

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOISE PEPION COBELL, et al.,)
)
Plaintiffs,)
)
v.)
)
GALE NORTON, Secretary of the)
Interior, et al.,)
)
Defendants.)
_____)

Civil Action Number 96-1285 (RCL)

FILED
NOV 28 2001

WANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

ORDER TO SHOW CAUSE

This matter comes before the Court on Plaintiffs' Motion for Order to Show Cause Why Past and Present Interior Defendants and their Employees and Counsel Should Not Be Held in Contempt of Court, filed August 27, 2001, and Plaintiffs' Motion for Order to Show Cause Why Interior Defendants and their Employees and Counsel Should Not Be Held in Contempt for Violating Court Orders and for Defrauding This Court in Connection with Trial One, filed on October 19, 2001, the Consolidated Opposition thereto filed by defendants Gale Norton and Neal McCaleb in their official capacities on November 15, 2001, the Plaintiffs' Consolidated Reply filed November 21, 2001, and the record herein.

Plaintiffs' motions are GRANTED as to the Interior defendants in their official capacities, but the Court defers ruling at this time on plaintiffs' motions to order non-party employees and counsel to show cause.

Defendants Gale Norton, Secretary of the Interior, and Neal McCaleb, Assistant Secretary of Interior for Indian Affairs, are hereby ORDERED to show cause why they should not be held in civil contempt of court in their official capacities for the following:

1. Failing to comply with the Court's Order of December 21, 1999, to initiate a Historical Accounting Project.
2. Committing a fraud on the Court by concealing the Department's true actions regarding the Historical Accounting Project during the period from March 2000, until January 2001.
3. Committing a fraud on the Court by failing to disclose the true status of the TAAMS project between September 1999 and December 21, 1999.
4. Committing a fraud on the Court by filing false and misleading quarterly status reports starting in March, 2000, regarding TAAMS and BIA Data Clean-up.

The Court agrees with plaintiffs that the defendants cannot challenge any factual findings of the Court Monitor unless they specifically objected to the findings within the 10-day period allowed. Therefore, Court Monitor Reports I, II, and III cannot be contested by defendants except to the extent the defendants filed timely, specific comments. Defendants, on November 15, 2001, did timely respond to Court Monitor Report IV and to the Supplemental Report Amending Reports II and IV, sufficiently to require those factual findings to be subject to de novo review. In light of defendants' motion filed November 26, 2001, to modify their quarterly reports, and their filing of the EDS Reports, which clearly impeach the 7th Quarterly Report that defendants are still defending as accurate in their November 15 response to the Court Monitor's Report IV, it is unclear to the Court what defendants' current position is about this November 15, 2001 filing.

The Court will conduct a hearing at 2:00 p.m. on November 30, 2001, to ascertain the need for and identity of any witnesses who may be summoned to testify at the contempt trial of

the defendants, and to set dates and times for testimony to begin on December 3, 2001, at 10:00
a.m.

SO ORDERED.

Date: 11-28-01



Royce C. Lamberth
United States District Judge