

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOISE PEPION COBELL, et al.,

Plaintiffs,

v.

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

Defendants

No. 1:96CV01285 RCL

FILED

AUG 12 1998

UNITED STATES DISTRICT COURT
D.C. DISTRICT COURT

ORDER REGARDING INTERIOR DEPARTMENT
IIM RECORDS RETENTION

Motion having been made, and based upon the recommendation of the Special Master,
and the entire record herein,

It is hereby ORDERED, that the Interior Department shall distribute, in final form, the
attached two memoranda (Exhibit A) regarding retention of all documents and data relating to
Individual Indian Money trust funds and Individual Indian trust assets as identified in
Attachment A to the second memorandum ("IIM Records") as follows:

(1) It shall distribute the appropriate memorandum to each employee with
custody of IIM Records in each of the Department's offices, bureaus or similar sub-
department organizations;

(2) It shall distribute this Order and a letter in substantially the same form as the
second memorandum to the representative of each contractor that (a) performs services
for the Department and (b) has custody of IIM Records;

(3) It shall distribute this Order and a letter in substantially the same form as the

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second memorandum to the appropriate officials at the National Archives and Records Administration and the General Accounting Office.

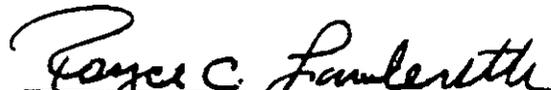
It is FURTHER ORDERED, that Alan L. Balaran, Special Master ("Special Master"), is hereby authorized to oversee the Interior Department's retention and protection from destruction of IIM Records through, among other things, on-site visits to any location where IIM Records are maintained. In the event that the Special Master determines that IIM Records are not being protected from destruction or threatened destruction, he may recommend to the Department that it take reasonable steps to protect IIM Records found to be in jeopardy of destruction. He may also recommend to the Court such remedial action as he deems appropriate pursuant to Rule 53, Federal Rules of Civil Procedure.

It is FURTHER ORDERED, that the Department of the Interior shall notify the official representative of all Tribes and tribal organizations who have contracts or compacts for management of trust "programs," see 25 U.S.C. §§ 450f(a)(1), 458cc(b), that, during the pendency of this case, no IIM Records identified in Attachment A of the Department of the Interior's second memorandum may be destroyed, and that the failure to retain such records could result in further action by the Court.

It is FURTHER ORDERED, that the Special Master is authorized, upon reasonable advance request, to examine the IIM Records in the custody of Tribes or tribal organizations. In the event such request is denied, or access is unreasonably delayed or conditioned, the Special Master may recommend to the Court that it issue an order that the Tribe or tribal organization make the IIM Records available for inspection.

It is FURTHER ORDERED, that nothing in the foregoing is intended to prevent the disposal of non-IIM Records authorized by a final records schedule approved by the Archivist of the United States or materials which are not "records" as defined in 44 U.S.C. § 3301. In addition, this Order shall not be interpreted to prevent the movement of IIM Records to different storage facilities, including Federal Records Centers and the National Archives.

Dated: 8-11-99


UNITED STATES DISTRICT JUDGE

June 2, 1999

Memorandum

To: Assistant Secretary, Policy, Management and Budget
Assistant Secretary, Indian Affairs
Assistant Secretary, Land and Minerals Management
Office of the Solicitor
Deputy Commissioner, Bureau of Indian Affairs
Acting Special Trustee
Director, Minerals Management Service
Director, Bureau of Land Management
Director, Office of Hearings and Appeals

From: Chief of Staff

Subject: Directive Regarding Retention of Documents Related to Trust Fund Management and Individual Indian Money Accounts

The purpose of this memorandum is to confirm that all documents related to Indian trust funds management and administration of Individual Indian Money (IIM) accounts are to be preserved throughout the Department. I also am directing that all agency employees who have possession, custody or control over documents that relate to trust fund management, including the administration of IIM accounts, are made aware of this directive and know how to obtain prompt answers to any question they may have. Supervisors at each level of your Bureau or Office must sign and return the attached acknowledgment confirming that supervisors and employees whom they supervise have received this notification.

It is imperative that all documents related to trust fund management and the administration of IIM accounts be preserved. The Department may need these documents for the management of the IIM trust accounts and for the pending Federal District Court case *Cobell v. Babbitt*. You should understand that we have assured the Court that all documents are being preserved, and that the Court is relying on our assurance. Failure to preserve these documents could therefore have potentially serious consequences.

