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United States Department of Justice

UNITED STATES ATTORNEY

CENTRAL DISTRICT OF CALIFORNIA
U. S. COURT HOUSE
311 NO. SPRING STREET
LOS ANGELES, CALIFORNIA 90012

Handwritten signature

October 1, 1974

Airmail

Honorable Wallace E. Johnson
Assistant Attorney General
Land & Natural Resources Division
Department of Justice
Washington, D. C. 20530

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Attention: Mr. Floyd L. Franco
Chief, General Litigation Section

Re: United States v. Bart Thomas Denham,
et al., Civil No. CV 73-493-ALS
Your Reference: 90-2-10-520

Dear Mr. Johnson:

OFFER IN SETTLEMENT

The above action is one of the Colorado River
Trespass cases involving a trespass on the Cali-
fornia side (Benson Line area) of the Colorado
River Indian Reservation. The complaint was filed
on March 7, 1973. Please see the litigation report
originally sent to you by Interior for a summary of
the facts surrounding the trespass.

The defendants have submitted an offer in
settlement whereby the parties would stipulate to
a judgment providing that the United States is
the owner of the subject property, either in its
sovereign capacity or as trustee for the Tribes.
A copy of the proposed judgment and stipulation
(executed by the attorney for the defendants) is
enclosed. In addition, the Tribes and United
States would waive damages for the defendants'
past, illegal use of the property. Finally, the

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Tribes would issue a lease to defendants covering a portion of the subject property. A copy of the proposed lease executed by defendants (incorporated as Water Wheel Camp, etc.) is also enclosed.

Recommendation

We recommend acceptance of the offer in settlement. The only concession made by the Tribes is the waiver of damages for the past unauthorized use of the property. The preliminary estimate of rental damages contained in the litigation report is \$7,400.00 for the trespass period of June, 1968, to September, 1972. As pointed out in the settlement memorandum in United States v. Lonesome Valley (Your No. 90-2-10-302), damages in these types of cases have been difficult to assess and prove, especially where, as in this case, there have been substantial improvements made by the defendants (e.g. United States v. Williams). While there is relatively minor risk of loss on the issue of title, the case may be delayed by similar defenses as are raised in the pending case of United States v. Rock (Your No. 90-1-10-922). Therefore, a prompt disposition of the action with an immediately effective lease providing income to the Tribes would appear preferable to litigating the case (which most likely would involve an appeal), and with speculative recovery of money damages. The proposed "semi-developmental" lease is based upon prevailing market factors, and is economically advantageous to the Tribes in our opinion.

Special Assistant United States Attorney Bryan N. Fresman has conferred with the Tribal Council, Colorado River Indian Reservation, concerning the subject settlement. The Council approved the settlement in the form proposed herein, although a formal Resolution has not been received to that effect.

Also please find enclosed two letters addressed to the Colorado River Indian Tribes from Jack Holt, counsel for defendants. The letters are formal requests for waivers of the performance and rental bonds, pursuant to discussions with Mr. Holt. Please transmit the

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requests to the Tribes and other proper parties for their consideration along with the settlement proposal. However, the settlement proposal is not conditional upon the waiver of the performance and rental bonds.

Very truly yours,


WILLIAM D. KELLER
United States Attorney

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