



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

MAR - 4 2004

Honorable Wally Herger
House of Representatives
Washington, D.C. 20515-0502

Dear Mr. Herger:

On June 6, 2002, former Solicitor Myers wrote to you and Congressman Herger regarding a constituent, Yuba River Properties (YRP). YRP claims title to Lot 5 in section 26, T. 16 N., R. 5 E. MDM in Yuba County, California. (Enclosures A and B) Solicitor Myers asserted that "many of the equities presented here favor YRP" and while the Bureau of Land Management (BLM) owned Lot 5 and could not convey it without receiving fair market value for the tract, "the Department would support private relief legislation conveying Lot 5 to YRP should legislation be introduced."

Since receiving this letter from the Solicitor, you and Congressman Herger introduced H.R. 2599 which would, if enacted, convey Lot 5 to YRP, as a matter of private relief legislation. This letter is to advise you that the Department has identified additional facts relating to the title history of Lot 5 that have caused the Department to reconsider its support for private relief legislation. In fact, in light of the new information, the Department withdraws its support for private relief legislation to resolve the title dispute to Lot 5 at this time. The new information is set forth below.

In our view, the key facts creating equities favorable to YRP were that its chain of title contained a 1943 quitclaim deed to the property from the Secretary of War, that YRP had paid taxes on the disputed property, and that this was a one of a kind problem that could be fixed better by legislation than by litigation.

But additional research by the BLM and the Pacific Southwest Regional Solicitor's Office has called into question some of the factual basis the Department relied upon in 2002 to support the concept of private relief legislation. The Regional Solicitor's Office has produced a report (2004 report) containing BLM's and its own recent research into the facts underlying this matter.

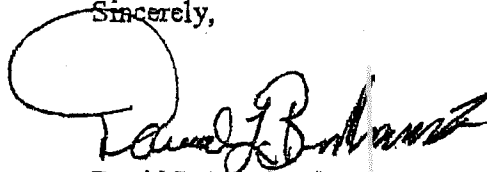
The 2004 report has caused the Department to change its thinking about the wisdom of supporting this particular private relief legislation. The report contains two important new facts of which Solicitor Myers was not aware in June 2002. First, despite YRP's assertion of private legal title back to a 1943 quitclaim deed from the Secretary of War, YRP has never actually paid taxes on Lot 5. Second, the County records show Lot 5 to be a tract of public lands.

The 2004 report indicates that YRP has paid taxes only on a portion of Lot 6, a tract adjacent to Lot 5 to which it has a partial, separate and independent claim. If YRP had reasonably relied upon a government issued quitclaim as being valid to convey Lot 5 and had paid county taxes on the property in reliance on the quit claim, this would have created an equitable reason to consider resolving this matter through legislation. Since YRP has not paid taxes on Lot 5, this equitable reason does not appear to exist.

Additionally, despite the existence of the quitclaim deed, the 2004 report indicates that the County land records still show Lot 5 to be public lands. YRP reliance on the filing of a quitclaim in the County records by a predecessor in interest would have created another equitable reason to support legislation. But YRP did not make such a claim. Given that the County lists Lot 5 as public land, YRP should have known of potential public land title issues when it purchased the property. This newly reported fact also undercuts any equitable reliance basis for private legislation.

For the foregoing reasons, the Department withdraws its support for private relief legislation conveying Lot 5 to YRP. If new information is brought to light, the Department will consider it in evaluating its views in response to future Congressional requests.

Sincerely,



David L. Bernhardt
Director, Office of Congressional
and Legislative Affairs and
Counselor to the Secretary

Identical Letter Sent to:

Honorable John T. Doolittle
House of Representatives
Washington, D.C. 20515-0504