

REQUEST FOR RECORDS DISPOSITION AUTHORITY		LEAVE BLANK (NARA use only)	
To: NATIONAL ARCHIVES & RECORDS ADMINISTRATION 8601 ADELPHI ROAD, COLLEGE PARK, MD 20740-6001		JOB NUMBER <i>NI-75-04-01</i> Date Received <i>9/30/2003</i>	
1. FROM (Agency or establishment) U. S. Department of the Interior		NOTIFICATION TO AGENCY In accordance with the provisions of 44 U.S.C. 3303a, the disposition request, including amendments is approved except for items that may be marked "disposition not approved" or "withdrawn" in column 10.	
2. MAJOR SUB-DIVISION Bureau of Indian Affairs			
3. MINOR SUB-DIVISION Office of Trust Responsibilities			
4. NAME OF PERSON WITH WHOM TO CONFER Terry Verdin	5. TELEPHONE (202) 208-5831	DATE 11-21-03	ARCHIVIST OF THE UNITED STATES <i>John W. Paul</i>
6. AGENCY CERTIFICATION I hereby certify that I am authorized to act for this agency in matters pertaining to the disposition of its records and that the records proposed for disposal on the attached <i>20</i> page(s) are not needed now for the business of this agency or will not be needed after the retention periods specified; and that written concurrence from the General Accounting Office, under the provisions of Title 8 of the GAO Manual for Guidance of Federal Agencies, <input checked="" type="checkbox"/> is not required <input type="checkbox"/> is attached; or <input type="checkbox"/> has been requested.			
DATE <i>9/16/03</i>	SIGNATURE OF AGENCY REPRESENTATIVE <i>Ethel J. Abeita</i>		TITLE Director, Office of Trust Records
7. ITEM NO.	8. DESCRIPTION OF ITEM AND PROPOSED DISPOSITION	9. GRS OR SUPERSEDED JOB CITATION	10. ACTION TAKEN (NARA USE ONLY)
	Please See Attached. This schedule covers the 4300 Series, Environmental Quality Services.		
SIGNATURE OF DIRECTOR <i>Terry Verdin</i> BUREAU OF INDIAN AFFAIRS		DATE 2.23.03	

REVISED 16 BIAM (2003)

4300 Series

ENVIRONMENTAL QUALITY SERVICES

(Updates to the 16 BIAM dated July 12, 1989)

4301 Environmental Impact Statements

Contents: Include, but not limited to, the following records: studies and surveys of the impact of projects and activities affecting the quality of human environment generally associated with proposals to change environment; printouts of electronic mail, documents created through word processing and spreadsheet software applications, supporting documentation, and related correspondence.

Filing Arrangement: Chronological by statement fiscal year

Official File: Action (originating and/or receiving) Office

Disposition: PERMANENT. Cut off at fiscal year end when statement is completed. Maintain in office of record for a maximum of 5 years after cut off; and then retire to records center. Transfer to the National Archives of the United States in accordance with the signed Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.

4302 Environmental Control Files

Contents: Include, but not limited to, the following records used to evaluate projects affecting environment (i.e., air, water, land, etc.): scope of work, budget, studies, surveys, tests, assessments, filed notes, audits, analyses, statements, evaluations, consultations, results, reports, land resource modification, printouts of electronic mail, documents created through word processing and spreadsheet software applications, supporting documentation, and related correspondence.

Filing Arrangement: Chronological by study fiscal year

Official File: Action (originating and/or receiving) Office

Disposition: PERMANENT. Cut off at fiscal year end when study is completed. Maintain in office of record for a maximum of 5 years after cut off; and then retire to records center. Transfer to the National Archives of the United States in accordance with the signed Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.

4303 Cultural Resources Site Study

Contents: Include, but not limited to, the following records: scope of work; budget; archaeological studies; surveys; tests; assessments; field notes; audits; analyses; statements; evaluations; results; cultural resources survey report; consultations with state officers, advisory councils, and tribes; documents specifying bureau actions required to comply with the National Historic Preservation Act; printouts of electronic mail; documents created through word processing and spreadsheet software applications; supporting documentation; and related correspondence.

