

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, <u>et al.</u>)	
)	
Plaintiffs,)	
)	
v.)	Case No. 1:96CV01285
)	(Judge Lamberth)
GALE NORTON, Secretary of the Interior, <u>et al.</u>)	
)	
Defendants.)	
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DECLARATION OF ROSS O. SWIMMER

1. I am Ross O. Swimmer, Director, Office of Indian Trust Transition, United States Department of the Interior.

2. On April 19, 2002, I met in the Deputy Secretary's office with Court Monitor Joseph S. Kieffer, III, as well as Steve Griles, Jim Cason, and Tom Slonaker of the Department of the Interior. Tom Thompson participated by telephone.

3. Mr. Kieffer opened the meeting by talking about the contempt matter; he said that the judge was sure to find the Secretary in contempt. He backed off that statement to some extent, saying that the decision on contempt had not been made yet, but he said he was sure our legal team would recommend appeal if the judge found the Secretary in contempt. He also told us that an appeal would be futile because the judge is a good friend of the chief judge of the appellate court. He said they play poker all the time.

4. At the beginning of the meeting, Jim Cason and I had started to take notes, but the

Court Monitor said that no notes should be taken because the discussion was "off the record."

He later said we could take notes, but I stopped taking notes anyway.

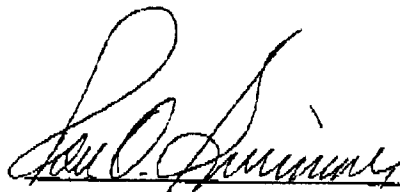
5. Mr. Kieffer then began a long conversation about the Special Trustee, Mr. Slonaker. He said that the Secretary has made a serious mistake when she wrote a memorandum criticizing the Special Trustee. In particular he said that she was in error in her comments about the historical accounting and missing records; Mr. Kieffer said words to the effect that the Special Trustee never had anything to do with either of those projects. The Court Monitor told us that he thought the Secretary had not written the memorandum to which he referred and that she was not being well-served by her staff.

6. The Court Monitor advised us that he was writing a seventh report and had completed about 45 pages. He said the subject of the report was the work of the Special Trustee and the mistreatment he was receiving at the hands of the Secretary and her staff. He told us he could stop any time, but that the report could easily get longer if attitudes did not change toward the Special Trustee.

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

Date:

5/30/02



Ross O. Swimmer