

ASSISTANT ATTORNEY GENERAL
 NATURAL RESOURCES
 DIVISION

Department of Justice

Washington

March 30, 1966

Honorable Morris K. Udall
 House of Representatives
 Washington, D. C.

Dear Congressman Udall:

The Attorney General has asked me to reply to your letter of March 22, 1966, in which you request the comments of this Department on the material enclosed with your letter relating to the controversy over the location of the western boundary of the Colorado River Indian Reservation.

At the present time we are awaiting a report from the Department of the Interior as to the advisability of initiating an action to establish the western boundary of the Reservation. As paragraph 3 of the draft enclosed with your letter indicates, there appears to be no substantial question with respect to those lands which are west of the present channel of the river as a result of avulsive changes in the course of the river - these so-called "cut-off" lands are properly a part of the Reservation. However, it is not so clear that any of the other lands west of the river might properly be considered as a part of the Reservation. Paragraph 4 of the draft enclosed with your letter states, "I believe there is case law to the effect that an established meander line in instances of this type and particularly where an Indian reservation is involved, is itself the boundary irrespective of subsequent movements of the water line and where the intent to establish a fixed boundary is apparent." Of course, the question here is the factual one as to whether there was an intent to create a fixed boundary, and if so, where; the decided cases with respect to meander lines in general seem to be unanimous in holding that the water line, not the meander line, is the boundary of land surveyed by the government, and that the water line remains the boundary, absent an avulsive change. Railroad Company v. Schwaner.

74 U.S. 272, 286 (1868); Jefferis v. East Omaha Land Co.,
134 U.S. 178 (1890). Consequently, information must be
developed as to whether the western boundary of the Reser-
vation was intended to be a shifting water line, or a fixed
topographical feature. This is the specific matter which
the Department of the Interior is now investigating; I am
sure that the evidences of an intention to establish a
fixed boundary, as set forth in paragraph 4 of the enclosure
to your letter, will not be overlooked by that Department.

I shall advise you as to what action is eventually
taken in this matter.

Very truly yours,

Edwin L. Weisl, Jr.
Assistant Attorney General