

July 8, 1988

The Honorable Bruce Babbitt  
Secretary  
U.S. Department of the Interior  
1849 C Street, NW  
Washington, DC 20240

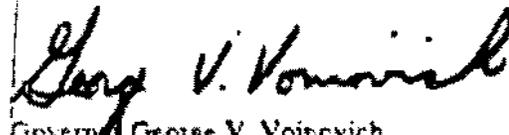
Dear Secretary Babbitt:

Governors are encouraged that state, tribal, and federal representatives have expressed a sincere willingness to discuss legislative changes to the Indian Gaming Regulatory Act of 1986 (IGRA). Governors are comfortable with the agreed-upon ground rules for future discussions including rotating responsibility for convening future meetings, confidentiality of the discussions, each party (states, tribes, and federal agencies) having six representatives at the table, and the opportunity for additional observers from the parties and from Congress.

Further, Governors agree that legislative rather than regulatory changes are the only way to make improvements to IGRA that will accommodate the legitimate interests of all stakeholders. Improvements to IGRA must be comprehensive and should include, but not be limited to: statutory clarification of the scope of gaming; a dual good-faith requirement on both tribes and states; clarification of state and federal enforcement responsibilities; and clarification of the Governors' role in trust land acquisition for both gaming and nongaming purposes.

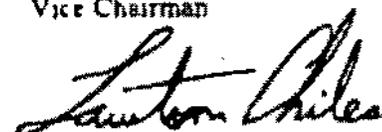
Given the very limited time remaining in the current session of Congress and the many demands upon Governors during the next few months, Governors respectfully propose that an initial meeting of senior staff take place in August or September in preparation for a meeting of principals in November. A meeting on July 21, prior to the NGA annual meeting in early August, would not be productive as we will not have had the opportunity to discuss this important issue among all Governors.

Sincerely,

  
Governor George V. Voinevich  
Chairman

  
Governor Thomas R. Carper  
Vice Chairman

  
Governor Roy Romer  
Colorado

  
Governor Lawton Chiles  
Florida

The Honorable Bruce Eabbin

July 8, 1998

Page 2



Governor Bob Miller

Nevada



Governor David M. Beasley

South Carolina



Governor Howard Dean, M.D.

Vermont



Governor Tommy G. Thompson

Wisconsin

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\*\*\* TX REPORT \*\*\*  
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TRANSMISSION OK

TX/RX NO - 1344  
CONNECTION TEL. 912062204159  
SUBADDRESS  
CONNECTION ID NATIONAL PARK SE  
ST. TIME 07/24 13:35  
USAGE T 03'21  
PGS. 9  
RESULT OK



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240

OFFICE OF INTERGOVERNMENTAL AFFAIRS  
SEAN McMAHON, ACTING DIRECTOR

## TRANSMISSION NOTICE

TRANSMISSION NUMBER: 202-208-1821

VERIFICATION NUMBER: 202-208-5336

TO: Bob Anderson

FAX: 206/220-4159 PHONE: 206/220-4019

FROM: Sean McMahon

NUMBER OF PAGES: 9

DATE: 7/24/98

MESSAGE. FYI

*Copied to Bob Anderson (7/24/98)  
John F. Kelly*



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240

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SEAN McMAHON, ACTING DIRECTOR

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MESSAGE: FYI

*B. Henderson*  
FYI



THE SECRETARY OF THE INTERIOR  
WASHINGTON

JUL 24 1998

Honorable George V. Voinovich  
Governor of Ohio  
Chairman, National Governors Association  
Hall of States  
444 North Capitol Street  
Washington, D.C. 20001-1512

Dear Governor Voinovich:

I was pleased to receive your letter of July 8, 1998, expressing the willingness of the Governors to engage in discussions about possible amendments to the Indian Gaming Regulatory Act of 1988. I understand the constraints on the ability of the Governors to engage in early discussions respecting any amendments, and agree that meetings involving senior staff would be appropriate for September, followed by a meeting of principals in November.

In the interest of fostering a productive, but limited, period of negotiations, I suggest that we seek to reach agreement among the stakeholders by early in the new year.

Like you, this Department is comfortable with the ground rules for future discussions that are set forth in the July 7 memorandum of Nelson Kempsey, Executive Director of the Conference of Western Attorneys General. I understand that the Indian tribes will be providing a formal response to Mr. Kempsey's memorandum in the near future, and that Mr. Kempsey will coordinate the logistics for the September meeting.

I look forward to these efforts to reach consensus on these challenging issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce Babbitt".



THE SECRETARY OF THE INTERIOR  
WASHINGTON

JUL 24 1998

Honorable Tommy G. Thompson  
Governor of Wisconsin  
National Governors Association  
Hall of States  
444 North Capitol Street  
Washington, D.C. 20001-1512

Dear Governor Thompson:

I was pleased to receive your letter of July 8, 1998, expressing the willingness of the Governors to engage in discussions about possible amendments to the Indian Gaming Regulatory Act of 1988. I understand the constraints on the ability of the Governors to engage in early discussions respecting any amendments, and agree that meetings involving senior staff would be appropriate for September, followed by a meeting of principals in November.

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THE SECRETARY OF THE INTERIOR  
WASHINGTON

JUL 24 1998

Honorable David M. Beasley  
Governor of South Carolina  
National Governors Association  
Hall of States  
444 North Capitol Street  
Washington, D.C. 20001-1512

Dear Governor Beasley:

I was pleased to receive your letter of July 8, 1998, expressing the willingness of the Governors to engage in discussions about possible amendments to the Indian Gaming Regulatory Act of 1988. I understand the constraints on the ability of the Governors to engage in early discussions respecting any amendments, and agree that meetings involving senior staff would be appropriate for September, followed by a meeting of principals in November.

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THE SECRETARY OF THE INTERIOR  
WASHINGTON

JUL 24 1998

Honorable Howard Dean, M.D.  
Governor of Vermont  
National Governors Association  
Hall of States  
444 North Capitol Street  
Washington, D.C. 20001-1512

Dear Governor Dean:

I was pleased to receive your letter of July 8, 1998, expressing the willingness of the Governors to engage in discussions about possible amendments to the Indian Gaming Regulatory Act of 1988. I understand the constraints on the ability of the Governors to engage in early discussions respecting any amendments, and agree that meetings involving senior staff would be appropriate for September, followed by a meeting of principals in November.

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THE SECRETARY OF THE INTERIOR  
WASHINGTON

JUL 24 1998

Honorable Lawton Chiles  
Governor of Florida  
National Governors Association  
Hall of States  
444 North Capitol Street  
Washington, D.C. 20001-1512

Dear Governor Chiles:

I was pleased to receive your letter of July 8, 1998, expressing the willingness of the Governors to engage in discussions about possible amendments to the Indian Gaming Regulatory Act of 1988. I understand the constraints on the ability of the Governors to engage in early discussions respecting any amendments, and agree that meetings involving senior staff would be appropriate for September, followed by a meeting of principals in November.

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THE SECRETARY OF THE INTERIOR  
WASHINGTON

JUL 24 1998

Honorable Roy Romer  
Governor of Colorado  
National Governors Association  
Hall of States  
444 North Capitol Street  
Washington, D.C. 20001-1512

Dear Governor Romer:

I was pleased to receive your letter of July 8, 1998, expressing the willingness of the Governors to engage in discussions about possible amendments to the Indian Gaming Regulatory Act of 1988. I understand the constraints on the ability of the Governors to engage in early discussions respecting any amendments, and agree that meetings involving senior staff would be appropriate for September, followed by a meeting of principals in November.

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THE SECRETARY OF THE INTERIOR  
WASHINGTON

JUL 24 1998

Honorable Thomas R. Carper  
Governor of Delaware  
Vice Chairman  
National Governors Association  
Hall of States  
444 North Capitol Street  
Washington, D.C. 20001-1512

Dear Governor Carper:

I was pleased to receive your letter of July 8, 1998, expressing the willingness of the Governors to engage in discussions about possible amendments to the Indian Gaming Regulatory Act of 1988. I understand the constraints on the ability of the Governors to engage in early discussions respecting any amendments, and agree that meetings involving senior staff would be appropriate for September, followed by a meeting of principals in November.

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THE SECRETARY OF THE INTERIOR  
WASHINGTON

JUL 24 1998

Honorable Bob Miller  
Governor of Nevada  
National Governors Association  
Hall of States  
444 North Capitol Street  
Washington, D.C. 20001-1512

Dear Governor Miller:

I was pleased to receive your letter of July 8, 1998, expressing the willingness of the Governors to engage in discussions about possible amendments to the Indian Gaming Regulatory Act of 1988. I understand the constraints on the ability of the Governors to engage in early discussions respecting any amendments, and agree that meetings involving senior staff would be appropriate for September, followed by a meeting of principals in November.