Filing Arrangement: Chronological by study fiscal year

Official File: Action (originating and/or receiving) Office

Disposition: **PERMANENT.** Cut off at fiscal year end when study is completed. Maintain in office of record for a maximum of 5 years after cut off; and then retire to records center. Transfer to the National Archives of the United States in accordance with the signed Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.

4304 Hazardous Waste Site Surveys

Contents: Include, but not limited to, the following records that provide information on an assessment and whether or not designation of a location as a hazardous waste site is determined: scope of work, budget, studies, surveys, tests, EPA assessments, field notes, audits, analyses, statements, evaluations, consultations, results, reports, printouts of electronic mail, documents created through word processing and spreadsheet software applications, supporting documentation, and related correspondence.

Filing Arrangement: Chronological by survey fiscal year

Official File: Action (originating and/or receiving) Office

Disposition: **PERMANENT.** Cut off at fiscal year end when project is completed or terminated. Maintain in office of record for a maximum of 5 years after cut off; and then retire to records center. Transfer to the National Archives of the United States in accordance with the signed Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.

4305 Hazardous Substance Project

Contents: Include, but not limited to, the following records relating to the identification and/or removal of hazardous substances (other than hazardous waste materials identified through the EPA assessment procedures): scope of work, budget, studies, surveys, tests, assessments, field notes, audits, analyses, statements, evaluations, consultations, results, follow-up activities and/or reports, printouts of electronic mail, documents created through word processing and spreadsheet software applications, supporting documentation, and related correspondence.

Filing Arrangement: Chronological by project fiscal year

Official File: Action (originating and/or receiving) Office

Disposition: PERMANENT. Cut off at fiscal year end when project is completed or terminated. Maintain in office of record for a maximum of 5 years after cut off; and then retire to records center. Transfer to the National Archives of the United States in accordance with the signed Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.

4306

Water Sampling Test

Contents: Include, but not limited to, the following water sampling records used to test water safety: documentation as a result of materials used to test water supplies for determining safety levels of chemicals and/or compounds in accordance with the Safe Water Drinking Act, scope of work, budget, studies, surveys, assessments, field notes, audits, analyses, statements; evaluations, consultations, reports, tests and results of water supplies, printouts of electronic mail, documents created through word processing and spreadsheet software applications, supporting documentation, and related correspondence.

Filing Arrangement: Chronological by project fiscal year

Official File: Action (originating and/or receiving) Office

Disposition: **PERMANENT.** Cut off at fiscal year end when safety level has been determined. Maintain in office of record for a maximum of 5 years after cut off; and then retire to records center. Transfer to the National Archives of the United States in accordance with the signed Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.

4307

Soil Testing

Contents: Include, but not limited to, the following soil testing records used to test soil safety levels: documentation as a result of materials used to test soil samples for determining safety levels of chemicals and/or compounds, scope of work, budget, studies, surveys, assessments, field notes, audits, analyses, statements, evaluations, consultations, reports, tests and results, printouts of electronic mail, documents created through word processing and spreadsheet software applications, supporting documentation, and related correspondence.

Filing Arrangement: Chronological by project fiscal year

Official File: Action (originating and/or receiving) Office

Disposition: PERMANENT. Cut off at fiscal year end when safety level has been determined. Maintain in office of record for a maximum of 5 years after cut off; and then retire to records center. Transfer to the National Archives of the United States in accordance with the signed Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.

4308 Engineering and/or Construction Testing

Contents: Include, but not limited to, the following testing records used to determine adequacy of materials (concrete, gravel, etc.) used in the engineering and/or construction projects: scope of work, budget, studies, surveys, tests, assessments, field notes, audits, analyses, statements, evaluations, consultations, results, reports, printouts of electronic mail, documents created through word processing and spreadsheet software applications, supporting documentation, and related correspondence.

Filing Arrangement: Chronological by project fiscal year

Official File: Action (originating and/or receiving) Office

Disposition: **PERMANENT.** Cut off at fiscal year end when adequacy has been determined. Maintain in office of record for a maximum of 5 years after cut off; and then retire to records center. Transfer to the National Archives of the United States in accordance with the signed Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.

