form 5-140, 1917 (oversize area); schedule and voucher for individual lease money, form 5-286a, 1917-1918 (oversize area); miscellaneous vouchers; and lots of other miscellaneous records relating to local banks.</p>
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	FRC Kansas City	Standing Rock Agency	Land lease accounting files, 1961.
	FRC Denver	Standing Rock Agency, Fort Yates	Grazing permit case files, 1970-1975.
For the above reservations in the Aberdeen Area:	NA Denver	Aberdeen Area Office, 1949- present	Contract files, 1959-1965. IIM posting records, 1966-1968; IIM ledgers, 1949-1964; IIM case files, 1967.
	NA Kansas City	Aberdeen Area Office, 1949- present	Forest and fire reports and correspondence, 1931- 1953. Grazing irrigation, soil conservation, and gardening records, 1935-1957. Range and wildlife annual reports, 1948-1955. Decimal correspondence, ca. 1948-1971. Land lease case files, 1929-1965; canceled land use leases, 1957; grazing permits, 1960, 1961; land files relating to Rosebud and Pine Ridge reservations, 1961 and 1962, respectively. IIM ledger sheets, 1962-1963; IIM case files, ca. 1962-1965; journal vouchers, 1959-1962; and check copies, 1956-1965; post and control records, 1965, 1966.
Anadarko Area			
Cheyenne & Arapaho Reservation	NA Fort Worth	Cheyenne and Arapaho Agency, 1874-1963. (Name change to Concho Agency in 1963; to the present.)	Indian Trust Fund records, 1892-1947, including IIM account files, 1902-1947. IIM case files, 1966.
	NA Oklahoma City	Cheyenne and Arapaho (Concho) Agency, 1874- 1963.	Records relating to leases, 1881-1933. IIM files, 1870-1917.
	FRC Fort Worth	Cheyenne and Arapaho (Concho) Agency.	Indian land leases case files, 1975, 1989; land lease accounting files, intermittent years, 1982-1988. IIM case files, 1975; IIM ledger and cards, 1989; IIM post and control records, n.d..

Kiowa, Comanche, & Apache Reservation	NA Ft. Worth	Kiowa Agency, 1864-1948 (a.k.a., Kiowa, Comanche, and Wichita Agency)	Central files, 1904-1950, arranged in accordance with the BIA decimal classification system. Land transaction files, 1912-1949, including applications to lease allotments; and correspondence relating to the leasing of allotted lands. Correspondence of the lease clerk, 1922-1924. Correspondence with the General Accounting Office, 1926-1935, including letters sent and received that relate to farming and grazing leases, contracts, and collections of lease rentals. Lists of lands covered by leasing restrictions, 1944-1946. Record of delinquent lease rentals prosecuted by the U.S. Attorney, 1929-1944. Vouchers for payments of lease money, 1913-1914. Records of Individual bank accounts, 1912-1918; index to IIM accounts, ca. 1927; IIM account files, 1943-1950; IIM ledger cards, 1918-1947; and receipts for IIM money, Jan., 1947-April, 1949.
	NA Oklahoma City	Kiowa Agency, 1864-1948 (Kiowa, Comanche, and Wichita / Anadarko Agency)	Records relating to agricultural leases, 1870-1928. Fiscal and accounting records, including records of purchases by Indians, 1865-1926. IIM files, 1871-1930.
	FRC Fort Worth	Kiowa Agency (Kiowa, Comanche, and Wichita / Anadarko Agency)	Indian land case files, 1953; Indian land lease case files, intermittent years, 1966-1989; land lease accounting files, n.d., also, 1920-1929, 1956, 1972, 1983-1987; Indian land lease records, n.d., 1969.
Otoe (Oto) Reservation, Oklahoma [1]	NA Ft. Worth	Pawnee Indian Agency, OK	Records of the Land Division, including records relating to agricultural leases, 1897-1945.
	NA Ft. Worth	Ponca Subagency, Pawnee Agency, OK	Records of the Land Division, including miscellaneous correspondence, 1912-1933; records relating to restricted lands and trust funds, 1927-1933; and agricultural lease cards, 1909-1929.
	NA Oklahoma City	Ponca Subagency, Pawnee Agency, OK	Individual Indian files, 1904-1928.

	NA Ft. Worth	Otoe Subagency, Pawnee Agency, OK	Records of the Land Division, including records relating to allotted Otoes, 1919-1927; and agricultural lease cards, 1922-1939. Records of the Administrative Division, including quarterly abstracts of IIM accounts, 1908-1919.
	NA Oklahoma City	Otoe Subagency, Pawnee Agency, OK	Individual Indian files, 1908-1916.
	FRC Fort Worth	Pawnee Indian Agency (includes Otoe and Ponca Subagencies)	Grazing permit case files; land lease accounting files, 1917, 1944-1952; land lease case files, closed 1989-1991, 1992 and all other. IIM ledgers and cards, 1900-1987; IIM case files, 1936-1949; IIM post and control records, 1959, 1964.
For the above reservations in the Anadarko Area:	NA Ft. Worth	Anadarko Area Office, ca. 1948- present	Records of the Branch of real property, consisting of central files, 1955-1960; statistical reports, 1956-1964; and farming and grazing lease files, 1949-1966. Trust fund records, including correspondence, 1933-1957. IIM account files, 1947-1964; IIM ledger cards, 1947-1964; and receipts for moneys received ("official receipts").
	FRC Fort Worth	Anadarko Area Office / Agency (see Kiowa Agency)	Indian land case files, 1953; Indian land lease case files, intermittent years, 1966-1989; land lease accounting files, n.d., also, 1920-1929, 1956, 1972, 1983-1987; Indian land lease records, n.d., 1969.
Billings Area			

