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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

March 14, 2011

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Dennis M. Gingold
607 14th Street, NW, 9th Floor
Washington, DC 20005

Keith M. Harper
Kilpatrick Townsend LLP
607 14th Street, NW
Washington, DC 20005

Dear Messrs. Gingold and Harper:

We request information regarding the fees, expenses, and incentive payments sought by the Named Plaintiffs and Class Counsel pursuant to the Claims Resolution Act of 2010, which authorized the *Cobell v. Salazar* Settlement Agreement. Your response on behalf of the Named Plaintiffs and Class Counsel is important for the Committee on Natural Resources (Committee) in its oversight and legislative responsibilities to ensure that the Settlement is fair to individual Indians and to taxpayers.

This document request restates, with modification, several questions submitted to the Plaintiffs, but not responded to by the Plaintiffs, following the March 10, 2010 Committee hearing. This document request also contains additional questions concerning recent developments, including the secret and previously undisclosed contingency fee agreement purportedly executed between Plaintiffs and Class Counsel.

The questions are attached to this letter. Complete written responses shall be provided to the Committee no later than April 1, 2011. Please be advised that under the Rules of the House of Representatives, the Committee can compel the submission of documents, or compel the appearance of Plaintiffs or Class Counsel before the Committee, should Plaintiffs and Class Counsel fail to respond in a timely and sufficient manner.

The staff contacts for this matter are Chris Fluhr, Subcommittee on Indian and Alaska Native Affairs, and Morgan Kim, Office of Oversight and Investigations. Any communication with Mr. Fluhr and Ms. Kim must be made in writing via email to Chris.Fluhr@mail.house.gov or Morgan.Kim@mail.house.gov or fax, at (202) 225-7094, or letter to:

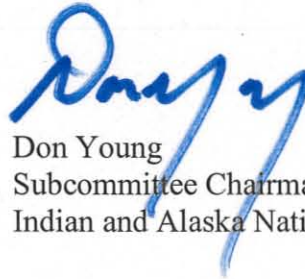
Chairman Doc Hastings
Committee on Natural Resources
U.S. House of Representatives
1324 Longworth HOB
Washington, D.C. 20515

Thank you in advance for your cooperation with the Committee in its review of issues concerning the *Cobell* Settlement Agreement.

Sincerely,



Doc Hastings
Chairman
Natural Resources Committee



Don Young
Subcommittee Chairman
Indian and Alaska Native Affairs

Questions for Named Plaintiffs and Class Counsel

1. Please provide a copy of any and all contingency fee agreements entered into by the Named Plaintiffs and Class Counsel.
2. Please provide any and all documents relating to attorneys' fees, costs, expenses, and other debts pertaining to the *Cobell* litigation and settlement, and include documentation in support of such fees, costs, expenses, and debts. The term "documents" shall include any and all records relating to fees, costs, expenses, debts incurred in the relation to the *Cobell* litigation and settlement including but not limited to any and all written or electronic receipts, requests for reimbursement, billing records, travel expenses, logs, court fees, filing fees, payments, charges, legal costs, disbursements, interest payments, expert witness fees, expenditures related to political or lobbying activity, expenditures related to public relations or media firms, overhead charges, salaries, or other expenditures.
3. Has the contingency fee agreement been disclosed to the Class Members? To the Department of Justice? To the Department of the Interior? To the Court? If yes, please describe the details of how the disclosure was made including when the disclosure was made, whether the disclosure was made in writing, and whether copies of the contingency fee agreement were provided to the Class Members, Department of Justice, Department of the Interior, or the Court.
4. Before the enactment of the Claims Resolution Act of 2010, was the existence of the contingency fee agreement between Plaintiffs and Class Counsel disclosed to the Department of the Interior, Department of Justice, or the Court? If yes, when was the disclosure made?
5. Was the contingency fee agreement, or any of its terms and conditions, disclosed to any Member of the House or Senate, or any congressional staff member? If yes, when was such disclosure made? Was a copy of the contingency fee agreement provided to any Member of the House or Senate or any congressional staff member?
6. Please describe the amount of fees, costs, and expenses that Class Counsel intends to seek for work performed after December 7, 2009. In your response, include a detailed description including documents supporting the total amount of attorneys' fees, expenses and costs anticipated for post-Settlement work.

7. To date, how much of the Plaintiffs' costs, expenses, and fees have been reimbursed by the government? Are any of the costs, expenses, fees, or other debts - that are currently being sought or that may be potentially sought in the future - expenditures that have previously been reimbursed, in whole or in part, by the government? If so, please provide an exact accounting including supporting documentation relating to the fees, costs, expenses, or other debts sought by Plaintiffs and the reimbursements provided by the government. Were any of the Plaintiffs' costs, expenses, and fees previously submitted and rejected by the District Court? If so, please provide an exact accounting including supporting documentation relating to the fees, costs, expenses, or other debts sought by Plaintiffs and previously rejected by the District Court
8. In her statement before the House Committee on Natural Resources on March 10, 2010, Elouise Cobell states that many of the grants she received are in the form of loans and are repayable, and that some entities provided advances that need to be reimbursed. Please provide documentation and records of these repayable grants, loan agreements and advances. At a minimum, such documentation and records should show who made the grants, loans, and advances, the terms and conditions, when they were made, applicable interest rate, and their amounts. Are there any contingency fee or other agreements with the grantors or creditors? If so, please provide written copies of those agreements.
9. In prepared testimony submitted to the Committee in the March 10, 2010, Committee hearing, Elouise Cobell states: "They [the attorneys] have agreed to limit their petition for fees to under \$100 million."

Was the contingency fee agreement in place when Ms. Cobell testified before the Committee on March 10, 2010? If so, why was the agreement not disclosed to the Committee? In the response, please account for the apparent discrepancy between Ms. Cobell's testimony that Plaintiffs' petition for fees would not exceed \$100 million at the same time that she was party to a contract providing otherwise.

10. In the fee petition submitted to the Court, Plaintiffs state, "[A]n award limited to the clear sailing amount would irreparably harm interests of individual Indians generally, and individual Indian trust beneficiaries generally . . ." (p. 6, Plaintiffs' Petition for Class Counsel's Fees, Expenses And Costs Through Settlement).

On what basis did the Plaintiffs determine that agreeing to the "irreparably" harmful provisions was in the best interest of the Class Members?

11. Please provide the identities of any and all attorneys contacted by Elouise Cobell prior to retaining Class Counsel. If any agreements were reached with other attorneys including

agreements relating to attorneys' fees, please provide copies of those agreements and any documents relating to those attorneys' fees.

12. Please provide any and all documents relating to fees, costs, and expenses incurred as a result of political or lobbying activity in connection with the *Cobell* litigation or settlement.
13. Please provide a copy of any agreement for incentive payments, awards or bounces relating to the *Cobell* litigation or Settlement Agreement between any of the Named Plaintiffs and Class Counsel. Include any and all documents relating to any incentive payment, award or bonus agreements including other individuals or entities receiving such incentive payments, awards or bonuses, the terms and conditions of such agreements, and any disbursements or expenditures made or promised under such incentive payment, award or bonus agreements.