4309 Safe Water Drinking Act

Refer to 4306

RESERVED

(New Item)

4310a Comprehensive Environmental Response, Compensation, and Recovery Act (CERCLA) Program File

Contents: Include, but not limited to, the following records: scope of work; budget; studies; surveys; assessments; audits; analyses; statements; evaluations; consultations; results; reports; hazardous substance release; response; determination of liability, compensation, and recovery; requests and responses concerning program information from tribes, federal and state agencies, local governments, private organizations, and individuals; printouts of electronic mail; documents created through word processing and spreadsheet software applications; supporting documentation; and related correspondence.

Filing Arrangement: Chronological by program fiscal year

Official File: Action (originating and/or receiving) Office

Disposition: **PERMANENT.** Cut off at fiscal year end when program initiative is completed or terminated. Maintain in office of record for a maximum of 5 years after cut off; and then retire to records center. Transfer to the National Archives of the United States in accordance with the signed Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.

(New Item)

4310b Comprehensive Environmental Response, Compensation, and Recovery Act (CERCLA) Project File

Contents: Include, but not limited to, the following records: scope of work; budget; studies; surveys; tests; assessments; field notes; audits; analyses; statements; evaluations; consultations; results; reports; printouts of electronic mail; documents created through word processing and spreadsheet software applications; supporting documentation; and related correspondence.

Filing Arrangement: Chronological by project fiscal year

Official File: Action (originating and/or receiving) Office

Disposition: PERMANENT. Cut off at fiscal year end when project is completed or terminated. Maintain in office of record for a maximum of 5 years after cut off; and then retire to records center. Transfer to the National Archives of the United States in accordance with the signed Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.

(New Item)
4311 Environmental Audits

Contents: Include, but not limited to, the following records: field notes, final environmental audit reports, corrective action plans, printouts of electronic mail, documents created through word processing and spreadsheet software applications, supporting documentation, and related correspondence.

Filing Arrangement: Chronological by audit report

Official File: Action (originating and/or receiving) Office

Disposition: PERMANENT. Cut off at fiscal year end when corrective actions are accomplished. Maintain in office of record for a maximum of 5 years after cut off, and then retire to records center. Transfer to the National Archives of the United States in accordance with the signed Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.

(New Item)
4312a Environmental Compliance Program File

Contents: Include, but not limited to, the following Resource Conservation and Recovery Act (RCRA) project records: scope of work; budget; studies; surveys; assessments; audits; analyses; statements; evaluations; consultations; reports; requests and responses for program information from tribes, federal and state agencies, local governments, private organizations, and individuals; printouts of electronic mail; documents created through word processing and spreadsheet software applications; supporting documentation; and related correspondence.

Filing Arrangement: Chronological by program fiscal year

Official File: Action (originating and/or receiving) Office

Disposition: **PERMANENT.** Cut off at fiscal year end when program initiative is completed or terminated. Maintain in office of record for a maximum of 5 years after cut off; and then retire to records center. Transfer to the National Archives of the United States in accordance with the signed Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.

(New Item)
4312b Environmental Compliance Project File

Contents: Include, but not limited to, the following Resource Conservation and Recovery Act (RCRA) project records: scope of work; budget; studies; surveys; tests; assessments; field notes; audits; analyses; statements; evaluations; consultations; reports; results for projects concerning lead based paint, asbestos, underground storage tanks, animal waste, etc.; printouts of electronic mail; documents created through word processing and spreadsheet software applications; supporting documentation; and related correspondence.

Filing Arrangement: Chronological by project fiscal year

Official File: Action (originating and/or receiving) Office

Disposition: **PERMANENT.** Cut off at fiscal year end when project is completed or terminated. Maintain in office of record for a maximum of 5 years after cut off; and then retire to records center. Transfer to the National Archives of the United States in accordance with the signed Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.

(New Item)
4313 Environmental Site Assessment

Contents: Include, but not limited to, the following assessment records used to detect environmental liabilities on properties proposed for fee-to-trust transfer: studies, surveys, tests, site assessments, field notes, analyses, results, reports, printouts of electronic mail, documents created through word processing and spreadsheet software applications, supporting documentation, and related correspondence.

Filing Arrangement: Chronological by assessment fiscal year

Official File: Action (originating and/or receiving) Office

Disposition: **PERMANENT.** Cut off at fiscal year end when assessment is completed. Maintain in office of record for a maximum of 5 years after cut off; and then retire to records center. Transfer to the National Archives of the United States in accordance with the signed Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.