Blackfeet Reservation	NA Denver	Blackfeet Indian Agency, 1855-present.	<p>Blackfeet forestry and grazing correspondence, 1920-1950; decimal correspondence, 1913-1957; grazing permits, 1904-1905; miscellaneous permits to Indians, 1899, 1904-1906, including some permits that were issued to non-Indians to allow grazing cattle on the Reservation; grazing permits – residual; decimal correspondence files – residual, 1937; forestry and range files; range unit permits, 1918-1948; official receipts, 1937-1958; official receipts decimal file, 1957-1958; journal vouchers, 1920-1930; land sale and lease cards, 1927-1936; forestry and grazing correspondence, 1932-1955.</p> <p>IIM posting records, 1954-1966; IIM ledgers, 1947-1963; IIM accounting records, 1917-1944; individual accounting ledger sheets, 1954; IIM accounting documents, 1953-1959; IIA, 1958-1959; IIM index, 1930; IIM cards, 1930-1957; IIM ledger sheets, 191931-1957, 1953-1954; and IIM cash receipts, 1950-1959.</p>
	FRC Denver	Blackfeet Indian Agency	Grazing permit cases, 1969.
Crow Reservation	NA Denver	Crow Agency, 1869-present	<p>Decimal correspondence files, 1926-1958; partial lease register, ca. 1916; lease files; range unit files, 1950-1955; correspondence regarding farming and grazing leases, 1923-1941; grazing lease cards; grazing permits case files, 1914-1916, 1945-1951; land lease case files, 1948-1959; forestry and grazing annual reports, 1931, 1933-1953; grazing applications and permits, mid-1950s; grazing correspondence; bond cards, 1963-1966; BIA competent Indian land leases, 1940-1985 and 1970-1992; grazing permittee correspondence, 1945-1951.</p> <p>IIM ledger sheets, 1947-1966; IIM closed estate case files, 1958-1989; IIM case files, 1955-1958; inactive IIM accounts; IIM control ledgers, 1953-1955; closed IIM accounts, 1953-1955, 1960-1961; special deposits, ca. 1947-1955; IIM records, 1955-1960; IIM official receipts, 1945-1952; schedules of transfers; miscellaneous IIM accounting records; vouchers and schedules documenting payments to individual Indians, 1916-1923, 1937, 1960; IIM official receipts, 1947-1952; IIA/individual money checks; IIM accounts, 1942-1954; IIM ledger cards, 1923-1947; IIM ledger cards, irrigation, 1941-1947, controls, 1944-1947..</p>

	FRC Denver	Crow Agency	Land lease cases, 1970-1992. IIM ledgers, 1963-1977.
Flathead Reservation	NA Denver	Flathead Agency, 1875-present (a.k.a., Ronan Agency and later Pablo Agency)	Decimal files, 1908-1959; land lease records, 1909-1958; grazing program correspondence, 1920-1951; grazing permits, 1910-1957; grazing permits case files, 1953-1960; lease register, 1909-1920; grazing permits, 1928-1945. Records of the Flathead Irrigation Project: Farming and grazing leases, 1920-1925. Miscellaneous IIM accounts, 1917-1918; IIM posting records, 1958-1963; IIM check copies, 1934-1953; IIM accounting files, 1932-1946; IIA, 1953-1955; IIM ledger sheets, 1910-1945; IIM ledgers, 1945-1952, 1953-1964; IIM summaries, 1945-1952; IIA records and correspondence, 1930-1957 (schedules of collections/ transfers, collection/ journal vouchers); IIM records (check copies and correspondence), 1953-1957; IIA records, 1958-1963.
	FRC Denver	Flathead Agency (Pablo)	Lease accounting, 1954-1970; grazing permit bid, 1966. IIM post and control records, 1966-1976.
Fort Belknap Reservation	NA Denver	Fort Belknap Agency, 1873- 1876, 1878- present	Central decimal files, 1917-1958; records of receipts and disbursements, 1878-1933; grazing permits and lease administration records, 1901-1965; land records, including allotment and heirship project files, 1941; and lease case files, 1953-1969. IIM vouchers, 1909-1940; ledgers, 1925-1961; and check registers, 1928-1934.
Fort Peck Reservation	NA Denver	Fort Peck Agency, 1874- present	Decimal files, 1928-1942; records relating to trust responsibilities, including land lease permits and subject file, 1879-1921; land subject file, 1899-1925; and irrigation project correspondence and other records, 1910-1965. Records concerning financial matters, including accounting subject files, 1878-1925.

Wind River Reservation	NA Denver	Shoshone and Bannack Agency, 1870-1937; named Wind River Agency, 1937-present	Records relating to agricultural activities, 1898-1941; grazing permit case files, 1912-1938, 1930-1946, 1951, 1956, 1960, 1970, land lease case files, 1916-1985; land leases, 1920-1941, 1948; reports/correspondence regarding leases/irrigation projects, 1920-1948; irrigation project plans, 1930-1949; range unit leases, 1934-1956. IIM ledgers, 1939-1967; IIM case files, 1941-1950, 1967; IIM post/control records, 1915, 1920, 1922-1924, 1936-1958, 1960, 1962, 1970-1971.
	FRC Denver	Wind River Agency, Fort Washakie	Irrigation ledgers, 1953-1986; land transaction files, 1926, 1941-1986; other land leases, 1956-1985; range unit case files, 1971-1985; lease accounting 1983-1987. IIM post records, 1975.
For the above reservations in the Billings Area:	NA Denver	Billings Area Office, 1946-present	Forestry and range management subject files, 1930-1954; grazing cases and subject files, 1931-1959; admin. subject decimal files, 1951-1956; central decimal subject files, 1936-1957; mixed decimal subject files, 1940-1966; grazing permit files, 1951-1963; irrigation decimal files, 1957-1963; irrigation subject decimal files, 1924-1948; land lease files, n.d., also 1964, 1969, 1971. IIM account ledgers, 1953, 1961-1968; post/control records, 1970-1980.
	FRC Denver	Billings Area Office	Irrigation project plans, 1925-1972; irrigation and water rights, 1948-1974; land lease files, 1951-1978, land lease case files, 1975, 1979. IIM post and control records, 1969-1970, 1973-1976, 1979
Muskogee Area			
Five Civilized Tribes, Oklahoma	NA Fort Worth	Union Agency, 1874-1914 (established for all Five Civilized Tribes)	See below.

