



United States Department of the Interior

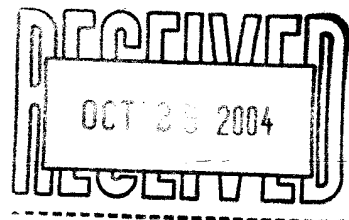
OFFICE OF INSPECTOR GENERAL
Washington, DC 20240

OCT 19 2004

The Honorable Mary Bono
House of Representatives
44th District, California
707 Tahquitz Canyon Way
Suite 9
Palm Springs, CA 92282

Attn: Anne Bryant

Dear Congresswoman Bono:



This is in response to your September 10, 2004, letter in which you enclosed a copy of a letter from your constituent, Mr. Roger L. French. Mr. French expressed his dissatisfaction that the Secretary had not rescinded a 1969 Secretarial Order which was issued concerning the Western Boundary of the Colorado River Indian Tribes (CRIT) Reservation. Mr. French is also dissatisfied with the response he received from the Solicitor's Office. He requested that the issue be revisited, "...by a non-biased entity within the Federal Government, not the legal extension of the Bureau of Indian Affairs."

Under the Inspector General Act of 1978 (IG Act), an Inspector General has the authority to investigate matters involving fraud, waste, and abuse that are--by statute or regulation--within the purview of his department, or a sub agency of his department. The IG Act prohibits OIGs from engaging in agency programmatic functions. Furthermore, the IG Act does not authorize the OIG to serve as a forum for resolving judicial or administrative disputes.

Mr. French is the President of the West Bank Homeowners Association (Association). The Association has unsuccessfully contested the Western Boundary of Reservation lands held in trust by the Department of Interior (DOI) for the CRIT. The Association filed an *amicus curiae* (friend of the court) brief in *Arizona v. California*, 115 S.Ct. 1790, (1995), objecting to the proposed settlement of water rights claims respecting the Colorado River Indian Reservation. The Association represents approximately 650 families who lease property from the United States within the current boundaries of the CRIT Reservation. The Supreme Court and the Special Master each denied the Association's request to intervene in those proceedings. See *Arizona v. California*, 115 S.Ct. 1790, (1995); Special Master McGarr Memorandum Opinion and Order No. 17 (March 29, 1995).

The Master observed that the Association's members do "**not own land in the disputed area** and [the Association] makes no claim to title or water rights," *id.*, at 2310, thus their interests will "not be impeded or impaired by the outcome of this litigation," *id.*, at 2312 (emphasis supplied). When the parties reached a proposed settlement concerning CRIT's water rights and the Supreme Court accepted it (upon the recommendation of Special Master McGarr),


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this effectively put an end to the boundary issue because the parties agreed not to adjudicate the boundary location. *See Arizona v. California*, 120 S. Ct. 2321 (2000). The Stipulation and Settlement Agreement, which was signed by the United States and CRIT, states that lands described in the January 17, 1969, Solicitor's Opinion are part of the Colorado River Indian Reservation and are held in trust by the United States for the CRIT. DOI has a paramount fiduciary duty to protect the interests of the CRIT in those lands.

My legal staff has reviewed documentation associated with this case and is satisfied that the Solicitor's Office thoroughly reviewed the Association's claims. The Solicitor represents the Secretary and does not believe it would be appropriate to rescind the 1969 memorandum from then Secretary of the Interior Stewart Udall to the Director of the Bureau of Land Management (BLM). Secretary Udall instructed BLM to suspend certain surveys and reinstate other surveys in order to properly demonstrate the correct western boundary of the Colorado River Indian Reservation. The Solicitor's Office recently concluded that the Association's argument that Secretary of Interior Udall acted improperly (in reliance on a Solicitor opinion) in issuing the January 17, 1969, memorandum to the Director of BLM is without merit. This matter lies squarely within the discretion of the Secretary. It would be improper for the OIG to intervene.

Should you have further questions regarding this matter, please do not hesitate to contact me or Ms. Katie Balestra, Congressional Liaison at (202) 208-5745.

Sincerely,


for Earl E. Devaney
Inspector General