

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al., )  
 )  
 Plaintiffs, )  
 )  
 v. ) Case No. 1:96cv01285(JR)  
 )  
 KEN SALAZAR, Secretary of the Interior, )  
 et al., )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

**NOTICE OF FILING OF THE THIRTY-EIGHTH QUARTERLY REPORT  
FOR THE DEPARTMENT OF THE TREASURY**

The Department of the Treasury has prepared its *Thirty-Eighth Quarterly Report on Actions Taken By the Department of the Treasury to Retain IIM-Related Documents Necessary For an Accounting* and submits it to the Court in accordance with this Court's Order of December 21, 1999. A copy of the report is attached hereto.

Dated: June 1, 2009

Respectfully submitted,

TONY WEST  
Assistant Attorney General  
MICHAEL F. HERTZ  
Deputy Assistant Attorney General  
J. CHRISTOPHER KOHN  
Director

/s/ Robert E. Kirschman, Jr.  
ROBERT E. KIRSCHMAN, Jr.  
Deputy Director  
(D.C. Bar No. 406635)  
JOHN R. KRESSE  
Trial Attorney  
Commercial Litigation Branch  
Civil Division  
P.O. Box 875  
Ben Franklin Station  
Washington, D.C. 20044-0875  
Phone (202) 616-2238  
Fax (202) 307-0494

CERTIFICATE OF SERVICE

I hereby certify that, on June 1, 2009 the foregoing *Notice of Filing of the Thirty-Eighth Quarterly Report for the Department of the Treasury* 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



DEPARTMENT OF THE TREASURY  
BUREAU OF THE PUBLIC DEBT  
WASHINGTON, DC 20239-0001

June 1, 2009

MEMORANDUM FOR: TONY WEST  
ASSISTANT ATTORNEY GENERAL  
CIVIL DIVISION  
U.S. DEPARTMENT OF JUSTICE

FROM: PAUL G. WOLFTEICH   
CHIEF COUNSEL  
BUREAU OF THE PUBLIC DEBT  
DEPARTMENT OF THE TREASURY

SUBJECT: THIRTY-EIGHTH QUARTERLY REPORT  
*COBELL v. SALAZAR*

Included with this cover memorandum is the "Thirty-Eighth Quarterly Report on Actions Taken by the Department of the Treasury to Retain IIM-Related Documents Necessary for an Accounting" (the Report). The Report has been prepared by the Department of the Treasury pursuant to the Court Order and Opinion in *Cobell v. Babbitt* (D.D.C. CV No. 96-1285), filed December 21, 1999.

The Report includes specific information concerning the Financial Management Service ("FMS"), and more general information relating to the Bureau of the Public Debt ("BPD"), and certain Departmental Offices. The Report's preparation included circulation of drafts to program offices that are responsible for the actions described in the Report. Senior officials at FMS and BPD reviewed the Report before it was submitted to the Department of Justice.

The Department of the Treasury stands ready to respond to any questions or concerns the Court may have after reviewing the Report.

**THIRTY-EIGHTH QUARTERLY REPORT ON ACTIONS TAKEN  
BY THE DEPARTMENT OF THE TREASURY TO RETAIN  
IIM-RELATED DOCUMENTS NECESSARY FOR AN ACCOUNTING**

*Cobell v. Salazar*

June 1, 2009

This is the Thirty-Eighth Quarterly Report filed by the Department of the Treasury (Treasury) pursuant to the Court's December 21, 1999 Order (Order) in the above-captioned case. It covers activities occurring over a three-month period from March 1, 2009 through May 31, 2009. The Order requires Treasury to report on the steps it has taken since the last quarterly report to preserve IIM-related documents.

Treasury continues to preserve IIM-related documentation pursuant to the Court's August 12, 1999 Order, which defines the trust records that Treasury must retain. During the past quarter, the Records and Information Management Branch (RIMB) at the Financial Management Service (FMS) provided training to FMS employees on records management and court-ordered litigation retention requirements. RIMB provided two three-hour training sessions at the FMS Regional Financial Center (RFC) in San Francisco, California, and the RFC in Kansas City, Missouri, and also provided six briefings to new employees during Entrance on Duty sessions during the quarter.

The Office of Chief Counsel at FMS began planning for a mandatory litigation update and discussion series that will provide to all FMS employees updates on litigation and reminders of the specific document retention requirements that apply to FMS and of the continuing obligation to preserve certain materials.