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DEPARTMENT OF THE INTERIOR

TASKING PROFILE

ACCN #: 204197

Status: 0

Fiscal Year: 1998

<u>Document Date</u>	<u>Received Date</u>	<u>Due Date</u>	<u>Action Office</u>	<u>Signature Level</u>	<u>Mail Source</u>
10/10/97	10/20/97	11/05/97	BIA	A/S	GOV

Addressee: BRUCE BABBITT

From: VOINOVICH, GEORGE V.; CARPER, THOMAS R.  
GOVERNORS  
CHAIRMAN & VICE CHAIRMAN  
WASHINGTON  
DC 20001-1512

Subject Text: GOVERNORS WILL OBJECT TO PROPOSED PROCEDURES ALLOWING SECRETARY TO PERMIT CASINO GAMBLING TO TRIBES OUTSIDE COMPACTING PROCESS. CITE SEMINOLE TRIBE OF FLORIDA V. FLORIDA. URGE SECRETARY NOT TO TAKE UNILATERAL ACTION TO RESOLVE THE ISSUES CREATED BY SEMINOLE DECISION BUT INSTEAD WORK WITH CONGRESS & GOVERNORS TO CRAFT A SOLUTION TO IGRA IMPLEMENTATION PROBLEMS.

Recommended Surnames SOL, SIO-HAYES

Mail Carrier: FM

Mail Track #:

Cross Reference:

Copies To: FL, SIO-MCGUIRE, SOL, SIO-HAYES

Status Tracking:

SCO  
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SCO Phone  
208-3572

CO  
AKEARY

Gambling

October 10, 1997

The Honorable Bruce Babbitt  
Secretary  
U.S. Department of the Interior  
1849 C Street NW  
Washington, DC 20240

Dear Mr. Secretary:

The nation's Governors remain intensely interested in your response to last year's advance notice of proposed rulemaking (ANPR), which was published in the wake of the Supreme Court's decision in *Seminole Tribe of Florida v. Florida*. It has come to our attention that department officials have spent many months drafting a procedure that would allow you to permit casino gambling to tribes outside the compacting process prescribed by the Indian Gaming Regulatory Act of 1988 (IGRA). You can expect the Governors actively to oppose any administrative action or legislation that reduces our ability to determine or affect the gambling conducted in our states.

We do not dispute the fact that the *Seminole* decision may create obstacles to achieving tribal-state compacts in some cases. However, creating an alternative procedure not only will postpone resolution of IGRA implementation problems, but will also create an incentive for tribes to avoid negotiating compacts with states. The scope of the gambling activities and devices subject to negotiation under IGRA must be clarified. In the absence of IGRA reform, every effort should be made to keep states and tribes at the negotiation table.

Only Congress has the authority to rewrite IGRA. We think an alternative procedure will create an incentive for tribes not to negotiate with states. We urge you not to take unilateral action to resolve the issues created by the *Seminole* decision. Instead we ask you to work with Congress and the Governors to craft a solution to the fundamental IGRA implementation problems.

Sincerely,

  
Governor George V. Voinovich

  
Governor Thomas R. Carper

C: President Bill Clinton

**BRIEFING PAPER**

**ISSUE:** Advance Notice of Proposed Rulemaking (ANPR) for Secretarial Procedures in the Wake of Supreme Court's Seminole Decision

**DATE PREPARED:** April 2, 1997

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**BACKGROUND:** In Seminole Tribe of Florida v. State of Florida, the Supreme Court affirmed a decision by the Eleventh Circuit Court of Appeals that a provision of the Indian Gaming Regulatory Act (IGRA) authorizing an Indian tribe to sue the State for its failure to conduct good faith negotiations for the purpose of entering into a tribal-state compact for Class III gaming activities is unenforceable when a State does not consent to the suit because Congress does not have authority under either the Indian Commerce Clause or the Interstate Commerce Clause of the U.S. Constitution to abrogate the States' Eleventh Amendment defense to suit. The decision leaves in doubt the process now to be followed by tribes that cannot secure State cooperation in the compacting process.

The IGRA provides that if the State fails to bargain in good faith, the tribe can sue the State in Federal court to enforce the remedial provisions provided by the statute. Under these provisions, if a court found a State to be bargaining in bad faith, it would order both the State and the tribe to submit a "last best offer" compact to a court-selected mediator. The mediator would then hear arguments, and choose one of the two proposed compacts. If the mediator selected the State's compact, the tribe would be required to sign it. If the mediator selected the tribe's compact, and the State refused to sign it, the mediator forwarded the compact to the Secretary, who was required to "prescribe procedures" under which the tribe would conduct its gaming activities.

**ISSUE:** Whether, in the wake of the Supreme Court's decision in Seminole Tribe v. State of Florida, the Secretary still has the authority to promulgate procedures for Class III gaming by an Indian tribe when the State where the gaming would occur has raised an Eleventh Amendment defense to a good faith lawsuit filed by a tribe pursuant to Section 11 of the IGRA.

**STATUS:** The Department has requested public comments on this issue in an Advanced Notice of Proposed Rulemaking (ANPR). The comment period ended on July 1, 1996. The Department has received approximately 375 comments to date and is still receiving some comments post marked July 1, 1996 or earlier. There is no deadline set for making a final decision. In general, the tribes and the States have opposing views on the Secretary's authority to promulgate class III procedures when a State raises an Eleventh Amendment Defense. The tribes believe that the Secretary has such authority, and the 24 States that have submitted comments, except for the Governor of New Mexico, believe he does not. The Department is still in the process of analyzing this issue and evaluating the comments.

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**PREPARED BY:** George T. Skibine, Director, Indian Gaming Management Staff  
Office of the Commissioner (202) 219-4066

## BRIEFING PAPER

ISSUE: Seminole Tribe of Florida v. State of Florida

DATE PREPARED: December 13, 1996

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**BACKGROUND:** The Indian Gaming Regulatory Act of 1988 (IGRA), 25 U.S.C. 2701-2721, requires an Indian tribe that wants to conduct casino type (Class III) gaming on its reservation to negotiate a "compact" with the State in which the gaming establishment is to be located. The Secretary has to approve or disapprove a compact within 45 days from the date it is submitted to the Department (25 U.S.C. 2710 (d)(6)(C)). Congress has carefully defined the circumstances in which the Secretary may disapprove compacts. Specifically, the Secretary may disapprove a compact only if the compact violates the IGRA, Federal law or the Department's trust responsibility to Indian tribes (25 U.S.C. 2710 (d)(6)(B)).

IGRA also provides that if the State fails to bargain in good faith, the tribe can sue the State in Federal court to enforce the remedial provisions provided by the statute. Under these provisions, if a court found a State to be bargaining in bad faith, it would order both the State and the tribe to submit a "last best offer" compact to a court-selected mediator. The mediator would then hear arguments and choose one of the two proposed compacts. If the mediator selected the State's compact, the tribe would be required to sign it. If the mediator selected the tribe's compact, and the State refused to sign it, the mediator forwarded the compact to the Secretary, who was required to "prescribe procedures" under which the tribe would conduct its gaming activities.

In Seminole Tribe of Florida v. State of Florida, the Supreme Court affirmed a decision by the Eleventh Circuit Court of Appeals that tribes may not force states into federal court as provided by IGRA. The decision leaves in doubt the process now to be followed by tribes that cannot secure State cooperation in the compacting process if the state asserts it's 11th amendment immunity from suit.

The Eleventh Circuit in Seminole Tribe of Florida v. State of Florida, 11 F.3d 1029, suggested that when tribes were faced with an uncooperative State, a tribe could go directly to the Secretary to obtain procedures to establish casino gaming. The court reasoned that IGRA's court-based enforcement mechanism could be severed from the statute leaving it to the Secretary to prescribe procedures. The Supreme Court expressly declined to consider the validity of this part of the Eleventh Circuit's opinion, and Florida's cross-petition for review of this issue was denied by the Supreme Court.

**CURRENT PROGRAM:** The Department has requested public comments on the Secretary's authority to promulgate class III procedures in the wake of the Seminole decision in an Advanced Notice of Proposed Rulemaking. The comment period ended on July 1, 1996. The Department has received approximately 375 comments, and is now in the process of reviewing these comments. The Solicitor is expected to make a decision regarding the Secretary's authority around the end of the year.

**TRIBAL CONCERNS/IMPACTS:** Approximately 80 tribes responded to the ANPR and all but two were in favor of the Secretary's authority to issue class III procedures.

**CONGRESSIONAL CONCERNS/IMPACTS:** 24 States responded to the ANPR and all but one (New Mexico Governor) urged the Secretary to find that he did not have the authority to issue class III procedures where a state raises an Eleventh Amendment defense to a good-faith lawsuit under IGRA.