(New Item)

4314a National Environmental Policy Act Program File

Contents: Include, but not limited to, the following records: scope of work; budget; studies; surveys; assessments; audits; analyses; statements; evaluations; consultations; reports; requests and responses concerning program information from tribes, federal and state agencies, local governments, private organizations, and individuals; printouts of electronic mail; documents created through word processing and spreadsheet software applications; supporting documentation; and related correspondence.

Filing Arrangement: Chronological by program fiscal year

Official File: Action (originating and/or receiving) Office

Disposition: PERMANENT. Cut off at fiscal year end when program initiative is completed or terminated. Maintain in office of record for a maximum of 5 years after cut off; and then retire to records center. Transfer to the National Archives of the United States in accordance with the signed Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.

(New Item)

4314b National Environmental Policy Act Project File

Contents: Include, but not limited to, the following records: scope of work, budget, studies, surveys, tests, assessments, field notes, audits, statements, evaluations, consultations, results, reports, Proposed Project Impact Analysis, Administrative Record for compliance with NEPA, NEPA Compliance, Categorical Exclusion checklist, Environmental Assessment, Finding of No Significant Impact, Environmental Impact Statement, Record of Decision, printouts of electronic mail, documents created through word processing and spreadsheet software applications, supporting documentation, and related correspondence.

Filing Arrangement: Chronological by project fiscal year

Official File: Action (originating and/or receiving) Office

Disposition: **PERMANENT.** Cut off at fiscal year end when project is completed or terminated. Maintain in office of record for a maximum of 5 years after cut off; and then retire to records center. Transfer to the National Archives of the United States in accordance with the signed Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.

(New Item)

4315a Resource Conservation and Recovery Act Program File

Contents: Include, but not limited to, the following Resource Conservation and Recovery Act records: scope of work; budget; studies; surveys; assessments; audits; analyses; statements; evaluations; consultations; reports; requests and responses concerning program information from tribes, federal and state agencies, local governments, private organizations, and individuals; printouts of electronic mail; documents created through word processing and spreadsheet software applications; supporting documentation; and related correspondence.

Filing Arrangement: Chronological by program fiscal year

Official File: Action (originating and/or receiving) Office

Disposition: **PERMANENT.** Cut off at fiscal year end when program initiative is completed or terminated. Maintain in office of record for a maximum of 5 years after cut off; and then retire to records center. Transfer to the National Archives of the United States in accordance with the signed Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.

(New Item)

4315b Resource Conservation and Recovery Act Project File

Contents: Include, but not limited to, the following Resource Conservation and Recovery Act records: scope of work; budget; data; studies; surveys; tests; assessments; field notes; audits; analyses; statements; evaluations; consultations; reports; results for projects concerning solid waste management, landfill operation, open dump closures, etc.; printouts of electronic mail; documents created through word processing and spreadsheet software applications; supporting documentation; and related correspondence.

Filing Arrangement: Chronological by project fiscal year

Official File: Action (originating and/or receiving) Office

Disposition: PERMANENT. Cut off at fiscal year end when project is completed or terminated. Maintain in office of record for a maximum of 5 years after cut off; and then retire to records center. Transfer to the National Archives of the United States in accordance with the signed Standard Form 258, Agreement to Transfer Records to the National Archives of the United States.



National Archives and Records Administration

8601 Adelphi Road
College Park, Maryland 20740-6001

Date : October 31, 2003

Reply to

Attn of : Yvonne K. Wilson, NWML Work Group Leader, WG#3

Subject : Appraisal of NARA Job No. N1-075-04-1

To : Director, NWML

The United States Department of the Interior, Office of the Special Trustee for American Indians (OST), Office of Trust Records (OTR) submits NARA Job No. N1-075-04-1, to provide revised disposition authorization for those records that are created by the Environmental Quality Services function (records series 4300) of the Bureau of Indian Affairs (BIA).