Please take note that there are several standing orders and directives to preserve trust records. The Deputy Commissioner of BIA issued directives on March 7, 1995, June 24, 1996, and November 14, 1996, confirming that all trust records are to be preserved. The Deputy Solicitor also sent a notice on June 17, 1996, directing that all documents, including documents that may be subject to periodic deletion such as e-mails, related to the management of trust funds and IIM accounts were to be preserved and maintained. In June 1996, the Deputy Commissioner of BIA and the Special Trustee for American Indians jointly directed that IIM trust records be located and protected. This joint directive identifies comprehensive categories of hard copy and electronic files and orders that "none of the above records [be] destroyed or discarded for any reason...even if they are typically subject to periodic disposal." In May, 1999, the Assistant Secretary for Indian Affairs and the Office of Special Trustee each sent a confirming directive that the destruction of trust records is prohibited.

I want to make sure that employees in all relevant Departmental offices understand that there is a Department-wide freeze on destruction of documents related to Indian trust funds management and administration of IIM accounts. For your information, I am attaching a list of the types of documents relating to administration of the IIM accounts which are subject to this freeze. While we have made every effort to make this list inclusive, if there are other documents that relate to administration of the IIM accounts or to Indian trust funds management, they should also be preserved.

I am asking that each of you take responsibility to assure that each employee understands the need for document preservation. In this regard, I am attaching an acknowledgment form that will help to achieve this goal. The acknowledgment confirms that supervisors at every level have taken steps to inform each of his or her subordinate supervisors and employees of the contents and importance of this directive.

It is your responsibility to see to it that this directive and the acknowledgment is distributed to each supervisor, at whatever level, in your organization and that an acknowledgment is completed and submitted to you or your designate. Please make sure that each supervisor in your Bureau or Office has returned a signed acknowledgment.

I cannot emphasize enough the importance of complying with this directive to ensure that the Department meets its responsibility to maintain documents concerning IIM accounts and to satisfy our commitment to the Court in *Cobell v. Babbitt*. Ken Rossman, Director of the Special Trustee's Office of Trust Litigation Support and Records, is responsible for the development of a comprehensive approach to trust records management. This project will provide you with more specific information about how the Department will proceed in the future. Until then, we expect that you will make every effort to maintain these records in as good a condition as your resources will allow. Your Area Directors and Central Office Directors are currently involved in a survey to identify "any collection of records consider[ed] to be in harmful or deteriorating conditions," so that Mr. Rossman's office can address records in jeopardy in a comprehensive and systematic approach to records preservation.

**ATTACHMENT A
POTENTIALLY RESPONSIVE DOCUMENTS**

Classification & Document Type	Bureau or Agency				
	OST	BIA	MMS	BLM	OHA
<u>Basic Financial Documents</u>					
Activity Allotment Program	✓				
Advice of Allocation/Other Authorization	✓				
Advice of Allotment	✓				
Advice of Check Issue Discrepancy	✓	✓			
Advice of Collections	✓				
Affidavit in Support of Claims		✓			
Application and Account for Advance of Funds	✓				
Application for Allotment or Change in Allotment	✓				
Apportionment and Allotment Schedules Transmittal	✓				
Apportionment and Reapportionment Schedule	✓				
Authorization	✓				
BIA/IIM Accounts Purchase Order or Other Purchase Orders	✓	✓			
Bill for Collections/Collection Voucher	✓	✓			
Cancelled Check	✓	✓			
Check Carbon	✓				
Check Register	✓	✓			
Claim Form	✓	✓			
Claims Against US/Proceed for Government Check	✓				
Claims Disposition Notice	✓				
Daily Advice of Status Card	✓				
Daily Disbursement Report IISDA	✓	✓			
Debit Voucher	✓				
Deposit Ticket/Certificate of Deposit	✓	✓	✓		
Field Receipt	✓	✓			
Financial Accounting System Code Sheet	✓				
Guaranteed Remittance	✓				
IJA or ISSDA Change Orders	✓				
IJA One Time Authorization	✓				
IJA Permanent or Voucher/Automatic Authorization	✓				
IJA Programmed Authorization	✓				
IIM Data Change Notice	✓				
IIM Jacket File	✓	✓			
Individual Indian Account Ledger	✓				
Individual Indian Accounts Application (IJA)	✓	✓			
Intra-Bureau Transfers	✓	✓			
IRS 1099 Interest Statement	✓				
Journal Voucher	✓	✓		✓	
Letter of Advice	✓				
Lot Sheet	✓				
Multi-use Standard Requisitioning/ISD	✓				
Negotiated Check Copies	✓	✓			
Other Transfers and Corrections	✓	✓			
Public Voucher for Purchases and Services & Memorandum	✓	✓			
Public Voucher for Refunds & Memorandum	✓	✓			
Purchase & Lease Deposits		✓			
Receipt for Cash-Subvoucher	✓				
Receipt Log	✓				
Reconciliation Statement of Funded Checking Account Maintained	✓				
Redemption Authorizations and Schedule of Withdrawals and Credits	✓	✓			
Reimbursement Voucher	✓				
Request for Individual's Social Security Number	✓				