	<p>NA Ft. Worth</p>	<p>Five Civilized Tribes Agency, 1914-1948</p>	<p>General records, including index to letters sent relating to leases, 1907. Records of the Office of the Superintendent, including office files of Dana Kelsey, 1909-1914, which includes correspondence relating to the sale and leasing of land. Records of the Area Director, including central files, 1947-1962, which are arranged in accordance with the BIA decimal classification. Records of the Field Solicitor, including case files on individual Indians, 1910-1952. Records relating to land, including sales and leases ("subject file"), 1908-1949; lists of leases and deceased allottees, 1930; and records of the Reality Officer, which includes correspondence relating to leases. Records relating to leases, including letters sent to the SOI, 1916-1920; narrative and statistical reports, 1909-1925; report of sales, leases, and assignments, 1944-1947; reference files of the Chief of the Lease Division, 1911-1917; and closed lease case files, 1917-1950. Records relating to non-mineral leases, including index to agricultural leases, n.d.; dockets of agricultural leases, 1906-1939; register of leases, 1907-1910; docket of agricultural leases filed for approval, 1907-1908; record of Cherokee agricultural leases, 1911-1913; record of Creek and Cherokee lease payments, 1905-1907; individual Indian lease files, 1937-1951; applications to graze cattle, 1909-1910; registers of Choctaw-Chickasaw grazing permits, 1902-1910; register of receipts for Choctaw-Chickasaw Cattle Tax, 1906; receipts for Choctaw-Chickasaw Cattle Tax, 1904-1906; plat maps of Chickasaw and Creek grazing pastures, 1904-1907; and plat maps of land leased or sold, 1903. Records relating to financial and trust fund management, including correspondence of Cashier David Budrus, 1926-1938; office files of the Cashier, 1910-1944; office files of the Administrative Officer, 1938-1950; remittance registers, 1905-1917; and correspondence with banks applying for Indian funds, 1911-1916. Records relating to Individual Indian finances, including record of accounts of minors, 1917-1932; certificates of payment of natural guardians, 1906-1910; individual Indian case files, 1908-1949; individual account cards, 1912-1946; individual bank account cards, 1915-1918; abstracts of individual Indian bank accounts, 1909-1924; and records relating to trust administration, 1920-1945.</p>
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	NA Oklahoma City	Five Civilized Tribes Agency, 1914-1948	Records concerning more than one tribe, 1830-1926, including index to leases, 1911-1917; and lease reports, 1907-1923.
	NA Ft. Worth	District Offices	General records, including letters sent by the supervising district agent, 1910-1912, which includes correspondence relating to payments to individual Indians; records of Supervising Agent W.W. Bennett, 1904-1910, which includes copies of leases and contracts; records of Supervising Field Clerks, 1908-1931, which includes correspondence relating to the sale and lease of land; and case files on individual Indians, 1909-1963.
	NA Ft. Worth	Ardmore District Office	Office files of the Field Clerk, 1908-1945, which includes correspondence relating to land leases and payments to individual Indians; and office files of the education field agent, 1930-1947, which includes correspondence relating to payments to individual restricted Indians.
	NA Ft. Worth	Durant District Office	Office files of the Field Clerk, 1930-1943, which includes correspondence relating to the accounts of individual Indians; and correspondence of the Farm Extension Agent, 1935-1967, which includes correspondence relating to the lease of land.
	NA Ft. Worth	Holdenville District Office	Correspondence of the Field Clerk, 1934-1947, which includes correspondence relating to the land leases and the accounts of individual Indians.
	NA Ft. Worth	Okmulgee District Office	Office files of the Field Clerk, 1935-1952, which includes correspondence relating to the sale and lease of allotted land and the collection and distribution of funds for individual Indians; office files of the Farm Extension Agent, 1935-1938, which includes correspondence relating to the sale or lease of land and the accounts of individual Indians; and agricultural lease case files, 1936-1943.
	NA Ft. Worth	Vinita District Office	Office files of the Field Clerk, 1939-1951, which includes correspondence relating to land sales and leases and the accounts of individual Indians; and correspondence of the Field Clerk, 1941-1949, which includes correspondence relating to land sales and leases.