The Environmental Quality Services *Request for Records Disposition Authorization* (SF115) is the first in a series of six records schedules that have been submitted to the National Archives and Records Administration (NARA) by OTR to request disposition authorization for textual Trust-related records. The additional records schedules received to date are: N1-075-04-2, Forestry and Fire (records series 4400); N1-075-04-3, Natural Resources (Range Management, records series 4500); N1-075-04-4, Real Estate Services and Land, Title and Records Office (LTRO, records series 4600); N1-075-04-5, Roads and Transportation (records series 4700); and N1-075-04-6, Irrigation and Power (records series 4900). These records schedules will completely supersede the disposition authorities for the related records that were approved by NARA on September 15, 1977, as NARA Job No. NC1-075-77-1, and on July 30, 1990, as NARA Job No. N1-075-89-1. In addition, the new records schedules will supersede all disposition authorities for these records that are listed in BIA records manuals, including but not limited to 43BIAM, 15 BIAM, 16BIAM, RCS96, and RCS98.

Background

Against the backdrop of the *Cobell, et al. v. Norton, et al.* Indian trust litigation pending in the U.S. District Court for the District of Columbia, and the resulting *Cobell Fiduciary Obligation Compliance Plan* of January 6, 2003, the Department of the Interior (DOI) entered into a Memorandum of Understanding (MOU) with the National Archives and Records Administration (NARA), dated September 12, 2003. The purpose of the MOU is to provide a centralized storage facility, referred to as the *American Indian Records Repository*, for BIA, OST, and other DOI fiduciary trust records at NARA's Federal Records Center (FRC) in Lenexa, Kansas. This agreement is expected to result in the consolidation of approximately 200,000 cubic feet of BIA, OST, and related DOI textual records created and presently maintained at DOI as well as in

NARA's Lee's Summit facility. The textual records that are appraised as having historical value will be retained as permanent records on a long-term basis at the Lenexa facility.

NARA has been providing extensive advice and guidance to the Office of Trust Records and to the Office of the Assistant Secretary to the Department of the Interior on the development of records schedules for BIA records in textual and electronic media. This project has been on going since fiscal year 2000, during which time NARA has reviewed and provided comments on pre-submission sets of draft schedules for 13 components of electronic systems of the BIA and for the 4000 series of records in textual format. In keeping with the timetable of the Compliance Plan, these records schedules were submitted to NARA in final in September and October of 2003 for appraisal and approval.

In accordance with the Compliance Plan and the *Order Issuing Structural Injunction in Cobell*, dated September 25, 2003, the following timetable is now in effect: by December 31, 2003, defendant DOI is to establish and implement revised records retention schedules for non-electronic Trust records for BIA and OST, and by March 31, 2004, DOI is to establish and implement revised records retention schedules for electronic Trust records for BIA and OST, as described in the Compliance Plan.

On September 15, 2003, OTR submitted six additional records schedules to provide disposition authorization for electronic records in Trust-related systems. The electronic records will be appraised in separate records appraisal memoranda and will provide permanent disposition authorization for 13 electronic systems and subsystems.

History

In an earlier opinion in the *Cobell* litigation, the district court set out at some length the history of interactions between the U.S. government and Indian tribes. See *Cobell v. Norton*, 91 F.Supp.2d 1, 7-12 (D.D.C. 1999), *affirmed and remanded*, *Cobell v. Norton*, 240 F.3d 1081 (D.C. Cir. 2001). A brief synopsis of the Court's more extended discussion is included below to provide the larger historical context behind the recommendation to deem permanent in nature portions of DOI's present record holdings pertaining or sufficiently related to Indian and tribal trust records.

In 1824, the Bureau of Indian Affairs (BIA) was created to implement the policy of the relocation of tribal communities from their homelands in the East and Midwest to land in the newly acquired Louisiana Purchase territory. For most of the Nineteenth Century, the Federal government entered into a series of treaties and agreements identifying the lands owned by the tribes. By the late 1870s, the Federal government had embarked upon an era during which the BIA became the provider of foods, goods, and services to the tribes.