**RECOMMENDATION FOR RESOLUTION:** Should the Solicitor conclude that the Secretary retains the authority to issue class III gaming procedures in the wake of the Seminole decision, the BIA will publish a proposed rule setting forth the process to be followed by tribes for obtaining class III procedures.

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**PREPARED BY:** Paula L. Hart, Indian Gaming Management Staff  
Bureau of Indian Affairs  
(202) 219-4066

Memorandum

To: Paddy McGuire

From: Bob Anderson *Bob*

Re: Pokagon Band

Date: September 25, 1997

Set out below is a brief overview of the of the Pokagon Band matter. Attached are a number of documents setting out the history in more detail.

The Pokagon Band of Potawatomi Indians was restored to federal recognition in 1994 in legislation sponsored by Rep. Tim Roemer. The Act sets out a ten county "service area" for the tribe in Indiana and Michigan and mandates that the Secretary take some land in trust for the Band. The language is exceedingly broad and places no limit on the acreage or the number of sites where land may be acquired in trust for the Band. The Band argued that the Secretary was required to take any and all land proffered by the tribe in trust. The Department proposed in a June 10 letter that the Band agree in an memorandum of understanding (MOU) to limit itself to a total of 4700 acres at three distinct sites. That staff proposal prompted Governor O'Bannon's attached June 20 letter to the Secretary. David Hayes' response to the Governor dated August 19 sets out our policy position. On September 19, Solicitor Lesby signed an opinion definitively interpreting the Pokagon Restoration Act for the Department.

Governor O'Bannon does not want any Indian gaming in Indiana. The Solicitor has concluded that land acquired under the Pokagon Restoration Act is subject to an exception in the Indian Gaming Regulatory Act to a provision that otherwise allows Governors to block gaming on newly acquired trust land. The Band, however, may only conduct bingo on such land unless the Governor enters into a tribal-state compact authorizing class III (casino style) gaming.

We intend to resume discussions with the Band regarding an MOU and intend to allow the States of Indiana and Michigan to have input into the process. We have had numerous discussions with staff to the Governor and Rep. Roemer over the past year on this issue.

You should also know that Indiana has authorized up to 11 casinos in the State and 9 riverboat casinos are now in operation.

NATIONAL GOVERNORS ASSOCIATION

Cesar V. Melendez  
Governor of Ohio  
Chairman

Kenneth C. Seligson  
Executive Director

Thomas R. Carper  
Governor of Delaware  
Vice Chairman

Hall of the States  
444 North Capitol Street  
Washington, D.C. 20001-1515  
Telephone (202) 426-5500



April 23, 1998

The Honorable Bruce Babbitt  
Office of the Secretary  
U.S. Department of the Interior  
1849 C Street, NW  
Washington, D.C. 20240

Dear Secretary Babbitt:

We are writing to you regarding the Indian Gaming Regulatory Act (IGRA) and the recently signed compact between the State of California and the Pala Band of Mission Indians, which was formally submitted to you on March 12.

While each of us reserves the right to negotiate our own compacts, we are encouraged by the Pala Band Compact and would request that you approve it. The compact reflects our strong belief that states should be allowed to negotiate a compact that takes into account the sovereign rights of both the tribe and the state. This critical balance is necessary as the gaming activities conducted under IGRA on tribal lands are felt well beyond the boundaries of the reservation and affect all the citizens of the state. Approval of this California-specific compact will send a strong message to all states that they will be permitted to voluntarily reach agreements with sovereign tribes for the purposes of protecting the rights of their citizens, and will thus encourage other states to enter compacts with tribes.

Another encouraging aspect related to this compact is that it led the Department of Justice to commit to undertake enforcement action in California against illegal tribal gaming operations. The NGA has long sought enforcement action in all states where illegal Class III gaming operations are being conducted. Governors believe the integrity of the IGRA compacting mechanism is linked directly to the willingness of law enforcement to enforce the law. Disapproval of the Pala compact will greatly complicate the process of bringing tribes, which we enjoined from continuing their current, uncompact operations, into compliance with the law.

For these reasons, we urge your immediate consideration and approval of the Pala Band Compact.

Sincerely,

*Gov. Roy Romer*  
Governor Roy Romer

*Gov. Lewton Chiles*  
Governor Lewton Chiles

*Gov. John Engler*  
Governor John Engler

*Gov. Bob Miller*  
Governor Bob Miller

*Gov. Edward T. Schefer*  
Governor Edward T. Schefer

pg. 1 of 9



DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20250

June 24, 1997

Ms. Mary Gilanfar  
Executive Director  
Tahoe-Sierra Preservation Council  
Post Office Box 1908  
Tahoe City, California 96145

Dear Ms. Gilanfar:

We wish to take this opportunity to invite you to attend the Forest Ecosystem Restoration, Recreation, and Tourism Workshop on Monday, June 30, from 12:00 p.m. to 5:00 p.m. at the Hyatt Resort at Incline Village in Lake Tahoe. This workshop is one of three issue workshops that are part of the President's Lake Tahoe Basin Forum. We will divide our workshop into three roundtable discussions with public and private representatives that will focus on the following three issues:

- 1) Recreation and Tourism: Responding to an increasing demand for recreation while enhancing the ecosystem and maintaining economic stability
- 2) Addressing Wildfire Risks: How to help protect communities in the Tahoe Basin from wildfires and begin the process of reintroducing fire into the ecosystem
- 3) Forest Ecosystem Restoration and Protection: How to protect and restore a healthy forest ecosystem including wildlife habitat and riparian and wetland areas

Currently, we are soliciting nominations for panelists for each of the topics listed above. If you would like to be a panelist or know of someone who is uniquely qualified to be a panelist, please fax your nomination with a paragraph describing the nominee's qualifications to the Tahoe Washington Coordination Center at (202) 205-0885 as soon as possible.

We would be honored to have you or a representative of your office attend. Please have your office contact the Tahoe Washington Coordination Center at (202) 205-0947 by Friday, June 27, to register for the workshop. We look forward to seeing you at Lake Tahoe.

  
DAN GLICKMAN  
Secretary of Agriculture

Sincerely,

  
BRUCE BABBITT  
Secretary of the Interior



DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20250

July 24, 1997

The President  
The White House  
Washington, D.C. 20500

Dear Mr. President:

The Department of Agriculture (USDA) and the Department of the Interior (DOI) are pleased to report to you on the successful Forest Ecosystem Restoration, Recreation, and Tourism Workshop held June 30, 1997, in Incline Village, Nevada. This workshop was the second of a series of three conferences in the Presidential Forum on Lake Tahoe.

The workshop was an opportunity for us and for other Federal officials to listen to residents of the Lake Tahoe Basin who voiced their concerns about the economic and environmental health of the region. A diverse group of local business people, environmentalists, scientists, and representatives of local, State, tribal, and Federal governments made presentations and joined in roundtable discussions to address three critical issues facing the Lake Tahoe Basin:

- 1) Recreation and Tourism,
- 2) Forest Ecosystem Restoration, and
- 3) Fire Hazard Reduction In and Around the Lake Tahoe Community.

The principal theme we heard throughout the workshop was that the health of the Lake Tahoe forest ecosystem is key to water and air quality, lake clarity, fish and wildlife populations, recreation, tourism-based economic opportunities, scenic beauty, and quality of life for the people of the Lake Tahoe Basin. We discussed the interdependence among recreation, tourism, and the health of the Lake Tahoe Basin ecosystem; the current conditions of the ecosystem and the past management practices that have led to those conditions; the management tools available to restore the ecosystem; and the need for fire hazard reduction in and around Lake Tahoe. We heard that heavy fuel loading due to fire suppression to protect property and timber in the Tahoe Basin has created a threat of catastrophic fire that could endanger life and property and could have devastating effects on the region's environment and economy. We learned that there is consensus to restore the Lake Tahoe forest ecosystem to the ecosystem conditions that existed before modern settlement. There are opportunities to do so in a manner that will reduce the threat of fire while enhancing opportunities for recreation. Prescribed fire was identified as a key tool for achieving this goal.

The President

2

The Lake Tahoe Basin is a classic illustration of the interdependence of a healthy environment and a strong, vital economy. Recreation and tourism have become the region's economic backbone, a destination for millions of people attracted by its stunning beauty. The partnerships that exist to safeguard both the environment and the economy of the Lake Tahoe Basin can serve as a model for the rest of the nation to demonstrate that a healthy environment and a vital economy are inextricably linked.

We would like to acknowledge the invaluable assistance we received from the Lake Tahoe Basin Steering Committee and the Presidential Forum Coordination Center. This help was critical to making the conference a resounding success. We would also like to thank the Environmental Protection Agency, the Army Corps of Engineers, the Department of Transportation, the Washoe Tribe, and the States of California and Nevada for their assistance. In particular, we gratefully acknowledge the dedication, commitment, and teamwork of our employees who helped make the workshop possible.