**ATTACHMENT A
POTENTIALLY RESPONSIVE DOCUMENTS**

Classification & Document Type	Bureau or Agency				
	OST	BIA	MMS	BLM	OHA
Request for Issuance of Replacement Check	✓				
Request for Removal of Stop Payment	✓				
Request for Stop Payment	✓	✓	✓	✓	
Schedule of Canceled or Undelivered Checks	✓	✓			
Schedule of Collections	✓	✓			
Schedule of Disbursements from an Agency Depository	✓				
Schedule of Unavailable/Undelivered Check Cancellations and Credits	✓				
Statement, Voucher & Schedule of Withdrawals & Credits	✓	✓			
Treasury Check Agency Recertification Follow-up	✓				
Treasury Check Claims Document	✓				
Unavailable Check Cancellation	✓				
Voucher and Schedule of Payments	✓	✓	✓		
Other As Identified	✓				
Basic Supportive Documents to Financial Documents					
Affidavits of Completion		✓		✓	
All Addendums/Modifications		✓	✓	✓	
Allotment or Estate Cards		✓			
Allotment Schedules		✓		✓	
Appeals			✓	✓	✓
Application		✓		✓	
BIA INV Reports		✓			
Certificates & Decrees (e.g., death, birth, marriage, divorce, adoption, etc.)		✓			✓
Chaining Sheets		✓			
Claims	✓	✓			✓
Data Sheet (OHA-7)		✓			✓
Deeds		✓			
Document Search Reports		✓			
Exploration Plans		✓		✓	
Individual Trust Interest Reports		✓			
Individual Well Report				✓	
Interest Calculations, Distributions & Related Documents	✓	✓			
Inventories of Trust and Restricted Property		✓			✓
Judges Notes		✓			✓
Land History Reports		✓		✓	
Land Index Reports		✓		✓	
Land Sales		✓			
Lease, Contracts or Agreements (Entire File)		✓	✓	✓	
Meter Calibration Data				✓	
Mine Plan & Amendments				✓	
Mortgages		✓			
Notice of Hearing	✓	✓			✓
Notice to All Persons Having an Interest	✓	✓			✓
Order Determining Heirs or Order Approving Will	✓	✓			✓
Other Land Resources Information System Reports		✓			
Owner Document Reports		✓			
Permits (Surface, Mineral, etc.)	✓	✓	✓	✓	
Plat/Tract Books		✓		✓	
Pleadings and Briefs Filed		✓			✓
Probates (Order Determining Heirs)	✓	✓			✓
Range Unit or Lease Income Report	✓	✓			
Records Unpatented Mining Claims				✓	
Report of Timber Cut		✓			