	NA Ft. Worth	Wewoka District Office	Correspondence of the Field Clerk, 1930-1937, which includes correspondence relating to financial affairs of individual Indians and the sale or lease of land; office files of the Field Clerk, 1916-1937, which includes correspondence relating to the accounts of individual Indians and land sales and leases.
	NA Ft. Worth	Carter Seminary, OK (Chickasaw)	Records relating to IIM, including bank accounts, 1904-1913; ledgers and ledger sheets of IIM, 1908-1936; abstracts of bank accounts, 1911-1913; and abstracts of IIM and special deposits, 1919-1942.
Osage Agency, Oklahoma	NA Ft. Worth	Osage Agency, OK, 1874-present	Records of the Land and Realty Division, including records relating to permits and leases, 1882-1951. IIM accounts, 1912-1967; IIM ledgers, 1919-1966.
	FRC Fort Worth	Osage Agency	Indian land lease case files, n.d.; land lease accounting files (Pawhuska), 1957-1958 IIM case files, 1971-1972.
For all the above in Muskogee Area:	NA Ft. Worth	Muskogee Area Office, ca. 1948- present (absorbed the Five Civilized Tribes)	Individual Indian field office case files, 1912+; land lease case files, 1960-1966. IIM purchase orders, 1942, 1947; IIM case files, 1974; IIM post/control records, 1974.
	FRC Fort Worth	Muskogee Area Office	Indian land lease case files, 1960-1969; land lease accounting files / Indian land lease case files / Indian land records, n.d.; realty appraisal reports, 1960-1989. IIM case files, n.d., 1950-1970, 1983; IIM ledgers and cards, selected records, 1950-1977; IIM case files, including allotment ledgers, official receipts, 1960s; IIM ledger cards, 1969, 1975-1985; IIM judgment files, 1970-1980, 1985-1986; post/control records, 1974-1980.
Portland Area			
Fort Hall Reservation	NA Seattle	Fort Hall Agency, 1867-present	Stockman cattle sales, 1939-1951; grazing leases and permits, 1954-1966, 1971; records relating to grazing and range management, 1963-197; land lease files, 1968. IIM and agency accounting records, 1921-1965; IIM control records, 1921-1965, 1968; IIM ledger sheets, 1954, 1968.
	FRC Seattle	Fort Hall	IIM case files and official receipts, n.d.; IIM control records, 1971.

Yakama Reservation	NA Seattle	Yakama Agency, 1859-current	Annual forestry reports, 1912-1946; annual forestry and grazing reports, 1943-1946; inherited interest cards; lease cards, 1931-1958; grazing leases and permits, 1910-1958; grazing administrative records, 1910-1920; records of leases sent to CIA, 1902-1904; grazing payment rolls, 1923-1928; lessee receipt registers, 1904-1908; lease register, 1904-1909; lease money ledgers, 1903-1917; expired written lease and permit documents, 1937-1950; receipts to lessees, 1903-1906; miscellaneous correspondence relating to circulars and bills against Indian accounts. Records of deposits and withdrawals (IIM); special deposits and disbursements (IIM), 1925-1945; IIM account records, 1904-1945; IIM special deposits and disbursements, 1924-1945; IIM ledger sheets 1946-1960; IIM case files, 1952-1964; IIM posting and control records; correspondence concerning individual Indian bank accounts, 1902-1908; IIAs, 1908-1922;
	FRC Seattle	Yakama Agency	Grazing rolls of unfenced allotments, 1917-1945; land lease files, 1977, 1991; receipts from land leases, 1967-1977; appraisal report, 1984; land lease case files, 1987; other Indian land lease case files, n.d. IIM records, including control records, 1951-1963, 1980-1981; IIA vouchers, 1964-1979, and IIM case files, n.d.
For the above reservations in Portland Area:	NA Seattle	Portland Area Office, 1950-current	Irrigation planning files, 1948-1958; irrigation reports, 1950-1960; annual range reports, 1955-1965; lease files, 1960; lease case files, 1970. IIM Official Receipts, 1941-1943; IIM ledger sheets, 1951-1952, 1955, 1958-1961; IIM control records/ other records, 1950-1959, 1965-1969.
	FRC, Seattle	Portland Area Office	Irrigation account books, 1946-1947; irrigation allotment ledgers, 1939-1948; irrigation receipt records, 1929-1936.
<p>Sources:</p> <p>Hill, <i>Guide</i> - i.e., Hill, Edward E., <i>Guide to Records in the National Archives of the United States Relating to American Indians</i>, Washington, D.C.: National Archives and Records Service, General Services Administration, 1981.</p> <p>NARA, <i>Guide</i>, vol. 1 - i.e., National Archives and Records Administration, <i>Guide to Federal Records in the National Archives of the United States</i>, vol. 1, Washington, D.C.: National Archives and Records Administration, 1995.</p>			

Timber Leasing of Allotted Lands Records

	Records Location	Records Organization	Record Types
Midwest			
Consolidated Minnesota Chippewa Agency: Established in 1922 for Fond du Lac, Grand Portage, Leech Lake, Nett Lake, White Earth and White Oak Point Reservations.	NA, Kansas City	See the entries listed below.	Decimal file correspondence, 1926-1969; timber contract records, 1922-1954; annual forestry reports, 1936-1952. IIM records, 1914-1966.
	NA, Kansas City	Entry 68, Summaries of Timber sales.	Reports for individual reservations, 1910-1929, est. (including summary of timber cut and value); timber sales on Indian Allotments, 1925.
	NA, Kansas City	Entry 69, Records of Timber Contracts, 1922-1931.	Contracts, notes and correspondence regarding contracting procedures.
	NA, Kansas City	Entries 70, 72-74, Completion Records of Timber Contracts for Leech Lake, Grand Portage, Nett Lake, and White Earth.	Certificates of completion; timber cut reports; scale reports; Timber sale regulations; Notices for bid; proposals; correspondence, late 1940s and early 1950s. Includes tribal and allotted lands.
	NA, Kansas City	Entry 71, Schedule of Timber Purchases (Cash Book), 1918-1928.	No research logs.
	NA, Kansas City	Entry 75, Records of Timber Bids, 1922-1928.	Timber sale notices; correspondence regarding timber values.
	NA, Kansas City	Entry 76, Annual Forestry and Grazing Reports, 1936-1952.	Reports with index.
	NA, Kansas City	Entry 105, IIM ledgers, 1908-1938.	IIM accounts for all reservations of Consolidated Chippewa.