In 1887, Congress passed the General Allotment Act, also known as the Dawes Act. The Dawes Act authorized the division of any Indian reservation into separate plots, and assigns the portions to individual tribal members, according to a prescribed formula. The head of a family was allotted a one-fourth section, or 160 acres; each single person over eighteen and each orphan child under eighteen was allotted a one-eighth section, or 80 acres; and each

non-orphan child under eighteen was allotted a one-sixteenth section, or 40 acres. The lands that were not allotted to Indian individuals were then opened to non-Indian settlement. The Federal government held allotted land in Trust for individual Indians for a period of 25 years. After the 25 years had passed, the Government could convey full title to the land to the Indian to whom the land had been allotted or it could extend the 25-year period at its discretion. Indians could not lease, sell, or burden their property without the approval of the Federal government.

With the enactment of the Indian Reorganization Act of 1934, the Federal government ended the allotment era and authorized the Secretary of the Interior to acquire land and place it in Trust for the tribes and for individual Indians. This Act also indefinitely extended the Trust period for the allotments that had already been made. As a result of the allotment process and the indefinite extension of the Trust period, the United States presently holds approximately eleven million acres of land in Trust for the heirs of the American Indians to whom they were originally allotted.

In the early 1950s, the Government withdrew recognition of the existence of certain tribes and forswore any responsibility to those tribes or their people as Indians. The tribal assets were either administered by a corporate entity or distributed among the tribal members. The termination policy ended quickly and after the 1960s, no further tribes were terminated. The end of the termination policy brought about the onset of the modern era of Indian policy: self-determination and self-governance. The enactment in 1975 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638 and amendments) permits tribes to assume any of the functions BIA carries out on the reservation. Tribes may also assume those functions performed by Office of Trust Fund Management (OTFM) with regard to IIM Trust accounts, through a contract or compact with Interior. Under the Self-Determination Act, if BIA contracts with a tribe to allow that tribe to perform a function, the financial resources that BIA would use in providing that service, including the overhead, are transferred to the tribe. In essence, these funds, which represent almost seventy percent of BIA's budget, pass through BIA to the tribes.

In the 1980s, the Office of Management and Budget (OMB) placed the financial management of Indian Trust funds as a high-risk liability to the United States. Prompted in large part by the findings of a 1992 OMB report entitled "*Misplaced Trust*," Congress in 1994 enacted the Indian Trust Fund Management Reform Act, P.L.103-412 ("the 1994 Act"). Congress has designated the Secretary of the Interior and the Secretary of the Treasury to be the Trustee-delegates of the United States, and the departments run by these two cabinet secretaries are entrusted with certain Trust management responsibilities. The Trust responsibilities of the Treasury Department are to maintain and invest IIM funds, under the direction of the Interior Department, and to provide accounting and financial management services. The United States has entrusted most of its Trust obligations, however, to the Department of the Interior. Within the Interior Department, several agencies perform particular IIM Trust functions. These agencies include BIA, the Bureau of Land Management (BLM), the Office of Trust Funds Management (OTFM), and the Minerals Management Service (MMS).

On June 10, 1996, the named plaintiffs in *Cobell* commenced their present action against the Secretary of the Interior and other Federal officials, alleging that the mismanagement of the IIM

Trust by the Interior and Treasury departments constituted a breach of their fiduciary duty to plaintiffs. The United States District Court for the District of Columbia certified the action as a class action on February 4, 1997, and designated the named plaintiffs as class representatives for all present and former IIM beneficiaries. On May 5, 1998, the Court bifurcated this action into two distinct phases. The Court describes the phases in this manner: Phase I of the litigation, also known as the "fixing the system" phase, focuses on the reforms instigated by defendants to bring the management of the IIM Trust into compliance with their fiduciary obligations. This phase is forward-looking, in that it attempts to discern whether defendants have reformed the management of the IIM Trust in such a way as to ensure that the United States will honor its fiduciary obligations to the Indian beneficiaries in the future. On September 25, 2003, the Court issued its latest opinion on this phase of the case (Mem. Op. "Fixing the System"), as well as the above-referenced *Order Issuing Structural Injunction*.

The Court has yet to hear testimony with respect to the Phase II portion of *Cobell*, also known as the "historical accounting phase," which will focus on the performance of a formal accounting of the IIM Trust, as required by the 1994 Act. This phase is backward looking, in that it attempts to discern to what extent the United States has honored its fiduciary obligations to the Indian beneficiaries who make up the *Cobell* class, from the inception of the Trust until the present date. The Court also issued an Opinion dated September 25, 2003, regarding "Historical Accounting." In the latter opinion and accompanying *Order Issuing Structural Injunction*, the Court set out various deadlines through calendar year 2007 for DOI to comply with carrying out a final accounting.