**ATTACHMENT A
POTENTIALLY RESPONSIVE DOCUMENTS**

Classification & Document Type	Bureau or Agency				
	OST	BIA	MMS	BLM	OHA
Return Receipt Mail		✓			✓
Rights-of-Way		✓			
Sales/Purchase Documents		✓			
Site Security Diagram				✓	
Special Interest reports		✓			
Special or Interim Orders		✓			✓
Statement of Completion of Timber Contract		✓			
Sundry Notices		✓	✓	✓	✓
Timber Sale Contracts		✓			
Title Status Reports		✓			
Tract History Reports		✓			
Transcript of the Proceedings		✓			✓
Trust Patents		✓		✓	
Wills		✓			✓
Other As Identified	✓	✓	✓	✓	✓
<u>Production Supportive Documents</u>					
Accounting Advice			✓		
ADP Collection Adjustment Report (9-1431)			✓		
ADP Lease Master Coding (Form 9-1425)			✓		
ADP, Oil and Gas Unit, Communization and Collection Master Coding (9-1426)			✓		
Application to Establish Royalty Values (USGS Form 9-1926)			✓		
Appraisals & Other Value Estimates		✓		✓	
Appropriations		✓			
Assessments		✓			
Assignment		✓	✓	✓	
Audit Reports		✓	✓	✓	
Bids		✓			
Check or Wire Transfer Payment Copies			✓		
Collection Data Sheet (USGS Form 9-1854 or 1854)			✓		
Collection Letters and requests			✓		
Complaints		✓		✓	
Compliance, Inspection & Enforcement Documents		✓		✓	
Condemnations		✓			
Copies of Audit Reports Associated with Demand Letters			✓		
Copies of Check Registers or Equivalent			✓		
Copies of Fax Data Transmittals/Notifications	✓	✓	✓		
Copies of Indian Distribution Reports			✓		
Copies of Pertinent Bills			✓		
Copies Payment Processing Worksheets			✓		
Correspondence	✓	✓	✓	✓	✓
Daily Collection Journal (of Payments)			✓		
Damages		✓		✓	
Direct Pay Authorization and Documentation	✓	✓	✓		
Distribution Calculations & Reports		✓	✓		
Division Orders			✓		
Enforcement Requests		✓		✓	
First Production Memorandums			✓		
Historical Lease Data/Audit Sheet			✓		
Late or Non-Payment Assessments		✓	✓		
Lease Account Check List, Changes and Corrections Worksheet			✓		
Lease Record Card/Sheet			✓		
Lessee/Operator Requesting the Refund			✓		

**ATTACHMENT A
POTENTIALLY RESPONSIVE DOCUMENTS**

Classification & Document Type	Bureau or Agency				
	OST	BIA	MMS	BLM	OHA
Log of Rentals on nonproducing Indian Leases			✓		
MMS 2014 Monthly Report of Sales and Royalty Remittance			✓		
Monthly Report of Collections To BLM			✓		
Notices of Advertisement		✓			
Notices to Lessees (NTL's)			✓		
Orders or Decrees	✓	✓	✓	✓	✓
Package Report Check-in Sheet (Form 9-329)			✓		
Payment Advice (USGS Form 9-614A)			✓		
Penalties and Assessments		✓	✓	✓	
Production Support (e.g., summary level reports to ticket detail)		✓	✓	✓	
Production Verification Reports				✓	
Quarterly Production Reports and Maps				✓	
Refunds From Allottees			✓		
Report of Sales (USGS Form 9-361)			✓		
Revenue Remittance Code Sheet			✓		
Rolls		✓			
Royalty Production Report (USGS Form 9-329)			✓		
Run Tickets - In Agency Possesion			✓		
Sales Contracts			✓		
Statement of Account (USGS Form 9-1428)			✓		
Statement of Account From Lessees/Operators (USGS Form 9-1424)			✓		
Supervised Account & Hold Documentation	✓	✓			
Transmittal Letters to BIA/OST Forwarding Checks	✓	✓	✓		
Trespasses		✓		✓	
Unit and Communization Agreements			✓		
Voucher & Schedule of Payments			✓		
Other As Identified	✓	✓	✓	✓	✓
<u>Asset Management</u>					
E - Logs and Other Geological Data				✓	
Environment Requirements		✓		✓	
Exploration Data				✓	
Historical Index Information				✓	
Mineral Survey Plats				✓	
Mining Claim Files				✓	
NEPA Document		✓		✓	
Non-Income Producing Land (Appraisals, Right-of-way, Advertisement, etc.)		✓		✓	
Original Survey Plats		✓		✓	
Survey Field Notes		✓		✓	
Survey Group Files				✓	
Survey Plats		✓		✓	
Survey Request File		✓		✓	
Surveys		✓		✓	
Technical Reports (e.g., Drainage Determinations, Geological & Examinations)				✓	
Trust Patents		✓		✓	
Other As Identified	✓	✓	✓	✓	✓
<u>Global System Reports</u>					
90 Day or Older Report	✓				
A-17 Interface Reports (TFAS)	✓	✓			
Account listing by Area	✓				

