

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL et al.,)
)
Plaintiffs,)
)
v.) Case No. 1:96CV10285
) (Judge Lamberth)
GALE NORTON, Secretary of the Interior, et al.,)
)
Defendants.)
_____)

**NOTICE OF FILING OF AUGUST 2004 STATUS REPORT BY
THE DEPARTMENT OF THE INTERIOR OFFICE OF TRUST RECORDS**

The Department of the Interior Office of Trust Records hereby submits its status report for activity in August 2004. A copy of the report is attached hereto.

Dated: September 30, 2004

Respectfully submitted,

ROBERT D. McCALLUM, JR.
Associate Attorney General
PETER D. KEISLER
Assistant Attorney General
STUART E. SCHIFFER
Deputy Assistant Attorney General
J. CHRISTOPHER KOHN
Director

/s/ Sandra P. Spooner
SANDRA P. SPOONER
Deputy Director
D.C. Bar No. 261495
JOHN T. STEMPLEWICZ
Senior Trial Counsel
Commercial Litigation Branch
Civil Division

P.O. Box 875
Ben Franklin Station
Washington, D.C. 20044-0875
(202) 514-3368 (phone)
(202) 514-9163 (fax)

CERTIFICATE OF SERVICE

I hereby certify that, on September 30, 2004 the foregoing *Notice of Filing of August 2004 Status Report by the Department of the Interior Office of Trust Records* 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

ACTIVITY REPORT
OFFICE OF TRUST RECORDS
August 1 – 31, 2004

PROGRAMMATIC:

- Labat-Anderson (Labat) Indexing Project

As reported most recently in the *Status Report to the Court Number Seventeen*, OTR hired Labat to index boxes of inactive Indian records under its custody. The index is designed to serve as a finding aid to research boxes of inactive records. It provides a box and file level index of all boxes; that is, within each box, the title on each folder is captured in the index, along with the date range, and region or agency that created the records. In the case of financial records, a document type is also captured. The indexing project does not include imaging of individual documents. Labat reported to the Office of Trust Records (OTR) that they completed 5,476 boxes during August. This was done by teams working in both Albuquerque, New Mexico and Lenexa, Kansas. A total of 82,506 boxes have now been completed in the indexing project.

In July, Labat moved its work site to Lenexa, Kansas (Annex) from the Federal Records Center in Kansas City, Missouri, in order to be located nearer to the American Indian Records Repository (AIRR) in Lenexa. AIRR is a state-of-the-art archival storage facility which was built in cooperation with NARA through an agreement between the Department of the Interior and NARA. This facility has capacity for 250,000 boxes of records. This was necessary as all Indian records previously located at Lee's Summit have been indexed and are now in AIRR. The Annex will store a limited number of boxes while they are being indexed.

At the request of OTR, the National Archives and Records Administration (NARA) arranged for a General Services Administration (GSA) facilities inspector to visit the Annex in Lenexa. The inspector indicated that the temperature and humidity were ideal for records storage. The inspector suggested that some shelves placed against an interior wall be moved a few inches so they did not abut the wall in order to avoid any condensation problems in the winter. The shelves have been moved away from the wall.

OTR and Labat began drafting a plan for Labat to assist in the preparation for retirement to AIRR of records at Bureau of Indian Affairs (BIA) and Office of the Special Trustee for American Indian (OST) field locations. The objective is to send teams (composed of OTR and Labat employees) to field locations that have inactive Indian records that are due to be retired. It is anticipated that the teams will box, inventory at a high level, prepare appropriate move requests, number boxes, and palletize and shrink-wrap, when appropriate. Upon arrival at the Annex, these boxes will be indexed prior to retirement in AIRR. The project is anticipated to begin in the next fiscal year.

- Boxes Requiring Preservation and/or Remediation

OTR submitted its acquisition request to the National Business Center for requests for proposals from entities that can assist OTR in treating records that have been damaged or contaminated by mold, mildew, mouse droppings, water, smoke/fire and other elements. It is anticipated that the contractor will first assist OTR with the current collection of records requiring treatment in Albuquerque. The contractor must also be able to travel to BIA/OST field locations in order to assist with any damaged or contaminated records in the field. It is anticipated that the contractor will also train OTR staff on how handle and treat such records so that OTR staff can assist BIA/OST staff when they encounter such records.

- Movement of Records

During the month of August, OTR continued to assist the GSA Indian Trust Accounting Division in relocating boxes of records from the GSA warehouse in Lanham, Maryland to Lenexa. 6,969 boxes were moved in July and 4,659 boxes were moved in August. It is anticipated that the remaining 87 boxes will be moved in September 2004.

