

From: Larsen, Chris (USAWIE) [Chris.Larsen@usdoj.gov]
Sent: Thursday, January 03, 2008 3:34 PM
To: Kanassatega, Joshua
Cc: Kara Pfister (RightFax)
Subject: RE: United States v. Menominee: Document Review at MRO

Good afternoon Jay – this email is in response to your inquiries below:

1. Certain documents have been added to the BIA records since your first inspection. These documents have been added to the current Index and are reflected there. The newer documents were placed near the end of each Program's box (for example, BIAF Box 9 of 9 has some new documents). In addition, I am currently in possession of BIAK Box 12.
2. We will attempt to locate a copy of this legal opinion but it will need to be reviewed for possible privilege prior to disclosure to you.
3. It is my understanding that BIAC files, like the other Program files, are not necessarily maintained solely by any particular individual but by Program and subject matter. However, with respect Contracting, typically the filing would be done by the CO (or his or her secretary). In Contracting, the files are generally kept in chronological order starting with the Contract Award and followed up with numbered Contract Modifications. Various other materials may, however, be found in those files. I understand your concerns about apparent gaps in the sequence of certain documents, but as stated previously, these records are being produced for your inspection in the manner they have been kept in the usual course of BIA business. If there is a particular document we can help locate, I am happy to make reasonable attempts to do that.
4. We will try to locate these Subsidiary Proposals for you.
5. I will check again regarding the location of documents authored by or addressed to these individuals, but it is my understanding that their official communications should be located in the relevant Program file. To the extent you are referring to their unprinted emails, we would have to conduct a separate Zantaz search. Given the time and cost involved in that process, we would likely object to searching for and producing those emails.
6. The documents produced on October 17, 2007 do not consist entirely of "BIAF, BIAK or BIAC" documents. We have also produced numerous documents from other sources, including MTE.

Regards,

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4/8/2008

EXHIBIT 7

From: Kanassatega, Joshua [mailto:joshua.kanassatega@leonard.com]
Sent: Thursday, December 27, 2007 12:16 PM
To: Larsen, Chris (USAWIE)
Cc: Glenn Reynolds
Subject: United States v. Menominee: Document Review at MRO

Good morning Chris,

As you know, Menominee resumed its document review at the Midwest Regional Office yesterday. A number of questions were raised to Kara Pfister, who referred me to you for response. Among the more urgent questions are the following:

1. Last Fall, you indicated that documents might be inserted and removed from the BIAC, BIAK, BIAF and other records made available for review. Please advise as to whether any documents were inserted into, removed from, or modified since the date Menominee last reviewed those records.
2. Menominee inquired as to whether Ms. Pfister's February 2005 legal opinion (as testified to by David Congos) would be found in the records made available for review. She said she did not know. However, given Mr. Congos' specificity as to the exact location of that opinion within MRO's offices, would you be willing to ask BIA personnel to locate the Opinion and produce a copy of it during tomorrow's document review session or a review session next week, whichever is convenient.
3. The BIAC files do not appear to be in chronological order and there seems to be gaps in the document sequence. Do the BIAC files represent only Stuart Mani's files or did other BIA personnel maintain or have access to those records? There appear to be many different types of forms in the BIAC files (some blank) which have no meaning to Menominee, but presumably have some meaning to BIA. Next, financial related information (e.g., SF 269A Forms) appear in some contract files, but not others. As to these issues, Ms. Pfister suggested that Menominee question Mr. Mani about this and any other issue related to the maintenance of the contract files at his upcoming deposition. While Menominee certainly could do that, we are looking for an immediate alternative that would allow Menominee to narrow its deposition line of questioning for Mr. Mani. Any thoughts as to how the Government might be more helpful?
4. Menominee could not locate any of the ten "Subsidiary Proposals" in the BIAC/F files, but did locate one file containing documents on Hazardous Fuels. Would you look into the matter and let us know where we could locate the 10 Subsidiary Proposals that Mr. Congos testified about (or perhaps the Government could simply produce those Proposals).
5. There seems to be some confusion as to the location of responsive documents authored by or addressed to any of the following individuals: (1) Larry Morrin, (2) Terry Virden, (3) Jay West, (4) Sean Hart, (5) Andy Bellcourt. I believe Ms. Pfister suggested that those documents would be maintained in the records BIA has made available for Menominee's review.

While Menominee has had occasion to review the same document (one in the BIAK boxes and the other (original) in the BIAC files) that circumstance does not appear to be consistent throughout all the documents previously produced or made available for review. It seems to Menominee that these individuals, like Mr. Congos, would have maintained responsive documents (copies of letters/memos and other documents in their respective files) the same as Mr. Congos maintained records (and the Government made available as BIAK documents). But, as far as Menominee can determine, documents that satisfy this inquiry have yet to be produced. We request that you look into this matter further and we look forward to receiving such responsive documents in the near future. Of course, we are available to dialogue with you on this issue, if necessary.

6. Would you confirm that the sole source of the documents produced to Menominee in two banker sized boxes on or about October 17, 2007 is comprised (entirely) of documents the Government has made available for Menominee's review that are located inside of one or more banker sized boxes -- identified to Menominee as "BIAK, BIAF, BIAC" documents?

4/8/2008

Thank you for looking into and responding to these inquiries.

Regards,

Jay

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