

**Larsen, Chris (USAWIE)**

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**From:** Kanassatega, Joshua [joshua.kanassatega@leonard.com]  
**Sent:** Wednesday, April 23, 2008 6:01 PM  
**To:** Larsen, Chris (USAWIE)  
**Cc:** Glenn C. Reynolds  
**Subject:** United States v. Menominee et al:

Good afternoon Mr. Larsen,

This afternoon's disclosure that the Government will not be producing the 80,000 pages MRO Documents (or even a lesser subset of those documents comprised of the Menominee identified documents) until after conducting yet another privilege review, which effort would purportedly take a couple of weeks (if not more time) thus, effectively foreclosing Menominee's planned depositions of current and former BIA employees, is simply astounding. Frankly, it is difficult to square the Government's actions with regard to the MRO Documents over the past few weeks -- its March 2008 motion for protective order and its oral argument to the Court on April 15, 2008 (persuading the Court to agree with the Government's request to produce the entire 80,000 MRO Documents) -- with the position announced today that it now accepts Menominee's preferred option (advocated since February 2008) of just producing the subset of selected documents from the 80,000 page universe of MRO Documents.

Moreover, it is untenable to use this 180-degree reversal in position as justification to seek Menominee's agreement to stipulate to amend the current Amended Scheduling Order, which would extend the deadlines for expert and fact discovery, non-dispositive and dispositive motions, and the trial date by 30 days so as to allow the Government sufficient time to conduct another privilege review. It is time to bring the five-plus year DOI-OIG investigation and follow-on one year plus of litigating to a close beginning by taking action now to ensure that trial begins on Tuesday, September 9, 2008.

In sum, Menominee has no interest in postponing the currently applicable deadlines. The Government's newly announced position is prejudicial to Menominee's ability to complete depositions by the May 15th deadline (or at the very latest the week after) and, accordingly, it will seek appropriate relief, namely, to take any postponed deposition after the close of discovery without moving any other deadlines including the trial date. If the Government wants a second amendment to the Scheduling Order, it will need to move the Court.

We can continue the meet and confer on the remaining outstanding issues either tomorrow or Friday afternoon. Let me know.

Regards,

Joshua Jay Kanassatega

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