We look forward to our continued involvement in the many partnerships between Federal, State, local, and tribal entities that address the critical issues facing the Lake Tahoe Basin. The knowledge and insight that have been gained from the workshop will benefit this collaborative process and help us to improve both the environmental and economic health of the Lake Tahoe Basin.

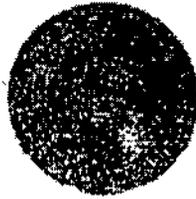
Respectfully,



DAN GLICKMAN  
Secretary of Agriculture



BRUCE BABBITT  
Secretary of the Interior

**GOVERNOR GRAY DAVIS**

November 6, 1999

The Honorable Bruce Babbitt  
Secretary of the Interior  
1849 C Street, N.W.  
Washington, D.C. 20240

Dear Secretary Babbitt:

I am writing to express serious concern regarding the U.S. Department of Interior's policy for the implementation of the Central Valley Project Improvement Act (CVPIA) Section 3406 (b)(2) water supply. The implementation plan, announced this past week, sets forth Interior's accounting method for the dedication of 800,000 acre feet of Central Valley Project water for environmental purposes. As you know, the accounting methodology for determining how much water is to be provided for fisheries is the central issue in litigation now before the U.S. District Court in Fresno. Interior's decision to move forward with the 2000 plan using the disputed accounting method will have a serious detrimental impact on California water users in the coming year.

U.S. Fish and Wildlife Service and the Bureau of Reclamation have been working with California's Department of Water Resources and the Department of Fish & Game to develop an operating plan for 2000 which incorporates the Department of Interior's (b)(2) policy. My Administration is committed to continue working collaboratively toward a 2000 operations plan which meets both environmental and water user needs in a balanced way - consistent with the Court's decision in the (b)(2) case, and with federal and state law. However, I do not believe that the plan as presented on November 4 meets that test.

Preliminary results indicate that the implementation of Interior's plan would result in water supply delivery reductions of up to 55% to a major segment of California's agricultural economy - even if normal rainfall occurs. The plan would also result in a water supply reduction of 25% to Silicon Valley.

Hon. Bruce Babbitt  
November 6, 1999  
Page Two

Imposing such severe reductions in water supply before resolution of the accounting issue, and without identifying discretionary measures that would substantially mitigate the impact, places a severe hardship on California water users and the State.

I understand that as a part of the 2000 operations plan, there is an effort to fast track the development of "tools" to minimize the impacts. However, these tools have not yet been fully developed, quantified, secured, or funded, nor will the tools under discussion come close to mitigating the estimated impacts.

The implementation of Interior's (b)(2) plan cannot be accomplished without a high degree of coordination, cooperation, and facilitation by the state. Unless and until adequate measures are developed to substantially mitigate the impacts of this plan, I cannot commit to facilitate the current 2000 operations plan as presented.

Mr. Secretary, in our discussion in August we agreed that there is enormous potential for an unprecedented state, federal and stakeholder collaborative effort through the CALFED process to develop and implement a vision that is both balanced and sustainable. In keeping with our agreement to resolve issues cooperatively, I have done my part by working hard to achieve passage of a needed water bond for the March, 2000 ballot, as well as successful resolution of the quantification agreement for the transfer of Colorado River water. I remain personally committed to working with you.

Sincerely,



GRAY DAVIS



Noel Gerson  
11/09/99 04:28 PM

To: Grace Garcia/SIO/OS/DOI@DOI

CC:

Subject: Gray Davis issue

Still need to check w/ David/Laura on this...but not below that enviro's are behind DOI on this issue...the resistance is part of the on-going process and negotiations.

I'll verify though...

Davis protests proposed federal water cuts

By Nancy Vogel  
Bee Staff Writer  
(Published Nov. 9, 1999)

Gov. Gray Davis warned the federal government Saturday that a plan to protect Sacramento-San Joaquin Delta fish by cutting water supplies to the western San Joaquin and Santa Clara valleys "places a severe hardship on California water users and the state."

In a letter to U.S. Interior Secretary Bruce Babbitt, Davis wrote that unless the federal government finds a way to boost supplies, the state will not cooperate in the federal plan to protect endangered wildlife, a move that disappointed environmentalists.

Tom Graff, senior attorney with the Environmental Defense Fund, accused the governor of playing an "obstructionist role" by interfering with what he called the "right approach" to protecting endangered salmon, smelt and steelhead.

But Jason Peltier, who represents the growers facing water cutbacks this year on 2 million acres along the west side of the San Joaquin Valley, welcomed the governor's involvement. He said the letter reminds the federal government of the painful economic consequences of its actions.

Last month, after years of lawsuits and political wrangling, the U.S. Department of the Interior released a final plan for carrying out a 1992 law passed by Congress. That law redirects roughly 10 percent of the water of the Central Valley Project away from farm and city water users and dedicates it to fish and wildlife.

Carrying out that provision means that agribusiness on the west side of the San Joaquin Valley can expect a 50 percent cut in supply next year. The Santa Clara Valley Water District, provider of water to Silicon Valley, can expect a 25 percent

reduction in its federal supply.

It is not strictly a federal issue because the Central Valley Project, stretching from Redding to Bakersfield, operates in close proximity to and shares some reservoirs with the State Water Project. Both networks of dams and canals shift Northern California water south.

Unless the Interior Department finds ways to ease the impact on CVP customers, the governor warned that the state of California will not cooperate in carrying out the environmental measures, which include seasonal reductions in the amount of water pumped from the Delta.

"He's not interested in seeing one group of farmers or one area of the state do well at the expense of another," said California Resources Secretary Mary Nichols.

Interior Department officials said they intend to meet with Davis soon to explain several options for boosting water supplies this year to the San Joaquin Valley, including purchasing groundwater and using the state's more powerful pumps near Tracy to send more water south when it does the least harm to migrating fish.

"What the governor has done is brought a real sharp focus to that," said Lester Snow, regional director of the U.S. Bureau of Reclamation, which owns and operates the Central Valley Project.

At best, Snow said, water deliveries to the San Joaquin and Santa Clara valleys can probably be increased by another 10 percent.

Graff, the environmentalist, argues that these water contractors lack seniority under California's water rights system and so should expect their supplies to shrink as new environmental laws give precedence to fish.

"As last in," he said, "they are the first out."

# OFFICE OF THE GOVERNOR



## FAX COVER SHEET

**TO:** Grace Garcia, Courtenay Miller

**Fax No:** 208-1821

**FROM:** David S. Kim  
Washington D.C. Office of Governor Gray Davis  
(202) 624-5275 (voice mail)  
(202) 624-5280 (FAX)

**DATE:** November 9, 1999

**Pages:** 3 (Including cover sheet)

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You might have already seen this, but if not, here's a copy for your records.  
This letter was hand-delivered to Secretary Babbitt on Sunday.



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240



NOV 17 1998

Melanne Verveer  
Chief of Staff  
Office of the First Lady  
Washington, D.C. 20503

Dear Ms. Verveer:

The Department of Interior has developed a new Year 2000 policy initiative, Partnership for America's Resources (PAR).

PAR is a comprehensive plan that puts the Administration's commitment to the environment on par with its commitment to transportation infrastructure and other national priorities. Among other things, PAR fully funds the Land and Water Conservation Fund, Historic Preservation Fund, Abandoned Mine Land Fund, the Urban Parks and Recreation Restoration program (UPARR) and Payment In Lieu of Taxes (PILT), with no new cost to the taxpayer. Most importantly to the First Lady, PAR would build on the Millennium program, increasing annual funding for historic preservation from \$30 million to \$300 million each year.

I, along with Ken Smith (Deputy Chief of Staff), request to provide a PAR briefing at your earliest convenience.

The following Government officials have already received PAR briefings:

John Podesta, Chief of Staff, Executive Office of the President  
Maria Echaveste, Deputy Chief of Staff,  
Jack Lew, Director, Office of Management and Budget  
Bruce Reed, Assistant to the President for Domestic Policy  
Mickey Ibarra, Director, Intergovernmental Affairs  
Ellen Lovell - Millennium Fund  
Lois Schiffer, Department of Justice  
Council on Environmental Quality

We also plan to brief the following officials soon:

Paul Begala, Counselor to the President

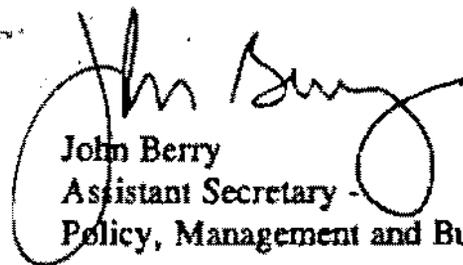
Jim Lyons, Under Secretary, Department of Agriculture

James Lee Witt, Director, Federal Emergency Management Agency

Michael Dombeck, Director, U.S. Forest Service

We thank you in advance for the opportunity to discuss this proposal with you. I can be reached on 202-208-4203.

