

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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

**DEFENDANTS' RESPONSE TO  
PLAINTIFFS' UNOPPOSED MOTION TO RESOLVE OUTSTANDING MATTERS**

On December 5, 2007, Plaintiffs sought leave [Dkt. 3460] to file their motion, styled as *Plaintiffs' Unopposed Motion to Resolve Outstanding Matters* [Dkt. 3461]. In that motion, Plaintiffs ask the Court to address *Plaintiffs' Motion for a Protective Order Requiring Defendants to Pay Plaintiffs' Expert Deposition Fees and Expenses*, filed October 10, 2003 [Dkt. 2329].

Although Defendants do not oppose the Court's consideration of the merits of Plaintiffs' underlying motion from 2003 [Dkt. 2329], Defendants have opposed the merits of that motion, as fully set forth in their opposition, *Defendants' Opposition to Plaintiffs' Motion for a Protective Order Requiring Defendants to Pay Plaintiffs' Expert Deposition Fees and Expenses*, filed October 24, 2003 [Dkt. 2353]. As part of their opposition, Defendants also assert a setoff against corresponding fees and expenses owed by Plaintiffs for deposition of Defendants' experts. Defendants respectfully urge that their setoff request be considered together with the merits of Plaintiffs' motion.

Dated: December 19, 2007

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

/s/ Robert E. Kirschman, Jr.  
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CERTIFICATE OF SERVICE

I hereby certify that, on December 19, 2007 the foregoing *Defendants' Response to Plaintiffs' Unopposed Motion to Resolve Outstanding Matters* was served by Electronic Case Filing, and on the following who is not registered for Electronic Case Filing, by facsimile:

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