



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 16, 2008

The Honorable Mary Bono Mack
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Mack:

This responds to your letter of February 22, 2008, regarding the location of the western boundary of the Colorado River Indian Reservation ("Reservation"). We are sending a similar letter to Congressman Dreier, the other signatory of your letter. The long-standing position of the United States, as set forth in an order of the Secretary of the Department of the Interior and in filings before the U.S. Supreme Court, is that the Reservation extends past the west bank of Colorado into the State of California.

An Executive Order of May 15, 1876, established the boundaries of the Reservation. In 1879, W.F. Benson undertook a meander survey of the lower Colorado River ("Benson Survey"). In 1969, Secretary Udall determined that the western boundary of the Reservation was a fixed line, rather than a boundary that varied with the movement of the Colorado River. Order of Secretary Udall to the Bureau of Land Management, January 17, 1969. Secretary Udall also found that the Benson Survey constituted the western boundary of the Reservation.

The United States in filings before the U.S. Supreme Court confirmed this understanding of the western boundary of the Reservation. In *Arizona v. California*, the United States and the Colorado River Indian Tribes ("CRIT") filed a stipulation on March 4, 1999, concluding that "the lands described in the 1969 Secretarial Order, are included within the Reservation set aside by the Executive Order of May 15, 1876 and are held in trust by the United States for the benefit of the Tribes." The Supreme Court ultimately affirmed a settlement of the water rights of CRIT and did not adjudicate the Reservation boundaries. See *Arizona v. California*, 530 U.S. 390, 419 (2000).

According to the 1969 Order of Secretary Udall, the western boundary of the Reservation runs "from the top of Riverside Mountain, California, through section 12, T. 5 S., R. 23 E. S.B.M., California." The lands leased by the members of the West Bank Homeowners Association ("WBHA"), therefore, lie within the Reservation. In addition, if the Water Wheel Resort lies within the Benson Survey line, it too is within the Reservation. Moreover, arguments regarding the western boundary of the Reservation do not alter the fact that neither the members

The Honorable Mary Bono Mack
Page Two

of the WBHA, nor the Water Wheel Resort, if it lies within the Benson Survey line, possess title to the lands at issue. See *Arizona v. California*, 530 U.S. at 419 n.6 (denying WBHA request to intervene on the grounds that the Association and its members "do not own land in the disputed area"). In the unlikely event that the lands at issue do not constitute part of the Reservation, they nevertheless belong to the United States. As a result, regardless of the location of the Reservation's western boundary, Water Wheel Resort (if located within the Benson Survey line) and the members of WBHA occupy land to which the United States holds title, either in trust for CRIT or in its own right. If these entities and their members wish to continue to occupy this land, they must have a valid lease and make payments pursuant to that lease.

If we can be of further assistance regarding this or any other matter, please do not hesitate to contact this office.

Sincerely,



Keith B. Nelson
Principal Deputy Assistant Attorney General