Sincerely,

A handwritten signature in black ink, appearing to read "John Berry". The signature is written in a cursive style with a large loop at the end.

John Berry

Assistant Secretary

Policy, Management and Budget

February 6, 1999

**MEMORANDUM**

**To:** Fred Duval, Deputy Director of Intergovernmental Affairs

**From:** Grace Ann Garcia, Director  
Office of Intergovernmental Affairs

**Subject:** Lands Legacy Outreach Plan

The coming months present several opportunities to brief elected officials on the President's proposed Lands Legacy Initiative, while at the same time increasing the general public's level of awareness of the many benefits of the program.

Through a series of intergovernmental briefings, speaking engagements at intergovernmental association conferences, open-press employee meetings, and public events, Secretary Babbitt and Interior sub-cabinet officials will inform elected officials and the general public of the historic natural resources conservation legacy that is the Lands Legacy Initiative.

The Secretary and/or DOI sub-cabinet officials will brief the executive directors and staffs of intergovernmental associations as well as the Washington, D.C.-based staffs of elected officials. A White House-coordinated joint briefing on the topics of the Lands Legacy Initiative and the Better America Bonds program is one such possibility. The Secretary will also offer to brief those governors serving on the NGA Natural Resources Committee while they are in Washington the week of February 22. This office will pursue similar briefing opportunities by the Secretary and/or sub-cabinet while the National Association of Counties (NACo), National League of Cities (NLC), and the joint Western/Eastern States Land Commissioner Associations are in Washington, D.C. for their annual conferences over the next two months. Other potential speaking engagements for Interior officials include the upcoming National Conference of Black Mayors, the NACo Western Interstate Region (WIR), and Western Governors' Association (WGA) conferences.

DOI will also host large employee briefings on the Lands Legacy Initiative in major media markets throughout the country which will be open to members of the press, elected officials, and the general public. Events with DOI sub-cabinet and elected officials highlighting aspects of the Lands Legacy Initiative will also be held in these localities in association with the employee briefings. Cities currently being considered for such events include Miami, Atlanta, New Orleans, and Albuquerque. Other public events, apart from the employee briefings, are still in the planning stages, but would consist of Interior officials traveling to media markets which will greatly benefit from proposed land acquisitions. Such locales include the Northern Forests, Civil War battle fields, the Lewis and Clark Corps of Discovery Trail, and areas targeted for acquisition for their proximity to National Park Service, Fish and Wildlife Service, and Bureau of Land Management reserves. Interior officials could also travel to gateway communities near the newly proposed National Park Service wilderness

areas that the President announced in his State of the Union address.

## OUTREACH TIME LINE

### **February-March: Briefings for Key Elected Officials and Staff**

White House-DOI Briefings for Executive Directors and staffs of the following organizations:

NGA, WGA, NACo, USCM, NLC, ICMA, CSG, NCSL, WSLCA, International Association of Fish and Wildlife Agencies (IAFWAA), National Recreation and Park Association (NRPA), National Conference of State Historic Preservation Officers (NCSHPO), National Association of State Foresters (NASF), National Association of Conservation Districts (NACD), Interstate Oil and Gas Compact Commission (IOGCC), Interstate Mining Compact Commission (IMCC)

### **February-June Intergovernmental Events for Secretary Babbitt/ DOI Sub-Cabinet**

2 20-23	NGA	Washington, D.C.
2 26-3 2	NACo	Washington, D.C.
3 6-9	NLC	Washington, D.C.
4 18-21	WSLC-ESLC	Washington, D.C.
4 20-24	NCBM	Denver, CO
5 19-22	NACO-WIR	Contra Costa Co., CA
6 11-15	USCM	New Orleans, LA
6 13-15	WGA	Jackson Hole, WY

### **February-May DOI Employee Briefings and Public Events**

Dates TBD.

Proposed cities include Miami, Atlanta, New Orleans, and Albuquerque.



THE SECRETARY OF THE INTERIOR  
WASHINGTON

AUG 13 1999

Sara J. Wan, Chair  
California Coastal Commission  
45 Fremont Street  
Suite 2000  
San Francisco, California 94105-2219

Dear Madam Chair:

I am writing in response to your July 27, 1999, letter to the Director of the Minerals Management Service and me. This letter was followed by an August 5, 1999, letter from the California Coastal Commission's Executive Director, Peter Douglas. Both letters express the Commission's concerns regarding the potential development of 40 Federal leases off the coast of California. As you know, virtually all of these leases were sold during the 1979 to 1984 period, prior to the offshore leasing moratorium that this Administration has honored since 1993, and which we continue to honor.

We share the concerns that underlie your correspondence. We agree that it has been many years since the United States and the State of California approved exploration plans for the leases in question. We recognize that there may be changed circumstances that affect the viability of the plans that have been approved by State and Federal authorities, and we believe that it is imperative that no drilling activities occur unless and until Federal and State authorities have a full opportunity to evaluate the appropriateness of developing the leases under the full panoply of Federal and State laws including, but not limited to, the Coastal Zone Management Act, the Clean Water Act, the Clean Air Act, and the Commission's extensive regulations. We have a shared commitment to protect the State of California's precious coastal resources.

In order to maximize our joint mission in this regard, we are today directing a suspension of up to 90 days for 36 of the 40 leases. (We are finding today that 4 of the leases are not subject to any further extensions, due to regulatory deficiencies.) During this 90-day period, we will request that lessees provide more detailed information regarding the need to revise exploration plans associated with the leases in question. We are making this request in order to provide a fuller record on the question of whether the passage of time, combined with the changed circumstances that are described in the Commission's August 5 letter, may require the submittal of new plans, rather than the simple updating or revision of previously-approved plans, prior to Federal and State review. Accordingly, we are requesting that lessees provide information regarding the current exploration plans' treatment of the following specific topics. To the extent that the approved plans did not address such topics, the lessees are requested to explain how the lessees propose to address these issues:

- Whether and, if so, how new or revised plans will address the new distribution of the sea otter population, taking into account increase in the sea otter range into the Santa Barbara Channel.
- Whether and, if so, how new or revised plans will address potential impacts to the Monterey Bay National Marine Sanctuary, which was not a sanctuary at the time that development plans originally were reviewed.

- Whether and, if so, how new or revised plans will address changes in air quality regulations that post-date the prior approvals.
- Whether and, if so, how new or revised plans may be affected by changes in water quality regulations that post-date the prior approvals.
- Whether and, if so, how new or revised plans will address newly available information concerning the potential effects of undersea noise on marine mammals and other marine life.
- Whether and, if so, how new or revised plans will address changes in drilling technology that have developed since the mid-1980s, when prior exploration plans were approved.
- Whether and, if so, how new or revised plans will address the fact that new operators have been identified since the mid-1980s, when prior development plans were approved.

Once we have this information, along with additional information that we will be gathering from Federal and State authorities during this same time period, we will be in a better position to determine whether complete new plans must be submitted for review by both Federal and State authorities.

We are taking this step, in part, in order to be responsive to the strong State interests at issue in this manner. You have my commitment that this Department will give appropriate deference to the full authority of the Commission. In particular, this course of action will enable the Commission to exercise its authority to make consistency determinations based on a complete record, and prior to the implementation of any exploration and development plans. In addition, to the extent that proposed activities would require licenses or permits under the Clean Air and Clean Water Acts, such licenses or permits would be subject to direct State review and/or additional consistency review.

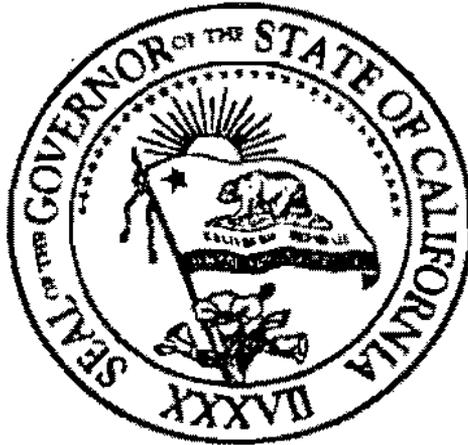
Your July 27, 1999, letter also requested that we make the legal determination today that the granting of a suspension that would be used to obtain more information from the lessees regarding their proposed activities should itself trigger a consistency determination under the CZMA. We do not believe that we can take this position. This decision is grounded, in part, by our determination that a suspension to obtain further information will not provide lessees with *any* authority to conduct *any* activities that have the potential to affect the land or water use or natural resources of the State's coastal zone during this period. Federal and State authorities can and will have the obligation to review carefully any proposed exploration or development plans for these leases and make appropriate decisions regarding such proposed uses before any drilling activities occur.

Once again, I must emphasize that by requesting additional information from lessees, and in potentially requiring that lessees submit new or updated plans under a lease suspension, we are not allowing any drilling activities to occur. We believe that this course of action will put the United States and the State of California in the best position to protect the marine and coastal environment and undertake critical examinations of activities described in proposed plans and/or permit applications.

