



United States Department of the Interior
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS
Washington, D.C. 20240

APR 24 2002

Memorandum

To: William Myers, Solicitor
Larry Jensen, Counselor to the Solicitor

Through: Special Trustee for American Indians *John Sauer* APR 24 2002

From: Principal Deputy Special Trustee for American Indians *Thomas J. ...*

Subject: Document Production

I wish to know why the Solicitor and the Department of Justice (DOJ) did not share in a timely manner with the Office of the Special Trustee (OST) the letter transmitted March 29, 2002 by Ms. Sandra P. Spooner of DOJ. A copy of that letter, accompanied by voluminous attachments, was received April 22, 2002, (Attachment 1, without exhibits).

Ms. Spooner outlines DOJ concerns about Interior's compliance with document production requests presented by the Special Master, and specifically points to the Office of the Special Trustee, and I believe to me in particular, as a "management and organizational difficulty", suggesting "Interior and the Office of the Special Trustee could suffer serious consequences." This statement, besides being obviously self-serving, is particularly troubling since, although Ms. Spooner's document was not provided to the Special Trustee, it was produced to the Special Master in response to on-going document production.

Ms. Spooner's letter could lead the Special Master to be concerned further about the diligence of Interior and the Special Trustee's document production efforts. (I note that coincidentally the Special Master initiated a further document production request on this same date requesting "ALL instructions, regardless of format, issued by the Department of the Interior, the Office of the Solicitor and the Department of Justice to Interior personnel seeking compliance with my requests").

The Special Trustee's Office has strived--apparently with varying degrees of success in Ms. Spooner's view--to comply fully with the Special Master's requests. As you know, at this time the Special Trustee has with the Solicitor several outstanding requests for clarification of document production issues. In addition, the Special Trustee has recommended improvements for the document production process, including a request for on-site assistance by attorneys in Albuquerque.

Ms. Spooner's restatement of her duty of candor apparently does not extend to the Special Trustee. This situation is further aggravating because as late as Friday, April 19, 2002, senior officials in the Secretary's Office, and Ms. Spooner, denied the existence of this document.

I would like to know why this document, material to the Special Trustee's document production efforts, was not provided to OST in a timely manner. I would like to know, since document production outcomes are critically important and highly sensitive in this contentious litigation, why no one bothered to provide the Special Trustee or myself a timely copy of the document. I would like to see Interior's response to Ms. Spooner's letter, particularly since her letter contains obvious inaccuracies and adverse conclusions about the Special Trustee's diligence in document production for the Special Master.

Unfortunately, this episode is all too representative of past events, and once again, at least for me, raises issues of trust, confidence, and an apparent conflict of interest within the Department of Justice.

Attachment, as stated