



United States Department of the Interior

BUREAU OF RECLAMATION
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April 4, 2008

VIA ELECTRONIC MAIL ONLY

MEMORANDUM

To: All Bureau of Reclamation Employees
All Bureau of Reclamation Contractors

From: Randy Feuerstein /s/
Chief Information Officer

Subject: Tribal Trust Asset Litigation and Related Records Management Procedures

This memorandum addresses the management of records, information, and data in accordance with mandated requirements from the Office of Solicitor, National Archives and Records Administration (NARA), Department of the Interior, and other sources.

The Solicitor's Office memorandum dated January 17, 2008, requires the Bureau of Reclamation to complete nine specific steps that ensure the preservation of all Native American records, regardless of format or storage medium, including records already scheduled for permanent retention at the National Archives. The first three steps have been completed by Administrative Officers and Regional Records Officers. Receipt of this memorandum concludes Reclamation's requirements for completing the remaining six steps. Please read this memorandum carefully as it contains specific instructions that must be followed to comply with the Solicitor's memorandum.

The Federal Courts have also provided guidance relating to litigation, including new rules concerning electronically-stored information, which were implemented throughout the Court system in November 2006 and are now commonly referred to as "e-discovery." Employees, contractors, temporary employees, volunteers, and interns can reference current records management guidance and procedures in "44 U.S.C. Chapters 21, 29, 31, 33, and 35; 36 CFR part 1220 through 1238; OMB Circular A-130; DM 380 through 385, and RM - RCD 05-01."

The creation, maintenance, use, and final disposition of all records, information, and data are the ultimate responsibility of every person employed by Reclamation; however, managers and supervisors have oversight and compliance responsibility for records management policies and

guidance. As deemed appropriate, the Federal Courts may sanction individual employees or Reclamation as a whole for the destruction, alienation, unlawful removal, or other acts of vandalism against bureau records in accordance with "18 U.S.C. 2071," including but not limited to adverse personnel actions, fines, or incarceration. On February 12, 2008, NARA issued "Bulletin 2008-02 – Protecting Federal Records and Other Documentary Materials from Unauthorized Removal." This bulletin is posted on the NARA Web site at: <http://www.archives.gov/records-mgmt/bulletins/2008/2008-02.html>.

Electronic mail (e-mail), voicemail, and other Electronically Stored Information concerning Native American activities should be printed and filed into folders using classification code PRJ-28.00 (permanent retention). These file folders should be data entered into Reclamation's Electronic Document System (REDS) at the time of creation for record tracking, auditing, and accountability so indexes and reports may be generated for the Office of Solicitor, Department of Justice, and the Federal Courts when requested. In addition, Native American records should be segregated in a central office location and a check-out/check-in card control system established for tracking active records. Electronic data and information stored on portable media that constitute official records should be printed, filed, and data entered into REDS. Voicemail messages concerning Native American activities must be permanently recorded or transcribed along with key information such as, the time and date of the call; names of the caller and recipient; and the complete conversation. Therefore, voicemail is discouraged in favor of e-mail.

Employees and offices that create records, regardless of format, are responsible for their maintenance, use, and disposition in accordance with policies and procedures contained in the Information Management Handbook and the Reclamation Manual. Official Records created for use by other Reclamation offices, partners, or external entities must be maintained in the office where they were created and the proper disposition applied for tracking purposes so the Courts can be assured of full accountability. Policy requires that Reclamation maintain the original records that document its mission-related "organization, functions, policies, decisions, procedures, and essential transactions ... needed to protect the legal and financial rights of the government and of persons directly affected by the agency's activities," and provide copies to all other entities.

New employees, contractors, temporary employees, volunteers, and interns should be made aware of Tribal Trust litigation during their orientation process, and that Native American records may not be disposed of in any manner. The Solicitor's Office memorandum also requires supervisors and managers to remind the staff of their responsibilities to preserve all Native American records, information, and data on a quarterly basis.

If you have any questions or need clarification regarding this memorandum, please contact Roy Wingate, Bureau Records Manager, at 303-445-2058 or rwingate@do.usbr.gov.

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