Please contact me if you have any additional questions or comments. We look forward to a continued productive dialogue with you on this matter.

Sincerely,





Fax Transmittal

TO: Grace Garcia & Sean McMahon

FAX #: 208-1821

FROM: David Kim

DATE: 7/28/99

PAGES (Including Cover) 4

COMMENTS: FYI - Letter from CA Coastal  
Commission to Secty Babbitt & Walt  
Rosenbusch re offshore oil drilling.

**CALIFORNIA COASTAL COMMISSION**

42 TREMONT, SUITE 2000  
SAN FRANCISCO, CA 94106-2215  
VOICE AND TDD (415) 696-6200  
FAX (415) 696-6400



July 27, 1999

Honorable Bruce Babbitt  
Secretary of the Interior

Walt Rosenbusch, Director  
Minerals Management Service

1849 C Street, N.W.  
Washington, D.C. 20240

RE: 40 Undeveloped OCS Leases Offshore Central California

Dear Secretary Babbitt and Director Rosenbusch:

I am writing on behalf of the California Coastal Commission ("Commission") concerning the forty (40) undeveloped leases located on the Outer Continental Shelf offshore Central California. There are currently pending before the Minerals Management Service ("MMS") requests from the operators of these leases for suspensions of production ("SOPs") which would allow the operators to conduct planning activities leading either to further exploration of these tracts or to development and production from these tracts. In recent weeks, the Commission has discussed its authority pursuant to section 307(c)(3) of the Coastal Zone Management Act, 16 U.S.C. § 1456(c)(3). At its meeting on July 15, 1999, the Commission determined to assert that authority, and this letter is intended to notify the Department of the Interior of that action.

For a number of reasons, these undeveloped leases offshore California present a unique situation. First, these leases are very old. While most of these leases were awarded in the early 1960s in Lease Sales 53, 68 and 80, some of these leases were awarded in Sale 48 in 1979. Indeed, one lease was awarded in 1968 in Sale P4. While the operators have conducted some activities on these leases, they have also been subject to requested SOPs for lengthy periods during the 1980s. Those requested SOPs have had the effect of extending these leases far beyond their primary terms. Beginning in 1993, MMS has directed SOPs for these leases in order to allow MMS to complete its California Offshore Oil and Gas Energy Resources report. Because that report is expected to be completed this year, this Spring MMS directed the operators to submit plans for achieving production from these leases including further SOPs. In response, the operators have submitted requests for SOPs along with projections for achieving production. For many of these leases, the operators do not plan to achieve production for another 8 to 10 years. It is

HONORABLE BRUCE SABBITI  
JULY 27, 1998

40 UNDEVELOPED OCS LEASES OFFSHORE CENTRAL CALIFORNIA  
PAGE 2

unprecedented that MMS should grant SOPs that would, in effect, allow the operators to take 20 to 30 years to reach production.

Second, much of the oil that may be produced from these tracts is of very poor quality. At the Commission's June 8, 1998 meeting, MMS informed the Commission that the oil that can be produced from many of these tracts is of such low quality that it can be used only to produce asphalt. Obviously, the Commission, as well as other California governmental entities, is very concerned about the impacts which would occur from development of these tracts. However, that concern is heightened when the product of that development is asphalt.

Third, all of the 40 leases are located in relatively close proximity either to the Monterey Bay National Marine Sanctuary or to the Channel Islands National Marine Sanctuary. No oil and gas development is permitted in these national sanctuaries because of the sensitivity of the resources found there. We certainly must be cautious about permitting oil and gas activities which, while outside the boundaries of these sanctuaries, may still have impacts on their resources.

Finally, in the years since these leases were awarded, the environmental circumstances which we face have changed. For example, in 1981, the Commission objected to the leasing of many tracts in Sale 53 in part because of the potential for development adjacent to the range of the southern sea otter — a species which is listed as threatened pursuant to the Endangered Species Act. Although the southern sea otter has extended its range further south to the area of Point Conception in the years since Sale 53, the sea otter is still a species in decline. In fact recent sea otter census data has shown that the decline of the sea otter is so severe that the species is approaching endangered status. As long ago as September 1980, the U.S. Fish and Wildlife Service noted that an oil spill need not reach the entire range of the sea otter for its population or recoverability to be jeopardized. Clearly, oil and gas development taking place in the range of the southern sea otter would pose a real threat to this species. Other examples of changes in environmental circumstances include more stringent air and water quality standards, and Congress having made onshore air quality standards applicable to OCS facilities.

MMS's grant of a requested SOP is clearly a federal license or permit as those terms are defined in NOAA's regulations because it is an approval which MMS "is empowered to issue to an applicant." See 15 C.F.R. § 930.51(a). Additionally, because the effect of the grant of an SOP is to extend an OCS lease beyond its primary term, such an approval is effectively a renewal of the lease and is also a federal license or permit pursuant to 15 C.F.R. § 930.51(b).

If MMS grants the pending requests for SOPs, the basis for doing so will be that the SOPs are necessary to facilitate development of these tracts. These suspensions in effect start the process which will lead to OCS exploration and development. That development will of

HONORABLE BRUCE EBBETT  
JULY 27, 1968

40 UNDEVELOPED OCS LEASES OFFSHORE CENTRAL CALIFORNIA  
PAGE 3

course have coastal zone impacts, e.g., impacts on the southern sea otter. In fact, as of this date, one of the operators of these leases has indicated that one reason for seeking the suspensions is to be able to conduct further high energy seismic surveys which will also have effects on coastal resources. In addition, granting these suspensions will extend the time that the California coast is exposed to the effects of OCS development and the cumulative impacts which will result from that development.

Therefore, MMS should hold its approval of the SOPs in abeyance and direct the applicants for the SOPs to submit to the Commission the SOPs, a certification that all activities will be conducted in a manner consistent with California's federally approved coastal management program, and all necessary supporting information and data. MMS cannot approve the SOPs until the Commission has concurred with the consistency certifications, is conclusively presumed to concur with the certifications, or after any Commission objection, the Secretary of Commerce determines that the activity is consistent with the objectives of the CZMA or is otherwise necessary in the interest of national security.

Over the years the Coastal Commission staff and the staff of the Minerals Management Service's Pacific Region have developed a co-operative and productive working relationship. We look forward to working with the Department of the Interior and MMS to address the very important issues discussed in this letter.

Should you have any questions about this matter, or wish to discuss it, please feel free to call Peter Douglas, Executive Director at (415) 904-5201 or Suzan Hansch, Chief Deputy Director at (415) 904-5244.

Sincerely,



Sara J. Went, Chair  
California Coastal Commission

- cc: Honorable William M. Daley, Secretary of Commerce
- Governor Gray Davis
- Honorable Diane Feinstein
- Honorable Barbara Boxer
- Honorable Lois Capps
- Honorable John Burton
- Honorable Antonio Villaralga
- Attorney General Bill Lockyer
- Lt. Governor Cruz Bustamante
- Secretary for Resources Mary Nichols
- Honorable Nathleen Connell, Controller
- Timothy Gage, Director, Department of Finance

- Paul Thayer, Executive Officer, State Lands Commission
- Robert Night, Director, Department of Fish & Game
- Jeffrey Benoit, Director, Office of Coastal Resource Management, NOAA
- J. Lisle Reed, Pacific Regional Director, MMS
- Thomas Kitson, Deputy Director, MMS Coastal Commission
- Senator Jack O'Connell
- Assemblyman Abel Maldonado
- Assemblywoman Hannah-Beth Jackson
- Frank Holmes, Western States Petroleum Association

**CALIFORNIA COASTAL COMMISSION**

42 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2216  
VOICE AND TDD (415) 504-5200  
FAX (415) 504-5400



July 27, 1999

Honorable Bruce Babbitt  
Secretary of the Interior

Walt Rosenbusch, Director  
Minerals Management Service

1849 C Street, N.W.  
Washington, D.C. 20240

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HONORABLE BRUCE EBBETT  
JULY 27, 1996

40 UNDEVELOPED OCS LEASES OFFSHORE CENTRAL CALIFORNIA  
PAGE 2

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Finally, in the years since these leases were awarded, the environmental circumstances which we face have changed. For example, in 1981, the Commission objected to the leasing of many tracts in Sale 53 in part because of the potential for development adjacent to the range of the southern sea otter — a species which is listed as threatened pursuant to the Endangered Species Act. Although the southern sea otter has extended its range further south to the area of Point Conception in the years since Sale 53, the sea otter is still a species in decline. In fact recent sea otter census data has shown that the decline of the sea otter is so severe that the species is approaching endangered status. As long ago as September 1980, the U.S. Fish and Wildlife Service noted that an oil spill need not reach the entire range of the sea otter for its population or recoverability to be jeopardized. Clearly, oil and gas development taking place in the range of the southern sea otter would pose a real threat to this species. Other examples of changes in environmental circumstances include more stringent air and water quality standards, and Congress having made onshore air quality standards applicable to OCS facilities.

