IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 1:96CV01285
	)	(Judge Lamberth)
GALE A. NORTON, Secretary of the Interior, et al.,	)	
	)	
Defendants.	)	
	)	

EMERGENCY MOTION FOR PARTIAL RELIEF FROM TEMPORARY RESTRAINING ORDER

On December 5, 2001, the Court entered a Temporary Restraining Order, as amended on December 6, 2001, requiring the Department of the Interior ("Interior") to "immediately disconnect from the Internet all information technology systems that house or provide access to individual Indian trust data" and to "immediately disconnect from the Internet all computers within the custody and control of the Department of the Interior, its employees and contractors, that have access to individual Indian trust data."

Interior has taken steps to identify the impact of the Temporary Restraining Order on the Department and the third parties to whom and for whom it provides services. Some of these impacts have the potential to have a severe, negative impact on third parties. Two examples follow.

First, the United States Geological Survey ("USGS") plays several crucial roles that have been impacted by its compliance with the Temporary Restraining Order (a Declaration in support of the facts in this paragraph will be provided at the hearing scheduled for 10:00am, December 8,

2001). For example, the USGS runs the National Earthquake Information Center, which is not able to issue bulletins in real time without Internet access, lessening the effectiveness of emergency personnel in responding to a potential earthquake. In addition, USGS is unable to provide real-time dissemination of information about floods, droughts, streamflow, and water quality at approximately 8,000 USGS gaging stations and monitoring wells worldwide. USGS is also actively involved in Homeland Security and issues related to Afghanistan. On December 5, 2001, USGS' personal computer network provided a potential conduit to access information technology systems that housed individual Indian trust data via the Internet. In response to the December 5, 2001 Temporary Restraining Order, USGS disconnected its personal computer network from the Internet. Remaining disconnected from the Internet will have a substantial negative impact on its ability to perform essential functions to guarantee health and safety.

Second, the National Interagency Fire Center (BIA/NIFC) depends on communication among fire community agencies over the Internet and wide area network connections. Declaration of David M. Potter, Ex. A, ¶ 2. At present, if a national fire emergency were to occur, BIA/NIFC "would have a diminished ability to respond due to the restricted communications." Id. ¶ 3.a. BIA/NIFC is not on the BIA network and it does not handle any Indian trust funds. Id. ¶ 4. Rather, it relies on the National Park Service ("NPS") for both local and wide area network service. On December 5, 2001, the NPS' personal computer network provided a potential conduit to access information technology systems that housed individual Indian trust data via the Internet. In response to the December 5, 2001 Temporary Restraining Order, NPS disconnected its personal computer network from the Internet. Remaining disconnected from the Internet will have a substantial negative impact on BIA/NIFC's ability to

perform essential functions to guarantee health and safety.

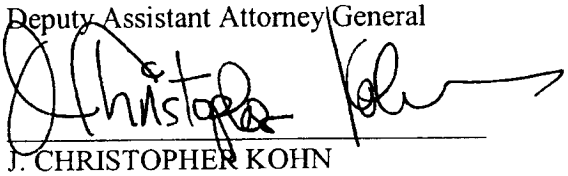
Interior believes that these and other problems will be correctable if Interior is permitted to reconnect to the Internet any information technology system that does not house individual Indian trust data and that does not provide access to individual Indian trust data, even if it did satisfy one of these criteria when the Temporary Restraining Order was entered. On December 8, 2001, this will be true of the USGS and NPS systems, along with certain other Interior systems (a declaration in support of this statement will be provided at the hearing scheduled for 10:00am, December 8, 2001). In cases where Interior has taken or is able to take action to place these systems outside the systems originally covered by the Temporary Restraining Order, the same purpose in keeping them isolated from the Internet is no longer served. If the Court grants this partial relief, Interior will be able to reconnect to the Internet USGS, BIA/NIFC, and other important services that pose no threat to individual Indian trust data.

For these reasons, Interior Defendants request that the Court permit Interior's information technology systems that neither house individual Indian trust data nor provide access to such data, to reconnect to the Internet.

Dated: December 7, 2001

Respectfully submitted,

ROBERT D. McCALLUM, JR.
Assistant Attorney General
STUART E. SCHIFFER
Deputy Assistant Attorney General



J. CHRISTOPHER KOHN
Director
SANDRA P. SPOONER
Deputy Director
JOHN T. STEMPLEWICZ
Senior Trial Attorney
MATTHEW J. FADER
Trial Attorney
Commercial Litigation Branch
Civil Division
P.O. Box 875
Ben Franklin Station
Washington, D.C. 20044-0875
(202) 514-7194

OF COUNSEL:

Sabrina A. McCarthy
Department of the Interior
Office of the Solicitor

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ORDER PROVIDING PARTIAL RELIEF FROM TEMPORARY RESTRAINING ORDER

In consideration of Interior Defendants' Emergency Motion for Partial Relief From Temporary Restraining Order, it is hereby

ORDERED that Interior can reconnect to the Internet any information technology system that does not house individual Indian trust data and that does not provide access to individual Indian trust data.

SO ORDERED this _____ day of _____, 2001.

ROYCE C. LAMBERTH
United States District Judge

A

December 7, 2001

DECLARATION

1. My name is David M. Potter, I am the Information Resource Management Team Leader, Bureau of Indian Affairs, National Interagency Fire Center (BIA/NIFC).
2. Because many of the fire community agencies communicate with each other over the Internet and wide area network connections, the current network restrictions limit how well each individual office can communicate with the other offices across this vast interagency operation.
3. At this time the BIA/NIFC employees cannot perform many of their primary tasks, these include:
   a) If a national emergency were to occur during this shutdown, all of the fire community (including the BIA) would have a diminished ability to respond due to the restricted communications, and
   b) Fire managers and dispatchers cannot access centralized emergency response computer systems such as the Resource Ordering and Status System (ROSS), the Distributed Mail System (DMS), Firefighter Qualifications System (SACS), and the Weather Information Management System (WIMS), etc.
4. The BIA/NIFC office is not on the BIA network. It relies upon the National Park Service (NPS) for both local and wide area network services. Additionally, the BIA/NIFC office does not handle any Indian Trust funds.

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

David M. Potter 7-Dec-2001

David M. Potter Dated

CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on December 7, 2001, I served the foregoing Emergency Motion For Partial Relief From Temporary Restraining Order, by facsimile only, in accordance with their written request of October 31, 2001, upon:

Keith Harper, Esq.
Lorna Babby, Esq.
Native American Rights Fund
1712 N Street, NW
Washington, D.C. 20036-2976
202-822-0068

Dennis M Gingold, Esq.
Mark Brown, Esq.
1275 Pennsylvania Avenue, N.W.
Ninth Floor
Washington, D.C. 20004
202-318-2372

by facsimile and by U.S. mail upon:

Alan L. Balaran, Esq.
Special Master
1717 Pennsylvania Ave., N.W.
12th Floor
Washington, D.C. 20006

by U.S. Mail upon:

Elliott Levitas, Esq.
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309-4530

and by hand delivery upon:

Joseph S. Kieffer
Court Monitor
420 7th Street, NW
Apt 705
Washington, DC 20004

Erin Langsdorf