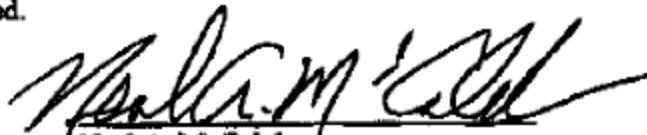


DECLARATION OF ASSISTANT SECRETARY NEAL A. McCaleb

I, Neal A. McCaleb, this 19th day of November, 2002, hereby declare under penalty of perjury as follows:

1. I am the Assistant Secretary of the Department of the Interior for Indian Affairs.
2. I did not knowingly or intentionally destroy any e-mails.
3. Shortly after I was sworn into office on July 4, 2001, it was my impression that my Administrative Assistant was saving my e-mail messages relating to American Indian Trust reform, including the High-Level Implementation Plan or any of its subprojects; the *Cobell v. Norton* litigation; and administration of Individual Indian Money accounts (hereinafter "Cobell-related e-mails").
4. Even though I thought my *Cobell*-related e-mails were being electronically saved, it was initially my practice to leave all *Cobell*-related e-mails on my computer indefinitely. In the late spring or early summer of 2002, I began receiving automatic messages on my computer stating that I had exceeded the maximum memory threshold allowable and that I might not be able to send or receive e-mail if I did not delete e-mail.
5. As a result of these messages, I began immediately deleting all e-mail messages that were not *Cobell*-related. As an extra precaution, I continued to save *Cobell*-related e-mails for at least a couple of weeks, with the intent of allowing enough time to pass for the e-mails to be captured by Department of Interior e-mail backup tapes.
6. Prior to October 10, 2002, I was never informed that my e-mail messages were not being electronically preserved.
7. On October 10, 2002, in preparation for a scheduled deposition, anticipating questions regarding e-mail issues, I spoke with my Administrative Assistant to confirm that my e-mail messages had been saved as required. It was during this conversation, that I first discovered that my Administrative Assistant had not been electronically storing my e-mail messages on a regular basis, as I had previously believed.


Neal A. McCaleb
Assistant Secretary of the Interior