MMS's grant of a requested SOP is clearly a federal license or permit as those terms are defined in NOAA's regulations because it is an approval which MMS "is empowered to issue to an applicant." See 15 C.F.R. § 930.51(a). Additionally, because the effect of the grant of an SOP is to extend an OCS lease beyond its primary term, such an approval is effectively a renewal of the lease and is also a federal license or permit pursuant to 15 C.F.R. § 930.51(b).

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HONORABLE BRUCE BAILETT  
JULY 27, 1996

40 UNDEVELOPED OCS LEASES OFFSHORE CENTRAL CALIFORNIA

PAGE 3

course have coastal zone impacts, e.g., impacts on the southern sea otter. In fact, as of this date, one of the operators of these leases has indicated that one reason for seeking the suspensions is to be able to conduct further high energy seismic surveys which will also have effects on coastal resources. In addition, granting these suspensions will extend the time that the California coast is exposed to the effects of OCS development and the cumulative impacts which will result from that development.

Therefore, MMS should hold its approval of the SOPs in abeyance and direct the applicants for the SOPs to submit to the Commission the SOPs, a certification that all activities will be conducted in a manner consistent with California's federally approved coastal management program, and all necessary supporting information and data. MMS cannot approve the SOPs until the Commission has concurred with the consistency certifications, is conclusively presumed to concur with the certifications, or after any Commission objection, the Secretary of Commerce determines that the activity is consistent with the objectives of the CZMA or is otherwise necessary in the interest of national security.

Over the years the Coastal Commission staff and the staff of the Minerals Management Service's Pacific Region have developed a co-operative and productive working relationship. We look forward to working with the Department of the Interior and MMS to address the very important issues discussed in this letter.

Should you have any questions about this matter, or wish to discuss it, please feel free to call Peter Douglas, Executive Director at (415) 904-5201 or Susan Hansch, Chief Deputy Director at (415) 904-5244.

Sincerely,



Sara J. Watt, Chair  
California Coastal Commission

cc: Honorable William M. Daley, Secretary of Commerce  
Governor Gray Davis  
Honorable Diane Feinstein  
Honorable Barbara Boxer  
Honorable Lois Capps  
Honorable John Sunun  
Honorable Antonio Villaraigosa  
Attorney General Bill Lockyer  
Lt. Governor Cruz Bustamante  
Secretary for Resources Mary Nichols  
Honorable Kathleen Connell, Controller  
Timothy Gage, Director, Department of Finance  
Paul Thayer, Executive Officer, State Lands Commission  
Robert Hight, Director, Department of Fish & Game  
Jeffrey Benoit, Director, Office of Coastal Resource  
Management, NOAA  
J. Lisle Reed, Pacific Regional Director, MMS  
Thomas Kitcos, Deputy Director, MMS  
Coastal Commissioners  
Senator Jack O'Connell  
Assemblyman Abel Maldonado  
Assemblywoman Hannah-Beth Jackson  
Frank Holmes, Western States Petroleum Association



THE SECRETARY OF THE INTERIOR

WASHINGTON

FEB 15 2000

Honorable Jeanne Shaheen  
Governor of New Hampshire  
Concord, New Hampshire 03301

Dear Governor Shaheen:

It is my pleasure to provide you with a copy of the Fiscal Year 2000 Certificate of Apportionment for the Land and Water Conservation Fund (LWCF) State Conservation Grant Program. For Fiscal Year 2000, the total appropriation is \$40 million, \$38 million of which is being apportioned directly to the States. This is the first time in 5 years that Congress has appropriated funds for this important recreation and conservation program. As you know, many Americans are concerned about the availability of adequate recreation opportunities, the effects of wide-spread development as well as the loss of open space in their communities. This funding comes at a critical time for those who believe protecting local landscapes enhance our quality of life.

This year, the State of New Hampshire will receive \$396,787 for LWCF State Conservation grants, subject to matching funds and approval by the National Park Service of proposed projects. Funding for this program is primarily derived from Outer Continental Shelf leasing revenues and is appropriated by Congress, pursuant to the Land and Water Conservation Fund Act of 1965, as amended, for distribution to the States. For Fiscal Year 2001, the President's Budget proposes \$1.4 billion for the Lands Legacy Initiative, of which more than half would be used to support State and local conservation efforts, including \$150 million for the State Conservation Grant Program.

This year's apportionment will assist New Hampshire in the acquisition of land and the development of public outdoor recreation facilities which will benefit present and future generations. While these funds will not meet New Hampshire's total recreation needs, effective State planning and targeting of these dollars can have a significant impact on the quantity and quality of outdoor recreation opportunities.

If you or your staff have questions regarding your State's apportionment, you may contact your National Park Service regional office. I hope you will be supportive of this effort as we work together to provide a nationwide system of parks for all Americans. I look forward to continuing and expanding our partnership with you in the future.

Sincerely,

Enclosures

cc: Commissioner, NH Department of Resources and Economic Development

FISCAL YEAR 2000 CERTIFICATE OF APPORTIONMENT OF THE APPROPRIATION OF \$40,000,000 FROM THE LAND AND WATER CONSERVATION FUND TO THE STATES, PUERTO RICO, VIRGIN ISLANDS, GUAM, AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE DISTRICT OF COLUMBIA.

TO: The Governors of the States  
The Governor of Puerto Rico  
The Governor of the Virgin Islands  
The Governor of Guam  
The Governor of American Samoa  
The Governor of the Northern Mariana Islands  
The Mayor of the District of Columbia

Pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended, I hereby certify that:

- First: The total apportionment for fiscal year 2000 is based on the appropriation of \$40,000,000 for financial assistance to States from the Land and Water Conservation Fund by the Congress of the United States.
- Second: The amounts allocated to the States were determined in accordance with the apportionment formula, such that 40 percent is prorated equally to the States; 5 percent has been committed to critically needed project(s); 30 percent of the remaining \$38 million is prorated to the States on the basis of 1998 estimates of the resident total population of States; each jurisdiction is guaranteed a minimum of at least \$50,000; and the remaining amount (approximately 27 percent) is prorated to the States on the basis of urban population (1996 population in Metropolitan Areas defined by the Office of Management and Budget in 1996) in order to provide recreation opportunities in and near urban areas.
- Third: Effective the date of approval of this apportionment, all deobligations of Land and Water Conservation Fund grants-in-aid project agreements may be reapportioned on the basis of need (as determined by the Director, National Park Service) back to the States to which the funds were originally apportioned.
- Fourth: The amounts apportioned hereunder are subject to Office of Management and Budget apportionment to the National Park Service of Land and Water Conservation Fund (L&WCF) monies which sets legal limits on the amounts which can be obligated each fiscal year for all purposes under the L&WCF. The amount apportioned to each State in this Certificate is the amount of new authority for obligation each State will have this fiscal year, unless Congress or the President decided later to defer or rescind some portion of the amount.
- Fifth: None of the funds apportioned herein may be used to process any grant or contract documents which do not include the text of *18 U.S.C. 1913*.

**FISCAL YEAR 2000 APPORTIONMENT OF \$40 MILLION TO THE STATES FROM THE LAND AND WATER CONSERVATION FUND**

<u>State</u>	<u>Amount</u>	<u>State</u>	<u>Amount</u>
Alabama	\$635,406	New Hampshire	\$396,787
Alaska	\$351,448	New Jersey	\$1,039,791
Arizona	\$696,484	New Mexico	\$433,148
Arkansas	\$478,163	New York	\$1,881,460
California	\$3,170,885	North Carolina	\$865,426
Colorado	\$635,074	North Dakota	\$353,623
Connecticut	\$602,141	Ohio	\$1,220,309
Delaware	\$373,537	Oklahoma	\$549,531
Florida	\$1,584,888	Oregon	\$559,556
Georgia	\$876,415	Pennsylvania	\$1,308,627
Hawaii	\$405,739	Rhode Island	\$400,023
Idaho	\$386,470	South Carolina	\$598,391
Illinois	\$1,299,245	South Dakota	\$356,263
Indiana	\$762,634	Tennessee	\$715,412
Iowa	\$494,156	Texas	\$1,918,411
Kansas	\$492,307	Utah	\$476,076
Kentucky	\$568,420	Vermont	\$346,201
Louisiana	\$654,474	Virginia	\$848,926
Maine	\$387,068	Washington	\$773,060
Maryland	\$756,076	West Virginia	\$426,147
Massachusetts	\$854,178	Wisconsin	\$700,869
Michigan	\$1,106,724	Wyoming	\$340,660
Minnesota	\$668,106	District of Col.	\$81,662
Mississippi	\$474,766	Puerto Rico	\$540,193
Missouri	\$717,057	Virgin Islands	\$50,000
Montana	\$360,369	Guam	\$50,000
Nebraska	\$424,026	American Samoa	\$50,000
Nevada	\$453,192	Northern Mariana Isl.	\$50,000
		Allocated to States	\$38,000,000
		Contingency Fund	<u>\$2,000,000</u> <sup>1/</sup>
		Total Appropriation	\$40,000,000

1/ This amount has been committed to critically needed project(s) in Maine.