	NA, Kansas City	Entry 106, IIM Ledgers, 1918- 1931.	Unbound ledgers for Grand Portage.
	NA, Kansas City	Entry 107, IIM Ledgers, 1918- 1931.	Volumes of Nett Lake IIM accounts. Includes timber sale entries.
	NA, Kansas City	Entry 102, IIM Money Journal Vouchers, 1938- 1963.	Journal vouchers for numerous transfers, including timber contract payments, 1931-1963. Also, Schedules of Special Deposits, 1960s.
	NA, Kansas City	Entry 114, IIM and Special Deposit Voucher Copies, 1938, 1951.	IIM ledger sheets, 1938, alphabetical; special deposits, 1951.
	NA, Kansas City	Entry 111, IIM and Special Deposit Ledgers, 1938- 1952.	IIM ledger cards, 1938-1952, alphabetical; special deposits ledgers.
	NA, Kansas City	Entry 113, IIM Check Copies,	Carbon copies of checks, 1956-1959.
Grand Portage (1890-1910)	NA, Chicago	Entry 1060, Records of the Grand Portage Day School, est. 1913- 1921.	Letters pertaining to timber. Also includes 1930 material.
Leech Lake (1890-1930)	NA, Chicago	Entry 1064, Letters Received by Farmer-in-Charge, 1922-1930.	Timber contracts, permits, and letters relating to timber contracts.
	NA, Chicago	Entry 1077, Letters Sent Concerning Logging, 1900- 1901.	Press Books of correspondence between agent and logging contractors. Also letters regarding Indian money accounts.
	NA, Chicago	Entry 1078 and Entry 1079, Letters Sent Concerning Timber and Allotments, 1904- 1914.	Press Books of correspondence on logging contracts, payments and accounts. Also annual reports discussing timber contracts.
	NA, Chicago	Entry 1087, Timber Contracts, 1900- 1917	Timber contracts, bonds, letter approvals, and power of attorney.

	NA, Chicago	Entry 1098, Cashbooks, 1899- 1909.	Timber accounts, with only limited IIM reference.
White Earth (1890-1910)	NA, Kansas City	Entry 1246, Correspondence, 1885-1922.	Letters arranged in part by subject, including logging.
	NA, Kansas City	Entry 1252, Letters Sent Concerning Land, 1907-1914.	Press Books of letters to CIA, allottees, and local officials regarding timber cutting and other subjects.
	NA, Kansas City	Entry 1255, Miscellaneous letters Sent, 1891- 1914.	Press Books of letters to Indians, lumber companies, bankers, and others, relating to logging, accounts and other subjects.
	NA, Kansas City	Entry 1261, Logging Contracts, 1890-1908.	Approved contracts between Indians and timber contractors, powers of attorney, and other related documents.
	NA, Kansas City	Entry 1262, Timber Contracts, 1914.	Approved contracts between Indian allottees and Nichols-Chishom Lumber Co. for timber sales on allotments.
	NA, Kansas City	Entry 1263, Timber Contracts, 1914- 1917.	Certificates for timber sales from allotments to Nichols-Chisholm Lumber Co.
	NA, Kansas City	Entry 1275, Cash Books, 1881-1907	Statements of receipts and disbursements of funds, including a volume for timber transactions, 1898-1899.
Great Lakes Consolidated Agency (a.k.a., Great Lakes Agency): Established in 1936 for Bad River, Lac Court Oreilles, Lac du Flambeau, L'Anse-Ontonogon, and Red Cliff Reservations.	NA, Chicago	Includes its own records and records of agencies that preceded it.	Timber and forestry records (n.d.). Individual Indian account ledgers, 1927-1941.
Bad River (1880-1930)	NA, Chicago	Lac du Flambeau Agency, 1927-1936	Decimal correspondence, 1917-1935; timber sales records, 1882-1949. Ledgers, registers and other records relating to IIM accounts, 1893-1932.
Lac Court Oreilles (1880-1930)	NA, Chicago	Hayward Indian School/ Agency, 1911-1933	Decimal correspondence, 1910-1934; timber contracts and other records relating to timber sales, 1894-1920. IIM account records, 1918-1933.

	NA, Chicago	Lac du Flambeau Agency, 1933-1936	Decimal correspondence, 1917-1935; timber sales records, 1882-1949. Ledgers, registers and other records relating to IIM accounts, 1893-1932.
Lac du Flambeau (1880-1910)	NA, Chicago	Lac du Flambeau Agency, 1907-1936	Decimal correspondence, 1917-1935; timber sales records, 1882-1949. Ledgers, registers and other records relating to IIM accounts, 1893-1932.
L'Anse-Ontonogon Reservation (1910-1930)	NA, Chicago	Mackinac Agency, 1899-1927	Forestry records, 1909-1924; timber contracts, timber journals and other timber sales records, 1911-1938. IIM account records, 1909-1927.
	NA, Chicago	Lac du Flambeau Agency, 1927-1936	Decimal correspondence, 1917-1935; timber sales records, 1882-1949. Ledgers, registers and other records relating to IIM accounts, 1893-1932.
Red Cliff Reservation (1890-1910)	NA, Chicago	Red Cliff Agency, 1912-1922	Records regarding lumber operations.
	NA, Chicago	Lac du Flambeau Agency, 1927-1936	Decimal correspondence, 1917-1935; timber sales records, 1882-1949. Ledgers, registers and other records relating to IIM accounts, 1893-1932.
For the above reservations in the Midwest agencies	NA, Kansas City	Minneapolis Area Office, (1949-current)	IIM Account Ledger, 1954
Rocky Mountain			
Flathead Reservation (1890-post-1950)	NA, Denver	Flathead Agency, 1875-current (a.k.a., Ronan Agency and later Pablo Agency)	Decimal files, 1908-1959; timber sales contracts and correspondence, 1910-1950; miscellaneous forestry records, 1910-1954; forestry files, 1914-1927; forestry accounts (partial), 1920-1940; timber sale files, 1943-1955; timber sale contracts, 1958-1964. Miscellaneous IIM accounts, 1917-1918; IIM ledger sheets, 1910-1945; IIM ledgers, 1945-1952, 1953-1964; IIA records and correspondence, 1930-1957 (schedules of collections/ transfers, collection/ journal vouchers); IIM records (check copies and correspondence), 1953-1957; IIA records, 1958-1963.