**ATTACHMENT A
POTENTIALLY RESPONSIVE DOCUMENTS**

Classification & Document Type	Bureau or Agency				
	OST	BIA	MMS	BLM	OHA
Annual Land Reports		✓			
Automated Daily Reconciliation Reports (ADR-IRMS/TFMS)	✓				
Automated Treasury Reconciliations (Treasury/OMNI/TFMS)	✓				
Batch Proof List	✓	✓			
Check Payment & Reconciliation Report	✓				
Check Register	✓	✓			
Compressed General Ledger	✓				
Control Account Reconciliation	✓				
Dailies (99 report)	✓				
Daily Mini ledger (TFAS)	✓				
Disbursements and Adjustments - ISSDA	✓				
End of Day Report (TFAS)	✓				
File Maintenance Memo	✓				
General Ledger Detail List	✓				
Historical List of Transactions (IRMS-IIM)	✓	✓			
Hold Account List	✓				
IIM Account Payout Report (TFAS)	✓				
IIM ACH file-day/night (TFAS)	✓				
IIM Ledger Cards & Reports	✓				
IIM Pooled Fund Report (TFAS)	✓				
Interest Posted (TFAS)	✓				
Interface Pre-Edits	✓				
Investment Pool Confirmations and Documentation of Investment Transactions	✓				
Investment Reports Related to IIM Pool (BOLT System)	✓				
Investment Subsidiary Ledger Reconciliations	✓				
Investment Subsidiary Ledger Reports (MoneyMax, etc.)	✓				
IRMS / IIM Verification List	✓	✓			
IRMS / RDRS Distribution Transaction Listing	✓	✓			
IRMS / RDRS Error Recycle Control Report	✓	✓			
IRMS / RDRS Error Recycle Exception Report	✓	✓			
IRMS / RDRS Interest Report	✓	✓			
IRMS / RDRS MMS Transaction Control Report	✓	✓			
IRMS / RDRS Pre-Check Register	✓	✓			
IRMS Distribution Batch Pre-Edit	✓	✓			
IRMS Range - Error Report	✓	✓			
IRMS Range - Lease / Own Match, Distribution / Reconciliation	✓	✓			
IRMS Range - Own-IIM Match Verification	✓	✓			
IRMS Range - Permittee Listing	✓	✓			
IRMS Range - Post / Non-Post	✓	✓			
IRMS Range - Range Listing	✓	✓			
IRMS Range - Summary Accounts	✓	✓			
IRMS to Finance System ADR Reports	✓	✓			
Lease Posted (TFAS)	✓	✓			
Master File List/Transaction File List	✓				
Missing Social Security Numbers	✓				
Monthly Journal of Transactions	✓				
Oil & Gas Posted (TFAS)	✓	✓			
OPAC, Payment Over Cancellations or Reclamation Credits	✓				
Per Capita Posted (TFAS)	✓	✓			
Range Posted (TFAS)	✓	✓			
RFM Audit report (TFAS)	✓	✓			
Statement of Account & Mailed Sealed Copy (IRMS-IIM)	✓				

**ATTACHMENT A
POTENTIALLY RESPONSIVE DOCUMENTS**

Classification & Document Type	Bureau or Agency				
	OST	BIA	MMS	BLM	OHA
Statement of Accountability	✓				
Statement of Differences	✓				
Statement of Financial Condition	✓				
Statement of Funds in Account	✓				
Statement of Transactions (SF1219)	✓		✓		
Statement of Transactions (SF224)	✓		✓		
Statement of Transactions According to Appropriations, Funds and Receipt Accts	✓				
Total Average Daily Balance Report by Area & Update	✓				
Transaction Registers	✓				
Undisbursed Appropriation Account Ledger	✓				
Undisbursed Appropriation Account Trial Balance	✓				
US Treasury Check (Magnetic Tape & Treasury Transmittals)	✓				
Other IRMS Reports Not Listed	✓	✓			
Other OMNI/TFMS/Finance System Reports Not Listed	✓	✓			
Other TFAS Reports Not Listed	✓	✓			
Other Treasury Reports Not Listed	✓				
Other As Identified	✓	✓	✓	✓	✓

Note: Sources of production include: paper files, electronic files, microfiche, microfilm, notes, diaries, journals, correspondence, telephone slips/logs, all reports, briefing memos, briefing papers, calendars and others as required. Assumes search efforts will attempt to locate all multipart documents, duplicate copies, electronic backups, etc.

✓ - Denotes Possible Source Agency or Bureau
(Includes records in the possession of NARA, ITAD and Other Record Centers)