Done at the City of Washington, DC  
 The *15th* day of *February*, 2000  
 As witness my hand and seal of the  
 Department of the Interior.



SECRETARY OF THE INTERIOR

Formula used for apportioning Fiscal Year 2000 funds to the States from the Land and Water Conservation Fund using the latest available population statistics provided by the Bureau of Census.

Appropriation:	\$40,000,000
Available for apportionment:	\$40,000,000
Prorated equally to the States: 40 percent of \$40,000,000	\$16,000,000
\$2 million has been committed to critically needed project(s):	\$2,000,000
Prorated to the 56 "States" on the basis of total population: 30 percent of the remaining \$38,000,000	\$11,400,000
Added to base to ensure \$50,000 minimum for each jurisdiction:	\$ 159,232
Prorated to "States" on the basis of population residing in urban areas: Remainder of \$38,000,000 (approximately 27 percent)	\$10,440,768
Apportionment Total:	\$40,000,000

## NATIONAL PARK SERVICE REGIONAL OFFICES

### WASHINGTON, D.C. OFFICE

Chief, Recreation Programs Division  
National Park Service  
1849 C Street, N.W.  
Washington, D.C. 20240  
(202) 565-1200

### NORTHEAST OFFICE

(CT, DC, DE, MA, MD, ME, NH, NJ, NY,  
PA, RI, VA, VT, WV)

Stewardship and Partnership Team  
Philadelphia Support Office  
National Park Service  
U.S. Customs House, 3<sup>rd</sup> Floor  
200 Chestnut St.  
Philadelphia, PA 19106  
(215) 597-9195

### MIDWEST OFFICE

(AR, AZ, CO, IA, IL, IN, KS, MI, MN,  
MO, MT, ND, NE, NM, OH, OK, SD, TX,  
UT, WI, WY)

Partnerships-Grants  
Midwest Regional Office  
National Park Service  
1709 Jackson St.  
Omaha, NE 68102-2571  
(402) 221-3358

### SOUTHEAST OFFICE

(AL, FL, GA, KY, LA, MS, NC, PR, SC,  
TN, VI)

Recreation Programs  
Southeast Regional Office  
National Park Service  
Atlanta Federal Center  
1924 Bldg.  
100 Alabama St.  
Atlanta, GA 30303  
(404) 562-3175

### PACIFIC WEST OFFICE

(AS, CA, CM, GU, HI, NV)

Planning and Partnerships Team  
Pacific Great Basin Support Office  
National Park Service  
Suite 600  
600 Harrison St.  
San Francisco, CA 94107  
(415) 427-1445

(AK, IS, OR, WA)

Partnership Programs  
Columbia Cascades Support Office  
National Park Service  
909 First Ave.  
Seattle, WA 98104-1060  
(206) 220-4126



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

OFFICIAL  
FILE COPY

Honorable Jim Geringer  
Chairman  
Western Governors' Association  
600 17<sup>th</sup> Street, Suite-1705  
South Tower  
Denver, Colorado 80202-5452

Dear Governor Geringer:

Thank you for your letter of March 21, 1999, inquiring about the proposed amendments to the hardrock mining regulations on federal lands managed by the Bureau of Land Management. As my January 6, 1997, memorandum (attached to my February 10 letter to you) points out, for over ten years concerns have been raised inside and outside the Interior Department regarding the adequacy of the existing regulations. Just as many States have upgraded their rules in recent years, it is time for the BLM to do so as well.

Concerns about the adequacy of the BLM regulations have been exacerbated by bankruptcies in the hardrock mining industry, which have raised questions about the adequacy of financial guarantees to govern reclamation of mined lands. As you may know, we have tried, separately from the current rulemaking, to strengthen our rules requiring mining operations to provide bonds or other security to cover the cost of reclamation should operators go bankrupt. A federal district court set those new bonding rules aside for procedural reasons, and they have now been folded into the current rulemaking.

It should not be surprising that concerns exist about the adequacy of hardrock mining regulations crafted nearly two decades ago. At the time the regulations were adopted in 1980, they explicitly anticipated that amendments would be required from time to time. Since then, the hardrock mining industry in the United States has undergone a vast expansion. Gold production is up 1,000%. Much of this increased production is because -- as a result of new discoveries and technologies that enable much lower-grade ore to be mined -- mines have become much larger, moving many millions of tons of material around on the landscape to produce ounces of gold. In addition, these new techniques use cyanide for processing. Today's mines have the potential for great environmental impact, and when failures of regulation occur, the cost can be very high in terms of human health, the environment, and impact on the nation's taxpayers who may be called upon to foot the bill.

For all these reasons, there is no room for complacency about the adequacy of existing regulations, and that is why I am pressing forward to complete this important regulatory effort on my watch.

OFFICE	506
SURNAME	Walby
DATE	4/29/99
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SURNAME	W. Jones
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Sincerely,

cc: WGA members  
Western Senators





## WESTERN GOVERNORS' ASSOCIATION

Jim Gersting  
Governor of Wyoming  
Chairman

Benjamin I. Cayetano  
Governor of Hawaii  
Vice Chairman

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Washington, D.C. 20001

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Fax (202) 624-7767

[www.western.org](http://www.western.org)

January 11, 1999

The Honorable Bruce Babbitt  
Secretary, Department of Interior  
1849 C Street, N.W.  
Washington, DC 20240

Dear Mr. Secretary:

For the past two years, your department has been considering possible revisions to the Bureau of Land Management's reclamation regulations, codified at 43 C.F.R. part 3809, which governs hardrock mining and mineral exploration activities on BLM lands. This matter is of great importance to the western States. As you know, States have long regulated hardrock mining (including its environmental impacts) on BLM as well as private lands. The BLM's draft revisions could effectively supplant long-standing State regulatory programs or impose significant new costs on States as well as industry, even though we have yet to receive evidence of the need for the proposed regulatory changes. An independent analysis on the need for such revisions, being conducted by the National Academy of Sciences (NAS) is expected to be delivered within the year. For these reasons, the Western Governors ask that Department refrain from publishing any proposed changes in the Federal Register until the results of the NAS study are in and the agency, the western States, and all other parties have had the opportunity to review the findings.

The Western Governors remain concerned that BLM's draft 3809 regulatory revisions may unnecessarily duplicate and in many cases supplant the proven State regulatory programs that now apply on the public lands. Under the BLM's most recent draft distributed to the public, every western State may be faced with the choice of either: (a) expending substantial resources to revise its regulatory programs to conform with the new detailed BLM requirements, regardless of the States' views as to the soundness of the BLM program or particular aspects of it; or (b) having the State's regulatory programs, which have been carefully crafted and enforced over the years, simply cease to be operative on BLM lands. In either case, the results would be of no more benefit than today's resource management and environmental regulation.

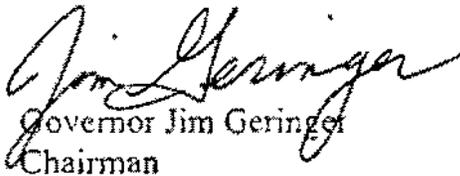
The Honorable Bruce Babbitt  
January 11, 1999  
Page 2

By precluding the Department from promulgating any final 3809 revisions until at least three months after the study completion date, Congress has indicated that the NAS study is an integral part of the regulatory revision process. Clearly, Congress believes that the Department should review and evaluate the findings of the NAS study before proceeding farther along the road of developing 3809 revisions. This message is also emphasized by the Conference Report, which states that the NAS should consult with relevant State and federal authorities in the process of conducting the study.

It is neither beneficial nor efficient for the BLM to expend significant time and resources developing a proposed amended regulatory program, when the results of the NAS study may find such regulatory reform unnecessary. The Western Governors therefore request that the Bureau refrain from publishing any proposed changes in the Federal Register until the study is complete. Depending on the results of the study, the Department may decide that 3809 revisions are unnecessary, or that any regulatory revisions it now has under consideration should be significantly altered.

Waiting until the completion of the NAS study would demonstrate your Department's desire to work with States, while heeding the will of Congress on this matter. We thank you for your consideration, and would be happy to meet with you at your convenience to discuss our concerns in more detail.

Sincerely,



Governor Jim Geringer  
Chairman

Western Governors' Association

cc: Jacob Lew, Director OMB  
Western Senators