822 boxes of records were retired by BIA and OST field offices. All records were shipped to the Lenexa Annex to be indexed prior to being transferred to AIRR. OTR moved 3,660 boxes of indexed records to the AIRR from an OTR records storage facility in Albuquerque. OTR moved 349 boxes of records from the BIA Department of Transportation and 527 boxes of OST records from the OST headquarters in Albuquerque to an OTR records storage facility in Albuquerque.

- Records Schedules

OTR notified BIA Law Enforcement Services and the BIA Office of Indian Education Programs that OTR plans to begin working on updating the record schedules for their programs in October 2004. OTR also requested the assistance of their respective staff to review current programs and records.

During August OTR worked on draft record schedules for the following programs:

- | | |
|---------------------------|---------------------------------|
| Executive Management | Indian Gaming |
| Budget | Contracts |
| Indian Self-Determination | Facilities Management |
| Finance | Personnel |
| Property Management | Safety |
| Acknowledgement | Employment Assistance |
| Housing | Social Services |
| Tribal Government | Economic Development and Credit |

- Site Assessments

OTR staff conducted records management assessments of BIA and OST field programs at:

Pawnee Agency (8/3-5/04);
Northern Pueblos Agency (8/9-11/04 and 8/18/04);
Laguna Agency (8/9-8/13/04);
Southern Ute Agency (8/9-13/04);
Southern Plains Regional Office (8/23-25/04); and
Anadarko Agency (8/23-25/04).

OTR conducted its assessments in conjunction with the OST Office of Trust Review and Audit at the Southern Plains and Anadarko Agency offices. Written evaluations will be provided to these offices.

- Records Management Policies and Procedures

On August 27, 2004, I was notified by a BIA employee that in the process of moving offices in the main Interior building "some records were being thrown out." I am in the process of investigating this allegation, determining which offices may have been involved, and assessing whether any records were in fact thrown out.

I called the employee to get the names of the program offices and directors involved but the employee would not divulge this information. I asked the employee to discuss the situation with the Assistant Deputy Secretary. The employee responded that she would follow up and speak to him; however, she did not follow up. The employee has not substantiated her claim in any way.

I also notified the BIA Chief Information Officer (CIO) and his staff on August 27, 2004. I requested that a broadcast message be sent to all of BIA employees reminding them that they cannot dispose of records. The Director of the Office of Information and Policy in the CIO's office requested that I provide a memorandum which would be posted. I prepared the memorandum and sent it to the CIO for broadcast.

The memorandum reminded all BIA employees that no documents should be disposed of unless it has been verified that a document is a copy or the document is a non-record. BIA employees were reminded that even if a document is a copy, to ensure that the original exists and is properly safeguarded prior to disposing of a copy. Employees were reminded that all BIA records remain frozen, including General Records Schedule records (administrative records) and this means that BIA records cannot be destroyed or disposed of but can be retired to the AJRR. The reminder was posted on the BIA Intranet site in September.

- Basic Records Management Training.

During August OTR provided Records Management Training to the following groups:

August 2-6 for 31 Rocky Mountain Region records contacts;
August 2-6 for 33 Northwest Region records contacts;
August 9-13 for 20 Alaska Region records contacts;
August 17-19 for 27 Rocky Mountain Region records contacts;
August 17-19 for 20 Alaska Region records contacts;
August 17-19 for 23 Navajo Region records contacts;
August 24-26 for 19 Great Plains Region records contacts.

Records contacts are those employees which the BIA and OST have identified to OTR as individuals responsible for program records management. A total of 1,305 records contacts have been trained through the end of August 2004.

- Litigation Support

OTR continued to provide support in research of records for tribal litigation cases including: Jicarilla, Laguna, Blackfeet, Osage, Warm Springs, Assiniboine & Sioux, and Standing Rock Sioux. OTR also provided support to the Office of Historical Trust Accounting.

A major project is supporting the Office of the Solicitor (up to ten attorneys) conducting privilege review and two large teams of reviewers representing (1) Jicarilla & Laguna plaintiffs' attorneys and (2) researchers for a joint research project that represents the Blackfeet, Osage and Warm Springs plaintiffs' attorneys. These three groups are resident in the Hawkins facility where OTR provides all of the boxes that the groups have identified. It is a huge logistical challenge to keep each group supplied with boxes for review. OTR expects this situation to continue for the next several months thus delaying the retirement of these indexed boxes records to the AIRR.

ADMINISTRATIVE:

- OTR staff responded to data calls on the FY06 budget and began to implement close out of FY 04 funding.

GENERAL OBSERVATIONS:

OTR staff members are working very hard to meet the demands placed on them by attorneys and researchers from the tribal trust litigation parties. OTR staff is called upon to respond immediately to litigation demands and to still continue their daily work assignments. This is

particularly stressful when there are more than one set of researchers working in OTR facilities, which has been the case this summer.

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



Ethel J. Abeita