	NA, Denver	Billings Area Office, 1946- current	Decimal files, 1936-1957; forest management subject files, 1930-1954; timber sales and contracts, 1958-1968; timber management plans, 1945-1970. IIM ledger, 1953; IIM special deposit ledgers, 1961-1968.
	FRC, Denver	Pablo Agency	Timber sale contracts, 1963-1980.
	FRC, Denver	Billings Area Office	Timber sale contracts, 1956-1974, 1960-1988; annual forest plans, 1956-1988; timber sale data files, 1986-1990.
Jicarilla Reservation (1910-1930)			
	NA, Denver	Jicarilla Agency, 1901-current	Decimal files, n.d. IIM posting records, 1949-1958; IIM case files, 1937-1945; IIM records, 1961 and 1966.
	NA, Denver	Albuquerque Area Office	Timber Scale Books, 1935-1950. IIM posting records, 1887-1947; IIM ledgers, 1912-1934, 1914-1936, 1952-1954; other IIM, 1949-1959.
Northwest			
Coeur d'Alene Reservation (1910-1950)	NA, Seattle	Coeur d'Alene Agency, 1905-1933	Timber money records, 1922-1954.
	NA, Seattle	Northern Idaho Agency, 1933- current	Decimal files; Timber money records, 1922-1954; Timber sale contracts, 1972. IIM Control Records, 1935-1965; IIM Ledger Sheets, 1938-1964.
	FRC, Seattle	Northern Idaho Agency	Timber sale contracts, 1947-1985. IIM Ledger Sheets and Control Records, 1972; IIM Control Records, 1964-1969.
Colville Reservation (1910-post-1950)	NA, Seattle	Colville Agency, 1872-current	Colville and Spokane Forests – timber records, 1917-1955; timber sale records, 1912-1971; timber sale contracts files, 1924-1961. IIM records, 1911-1935, including IIM Ledgers, 1953, 1954, 1969.
	FRC, Seattle	Colville Agency	Timber sale ledgers, n.d.; timber sale data, n.d.; log scale sheets/ books, 1963-1965. IIM control records, 1960-1965, 1969; IIM vouchers, 1959-1963.

	FRC, Seattle	Colville Agency, Nespelem	Timber sale ledgers and timber sale contracts, 1981; timber sale ledgers and timber sale data, n.d.; log scale sheets/ books, 1943-1957, 1963-1965. IIM control records, 1937-1954, 1960-1972; IIM vouchers, 1959-1963.
Grand Ronde and Siletz (1930-1950)	NA, Seattle	Siletz Agency, 1856-1925	Timber scale ledgers, 1918-1937.
	NA, Seattle	Salem (Chemawa) School, 1909/1925-1938	IIM ledger sheets, 1918-1955.
	NA, Seattle	Grand Ronde and Siletz Agency, 1938-1956	Decimal files, 1926-1950; forestry records, n.d. IIM ledgers, ledger sheets and related records, 1918-1936.
	FRC, Seattle	Siletz Agency	Timber Sales and Sale Data, 1981-1989.
Klamath Reservation (1910-1950)	NA, Seattle	Klamath Agency, 1872-1961 (termination)	Decimal correspondence, 1926-1960; forestry subject files, 1910-1931; forestry decimal files, 1930-1959; annual forestry reports, 1937-1954; timber sales records, 1911-1957; timber resources ledger, 1910-1957, 1960; forestry accounting ledgers, 1918-1941. IIM ledgers and ledger sheets, 1910-1961 (1918-1955); IIM official receipts 1918-1951.
	FRC, Seattle	Klamath Agency	Log Scale Books, 1919-1952; Scale reports, n.d.
Neah Bay (Makah) Reservation (1910-1950)	NA, Seattle	Neah Bay Agency, 1861-1933	Forestry correspondence, 1922-1933.
	NA, Seattle	Taholah Agency, 1933-1950	Forestry records, 1910-1952; timber sales records, 1915-1947. Accounting records, 1917-1954, e.g., IIM files.
	NA, Seattle	Western Washington, 1950	Timber sale records, 1951-1958. IIM records, 1950-1971.
	FRC, Seattle	Olympic Peninsula Agency, Taholah	Timber sale contract files, 1911-1985; Special Allotment timber permits, 1960-1980; log scale sheets, 1950-1979; monthly timber cut reports, n.d.
Nez Perce Reservation (1910-1950)			
	NA, Seattle	Nez Perce (Fort Lapwai) Agency, 1861-1933	Annual forest report, 1921; Timber money records, 1922-1954. IIM Ledger Sheets, 1918-1933.

