

WILLIAM C. TUTTLE

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August 18, 2010

NOTICE OF APPEAL

Board of Indian Appeals
Office of Hearings and Appeals
UNITED STATES DEPARTMENT OF THE INTERIOR
801 North Quincy Street - Suite 300
Arlington, Virginia 22203

Re: *William C. Tuttle's Notice of Appeal of the Acting Regional Director's (Bureau of Indian Affairs, Western Regional Office) decision upholding cancellation of Lease No. B-509-CR, dated July 19, 2010.*

To This Honorable Board:

In accordance with the provisions of the July 19, 2010, cancellation letter referred to above and attached to this Notice of Appeal as an enclosure, this Notice of Appeal is filed pursuant to the provisions of 43 C.F.R. § 4.332(a).

A. Identification of the Case on Appeal.

The Acting Regional Director of the Western Regional Office of the Bureau of Indian Affairs ("BIA") terminated the appellant's federal lease for land on the West Bank of the Colorado River within the State of California. This matter is known as *William C. Tuttle vs. Acting Regional Director of the Western Regional Office*. Appellant Tuttle contests both the reasons for the termination itself, as well as the basis for the BIA asserting jurisdiction over the land itself.

B. Statement of Reasons for Appeal and Relief Sought.

1. The Termination Was Erroneous as a Matter of Fact.

The disputes identified above have largely been addressed and deficiencies resolved as of this date. There were delays in responding, but they resulted from (a) health issues which affected the Petitioner's ability to deal with the business matters underlying the decision being appealed and (b) the unavailability of Petitioner's Certified Public Accountant who was essential to responding to the elements of the Regional Director's Decision. These

problems were timely reported to the appropriate Interior officials and Appellant understood that the delays were acceptable to the Department of the Interior. The July 19 opinion letter disclosed that consent to any late resolution of issues was dependent upon approval by the Colorado River Indian Tribes ("CRIT"), and the Tribe refused to give that approval.

2. Contrary to the Regional Director's Conclusions, All Deficiencies Were Cured Prior to the Termination.

Petitioner believes and proposes that any remaining deficiencies either have been resolved at this time, are so close to full and final resolution or so *de minimis non curat lex* that there is no legitimate basis for citing them as reasons for Lease termination. Accordingly, Petitioner respectfully submits that termination of the Lease was error.

3. The Land Is Under the Jurisdiction of the Bureau of Reclamation and/or the Bureau of Land Management and Not the Bureau of Indian Affairs; Thus, the Regional Director Had No Authority to Terminate the Federal Lease.

There has never been a lawful determination that the West Bank Land is eligible for Secretary leasing on CRIT's behalf. To the contrary, as a matter of law, the land is not, and cannot be, reservation land under the jurisdiction of the Bureau of Indian Affairs. To the contrary, under federal law, the land is under the jurisdiction of the Bureau of Reclamation and/or the Bureau of Land Management. The BIA cannot terminate a lease for land which is not under its jurisdiction.

The Reservation was established by Congress in the Territory of Arizona only – not in California – by the Act of March 3, 1865, 13 Stat. 559 ("1865 Act"), a territorial limitation which was consistent with, *and did not amend*, the California Indian Reservation Act of April 8, 1864, 13 Stat. 39 ("1864 Act"), limiting to **four** the number of Indian reservations in California. Although CRIT and the BIA have long ignored this statutory preclusion and claimed that the Reservation extends beyond the Colorado River into California, the specificity of the 1864 Act mandates that any lawful intrusion of the CRIT Reservation into California must have been authorized by a specific federal statute. That statute has never been enacted, and thus the West Bank Land remains in the public domain and in federal fee status. Thus, Appellant Tuttle almost certainly is occupying public domain land which is administered by the Bureau of Land Management.

In addition, portions of the West Bank are under the jurisdiction of the Bureau of Reclamation by virtue of specific federal laws. Thus, it is possible that portions of the leasehold occupied by appellant Tuttle are under the jurisdiction of the Bureau of Reclamation.

C. Additional Interested Parties Indian Tribes, Tribal Corporations or Groups Having Rights or Privileges Which May Be Affected by a Change in the Decision.

The only relevant definition of "Interested Parties" in the *Code of Federal Regulations* is found at 25 C.F.R. Part 2: "any person whose interests could be adversely affected by a decision in an appeal."

At the outset, it should be noted that among the "Interested Parties" are all parties that must be served pursuant to 43 C.F.R. § 4.333, and they are identified in the Certificate of Service below. However, in accordance with the applicable regulatory definition, we have identified the following additional Interested Parties:

**Bureau of Reclamations Regional Office
Lower Colorado Regional Office**
P. O. Box 61470
Boulder City Nevada 89006-1470
Attn: Lorri Gray-Lee
Regional Director

**Bureau of Reclamation
Yuma Area Office**
7301 Calle Aqua Salada
Yuma, Arizona 85364
Attn: Jennifer McCloskey

**Bureau of Land Management
Yuma Field Office**
2555 East Gila Ridge Road
Yuma, Arizona 85364
Attn: Todd Shoaff – Field Manager

**Bureau of Land Management
Arizona State Office**
1 North Central Ave.
Suite 800
Phoenix, Arizona 85004-4427
Attn: James Kenna, State Director

**Honorable Governor Arnold Schwarzenegger
Governor - State of California**
Office of the Governor
Sacramento, California 95814

Office of the Governor - State of California
Attn: Andrea Hoch, Secretary of Legal Affairs
Office of the Governor
Sacramento, California 95814

Honorable Jerry Brown
Attorney General of State of California
1300 I Street
Sacramento, California 95814

Office of the Attorney General of State of California
Attn: Sara Drake, Sr. Asst. Attorney General
Indian Law and Gaming Unit
1300 I Street
Sacramento, California 95814

Respectfully Submitted:

William C. Tuttle (*Pro Se*)
3400 H. C. Route 20
Blythe, CA 92225-9713
Telephone: (760) 922-6952

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of August, 2010, I filed the foregoing **Appellant William C. Tuttle's Notice of Appeal of the Acting Regional Director's (Bureau of Indian Affairs, Western Regional Office) decision upholding cancellation of Lease No. B-509-CR, dated July 19, 2010**, with the Interior Board of Indian Appeals, Office of Hearings & Appeals by mailing the same via first class mail.

In accordance with 43 C.F.R. § 4.333, I certify that each of the parties identified below were also served with a copy of the Notice of Appeal and that service was accomplished via first class mail on 18th day of August, 2010.

Assistant Secretary -- Indian Affairs
MS 4140-MIB
U.S. Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

Regional Director
Bureau of Indian Affairs
Western Regional Office
2600 North Central Avenue
Phoenix, Arizona 85004

Chairman
Colorado River Indian Tribes
26600 Mohave Road
Colorado River Indian Reservation
Parker, Arizona 85344

Attorney General
Colorado River Indian Tribes
26600 Mohave Road
Colorado River Indian Reservation
Parker, Arizona 85344

William C. Tuttle (*Pro Se*)
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Blythe, CA 92225-9713
Telephone: (760) 922-6952

Exhibit A

Acting Regional Director's (Bureau of Indian Affairs, Western Regional Office)
decision upholding cancellation of Lease No. B-509-CR, dated July 19, 2010.

DC 35609-1 158747