Records Appraisal

The records in the 4300 series, Environmental Quality Services, were examined on September 10 – 11, 2003 at the NARA Lee's Summit Federal Records Center facility. The proposed records schedule provides for the permanent retention of 18 series and subseries of revised and new series of textual records. This schedule also provides for the placement of file code 4309, formerly Safe Water Drinking Act files, in reserve status, and places these records in revised file code 4306, Water Sampling Files. The Office of Trust Records, as a result of its records inventory and program office interview projects, placed this reserved item into a revised previously existing file code to more accurately reflect the work processes of the BIA. The term "reserved" (along with a pointer to the appropriate file code) is an indicator of a file code that will no longer be used, and should not be confused with the terms "withdrawn" or "unscheduled." This schedule supersedes the previously approved nine authorities for the 4300 series in NARA Job No. N1-075-89-1, none of which had been placed by NARA in the 1989 job in 'withdrawn' status.

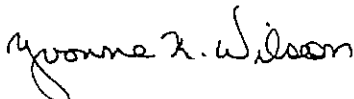
The 4300 series of records that were available for review at Lee's Summit were Environmental Impact Statements (item 4301), Environmental Control Files (item 4302), Cultural Resources Site Study (item 4303), and Hazardous Waste Site Surveys (item 4304). The records for the four series stored at Lee's Summit date from the 1960s to the late 1980s and include: memoranda regarding the use of fishing nets in the Skagit River in the state of Washington; tribal resolution about fishing; correspondence from area and assistant area directors of BIA; tribal correspondence; tribal codes of offenses regarding gaming and fishing; tribal meeting minutes

regarding tribal council resolutions; printouts of electronic mail messages, word processing documents, and spreadsheets; copies of court records regarding fishing violations; copies of boundary maps; newspaper articles; fish population studies; economic development studies; archaeological clearance requests and related reports for right-of-ways, airstrips, leases, and channels and dikes; mineral resource studies prepared by the United States Geological Survey (USGS) for the BIA; environmental remedial investigations and feasibility studies for a landfill (Superfund remediation information that was reported to the Environmental Protection Agency); agreements to develop comprehensive environmental management plans; and environmental assessment reports for land improvement proposals.

The records series that were not available for review were Hazardous Substance Case Files (item 4305); Water Sampling Files (item 4306); Soil Testing Files (item 4307); Concrete Engineering Testing files (item 4308); Comprehensive Environmental Response, Compensation, and Recovery Act (CERCLA) Program and Project Files (items 4310a and 4310b); Environmental Audits (item 4311); Environmental Compliance Program and Project Files (items 4312a and 4312b); Environmental Site Assessment files (item 4313); National Environmental Policy Act (NEPA) Program and Project Files (items 4314a and 4314b); and Resource Conservation and Recovery Act (RCRA) Program and Project Files (4315a and 4315b). Even though the records were not examined, the same disposition that has been applied to all of the series of records listed on this records retention schedule will be applied to those records series listed in this paragraph.

Conclusion

The five-year time period that the records are to be maintained in agency space after the annual cutoff of the files is appropriate to meet the business needs of the agency. Although the appraisal was limited to those BIA records stored at Lee's Summit and therefore not all records series in this records schedule were reviewed, the NARA team that conducted the appraisal work has sufficient expertise in records that document environmental and conservation activities of Federal agencies. In light of the continued pendency of the *Cobell* litigation and the current posture of the case, we determined that the Environmental Quality Services records are permanently valuable because of the significant secondary value of these records for future historical, economic, geographic, and demographic research. Under the present circumstances, the permanent retention of these bodies of records is appropriate to assure Government accountability, to protect rights, and to document the national experience. Therefore, NARA Stakeholder Units and I concur with the proposed disposition instructions for and the permanent retention of the records in the 4300 series. I recommend approval of this records schedule.



YVONNE K. WILSON
Work Group Leader, WG#3
Life Cycle Management Division