	NA Seattle	Northern Idaho Agency, 1933-current	Decimal files; Timber money records, 1922-1954; Timber sale contracts, 1972. IIM Control Records, 1935-1965; IIM Ledger Sheets, 1938-1964.
	FRC, Seattle	Northern Idaho Agency	Timber sale contracts, 1947-1985. IIM Ledger Sheets and Control Records, 1972; IIM Control Records, 1964-1969.
Quinault Reservation (1910-post-1950)	NA, Seattle	Puyallup Consolidated Agency, 1888-1914 (name changed to Cushman in 1910)	Forestry records, 1919-1923. IIM ledger sheets, 1915-1920.
	NA, Seattle	Taholah Agency, 1914-1950	Forestry records, 1910-1952; timber sales records / contract files, 1915-1947; certificates of completion, 1912-1913. Accounting records, 1917-1954, e.g., IIM files.
	NA, Seattle	Western Washington, 1950	Timber sale records, 1951-1958. IIM records, 1950-1971; special deposits, 1956-1963.
	NA, Seattle	U.S. Court of Claims (Record Group 123).	Mitchell Case exhibits, investigative report, 1920-1975; timber sales report, 1965-1980.
	FRC, Seattle	Olympic Peninsula Agency, Taholah	Timber sale contract files, 1911-1985; special allotment timber permits, 1960-1980; log scale sheets, 1950-1979; monthly timber cut reports, n.d.
Spokane Reservation (1910-1950)	NA, Seattle	Colville Agency, 1881-1912	See below.
	NA, Seattle	Spokane Agency, 1912-1924	See below.
	NA, Seattle	Colville Agency and Spokane Subagency, 1925	Colville and Spokane Forests – timber records, 1917-1955; timber sale records, 1912-1971. IIM records, 1891-1967, including Spokane, IIM records, 1911-1935. (Also see, Colville Reservation.)
	FRC, Seattle	Spokane Agency	Log and timber scale books, n.d. IIM control records, n.d.
Tulalip Reservation (1910-1950)			
	NA, Seattle	Tulalip Agency, 1861-1950	Decimal correspondence, 1926-1952; forestry program records – correspondence, 1911-1948; timber contracts, 1918-1948 (1924-1956); timber cut records, 1911-1950. IIM records, 1910-1942; IIM ledgers, 1935-1945, 1941-1950.

	NA, Seattle	Western Washington Agency, 1950	Timber sale records, 1951-1958; timber sale contracts, 1955. IIM records, 1950-1971; IIM ledgers, 1950-1951, 1954, 1957-1960, 1976; IIM control records, 1946-1969, 1971, 1974.
	FRC, Seattle	Puget Sound Agency, Everett	Timber cutting permits, 1951-1952, 1955 IIM case file, 1970-1974, 1985; IIM control records, 1964-1974; IIM control accounts, 1979-1983.
Warm Springs Reservation (1910-post-1950)	NA, Seattle	Warm Springs Agency, 1861- current	Forestry and timber sales records, 1912-1952; timber map and report, 1923-1953; timber scale reports, 1963-1970; timber sale data files, 1967. IIM ledgers, 1918-1965, 1966-1967; also IIM control records, 1957-1968; IIM case files, 1953-1965.
	FRC, Seattle	Warm Springs Agency	Timber contracts, 1974, 1976, 1982 and other years; other timber records, including scale books, timber sale ledgers, and monthly timber reports. IIM files, 1969-1976; IIM contract and other records, 1968-1985; IIM control records, 1963-1979, IIM case files, 1981-1987.
Yakama Reservation (1930-post-1950)	NA, Seattle	Yakima Agency, 1859-current	Annual forestry reports, 1912-1946; forestry and timber sales records, 1913-1971 (1932-1947); forest correspondence regarding timber sales, 1923-1950; timber /cutting permits, 1923-1951; timber sale contract files, 1952-1971; timber sale scale sheets, 1964-1971; timber sale ledgers, 1967. Correspondence regarding Individual Indian bank accounts, 1902-1908; Individual Indian bank account records, 1904-1945; IIM accounting records, 1908-1945, including records of deposits / withdrawals, 1918-1924; special deposits, 1925-1945; IIM Ledger Sheets, 1946-1960; IIM case files, 1952-1964; IIM posting and control records, 1944-1963.

	FRC, Seattle	Yakima Agency	Timber sale ledgers, intermittently between 1976-1991; timber management plans, 1969-1974, 1990; log scale books/ sheets, 1949-1992. IIM records, including control records, 1951-1963, 1980-1981; IIA vouchers, 1964-1979, and IIM case files, n.d.
For the above agencies in the Northwest:	NA, Seattle	Portland Area Office, 1950-current	Timber sale contract files, 1923-1957, 1961-1964 -1970; annual forestry report, 1957-1959; timber management plans, 1966, 1970, 1972; forest mission correspondence, 1963-67. IIM Official Receipts, 1941-1943; IIM ledger sheets, 1951-1952, 1955, 1958-1961; IIM control records/ other records, 1950-1959, 1965-1969.
	FRC, Seattle	Portland Area Office	Timber sales contract files, 1950-1988; timber sales case files, 1973; Mission correspondence forestry, 1953-1974.

California

Hoop Valley Reservation (1930-post-1950)	NA, San Francisco	Hoop Valley Agency, 1864-1948 (Hoop Valley briefly under California Agency, 1948-1950)	Forestry field books, 1917-1929; District Forestry Agent records, 1950-1954; Forest supervisor's administrative files, 1931-1933. IIM ledgers, 1915-1946; IIM accounts, 1941-1947.
	NA, San Francisco	Northern California Agency (Hoop Valley), Redding	Timber Sale Contract Files, 1945-1957.
	NA, San Francisco	Sacramento Area Office, 1950-current	Area Forester records, 1932-1952. IIM account ledgers, 1946-1971; IIM accounts special deposit control sheets, 1946-1962.
	FRC, San Francisco	Northern California Agency (Hoop Valley), Redding	Timber Sale/Scale Reports, 1962-1976. IIM case files, 1971-1984.

Sources:

Hill, *Guide* - i.e., Hill, Edward E., *Guide to Records in the National Archives of the United States Relating to American Indians*, Washington, D.C.: National Archives and Records Service, General Services Administration, 1981.

NARA, *Guide*, vol. 1 - i.e., National Archives and Records Administration, *Guide to Federal Records in the National Archives of the United States*, vol. 1, Washington, D.C.: National Archives and Records Administration, 1995.

CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on June 1, 2000, I served the foregoing Defendants' Supplemental Response to Request 35 of Plaintiffs' Sixth Request for Productions, by U.S. mail, postage prepaid, upon the following:

Dennis M Gingold, Esq.
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Atlanta, GA 30309-4530

Copies were also sent by facsimile to Mr. Gingold and Mr. Harper.



Paula Clinedinst

Press Releases

Tuesday February 6, 2007

NEW REPORT SHOWS GOVERNMENT FAILURE AT TRUST REFORM

BROWNING, Mont., Feb. 6 -- Elouise Cobell, lead plaintiff in the Cobell vs. Kempthorne class action lawsuit over mismanagement of the government-run Indian Trust, issued the following statement after the Government Accountability Office released a new report on the government's efforts to resolve long-standing problems with the trust:

"To no one's surprise, this report shows that the Interior Department continues to be a complete mess in its efforts to clean up the scandal that it created decades ago with its well-documented mismanagement of the Indian Trust. It remains ever faithless and in breach of the trust duties that the United States government owes to more than 500,000 individual Indian trust beneficiaries."

"This new report documents that the more than \$1 billion the government has spent on its trust reform plan has failed to resolve the most basic problems with the trust. Allowing clearly incompetent government officials and their contractors to continue spending taxpayer money when it is clear they are unfit for the task, is a deplorable waste of our country's financial resources and further abuses individual Indian trust beneficiaries, including Indian children, the elderly, and the infirm. The time has come for somebody else to do the job because Interior clearly cannot."

The GAO report is entitled "Office of Special Trustee for American Indians: Financial Statement Audit Recommendations and the Audit Follow-Up Process." GAO-07-295R, January 19.

It is available at: <http://www.gao.gov/cgi-bin/getrpt?GAO-07-295R>

contact: Bill McAllister 703 385-6996

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INDIAN TRUST: COBELL v. NORTON

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Tuesday, November 22 2005

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Welcome

NOTICE TO CLASS BENEFICIARIES OF PLAINTIFFS' PETITION FOR AN AWARD OF ATTORNEYS' FEES PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT

Please be aware that past and present Individual Indian Money ("IIM") Trust account holders may be members of a class action lawsuit, Cobell v. Norton, No. 1:96CV01285 (D.D.C.) (Judge Lamberth). The defendants in this lawsuit, Secretary of the United States Department of the Interior and the Secretary of the United States Department of the Treasury, are the federal government's Trustee-Delegates for the IIM Trust. The Court in the Cobell case, on December 21, 1999 ruled that the Department of the Interior must provide each IIM Trust beneficiary with a complete and accurate accounting of his or her IIM Trust account and held further that the government was in breach of its trust duties for its failure to do so. This ruling was affirmed on February 23, 2001 by the United States Court of Appeals for the District of Columbia Circuit. Based on these significant court victories, the named plaintiffs have sought an interim award of expenses and attorneys' fees in the amount of \$14,528,467.71 under the Equal Access to Justice Act (EAJA). Under EAJA, a party that has won its case in whole or in part is called the "prevailing party" and if the criteria of EAJA are met, that party is eligible for an award of expenses and attorneys fees paid by the government. Such an award, as here, includes costs such as attorneys' fees and fees paid to experts. In general, the EAJA award is calculated using a reasonable hourly rate and the time expended by the individual lawyer or expert. If you would like to download a copy of Plaintiffs' Petition for Interim Fees under the Equal Access to Justice Act, which was filed on August 17, 2004, for your review, [please click here](#). If you would like to discuss this Petition with plaintiffs' counsel, you may contact class counsel Dennis Gingold or Keith Harper at 1-866 785-4166 (toll free) or send an e-mail to beneficiaryinfo@narf.org. If you would like to comment on or object to the Plaintiffs' Petition for Interim Fees, you may make an appropriate filing with the United States District Court for the District of Columbia, U.S. Courthouse, 333 Constitution Avenue, Washington, DC 20001, pursuant to Federal Rules of Civil Procedure and Local Rules. All filings should identify the case, Cobell v. Norton, Civ. No. 96-1285 and the presiding U.S. District Court Judge, the Honorable Royce C. Lamberth. To be considered, any comment or objection must be received by December 15, 2005.

The Facts v. The Brochure

Who is telling the truth about the Indian Trust? You decide.

Check brochures produced by the plaintiffs in Cobell vs. Norton against a taxpayer-funded brochure produced by Interior Secretary Gale Norton.

The plaintiffs' brochure accurately describes the status of Norton's continuing failures to reform the long-broken Indian Trust. The plaintiffs have challenged Secretary Norton to submit her brochure to the federal courts for review.

[Click here for the Plaintiff's brochure](#)

[Click here for the government's brochure](#)

Government Communications with Beneficiaries

There is no restriction on oral (spoken) communications between the government and Individual Indian trust beneficiaries, including those who wish to sell, exchange, convey or convert their Trust land. The U.S. District Court for the District of Columbia confirmed this on October 22, 2004; however, written communications from the BIA and other bureaus or offices within the Interior Department concerning the sale, exchange, conveyance, and conversion of Trust land (and the historical accounting) must include a Notice prescribed by the Court.

[Click here to view the Memorandum & Order governing land sales.](#)

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