

May 23, 1956

Mr. Frederick W. Ford  
c/o Hon. J. Lee Rankin  
Assistant Attorney General  
Office of Legal Counsel  
Department of Justice  
Washington, D. C.

Dear Mr. Ford:

In your letter of May 8, 1956, replying for Hon. J. Lee Rankin to my letter of April 28, 1956, concerning State of Arizona vs. State of California, et al., United States of America, Intervenor, in the Supreme Court of the United States, you state:

"Please be assured that the Attorney General is mindful of the important water rights of the Indians and Indian Tribes within the Colorado River Basin, and that every effort is being made to develop those rights for a complete presentation to the Supreme Court. As a matter of fact, preparation of the affirmative case on behalf of the Indians was initiated shortly after the intervention of the United States in this litigation. This intensive preparation is continuing and, we are confident, will result in the representation of the Indians and Indian Tribes to your satisfaction."

I call your attention to the fact that it is not this initial preparation which is of such grave concern to us at this time.

Private attorneys representing Indian Tribes and interests within the Colorado River Basin were given the assurances of this initial preparation during a conference with Mr. Rankin shortly after the United States intervened in the litigation. These attorneys were introduced to Mr. William G. Veeder as the attorney within the Department of Justice who was and would be devoting a substantial portion of his time toward fulfilling the assurances. These attorneys know of the employment of Mr. C. H. Southworth, a recognized water engineer, to gather necessary evidentiary material and to prepare to testify as an expert on behalf of Indian rights. It was the understanding of these attorneys that Mr. Southworth was employed by the Department of Interior to work with the Department of Justice.

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As time passed, however, the writer and other attorneys were disturbed by the apparent lack of cooperation and coordination between the Department of Justice and the Department of the Interior. Experts employed by the Department of the Interior did not seem to be in touch with attorneys who were preparing the case. Both Departments were aware of the feelings of Indians and representatives of Indians in this regard. Last year, the National Congress of American Indians in its convention unanimously passed the following resolution:

Whereas water rights of all Indians within the Colorado River Basin are directly or indirectly involved and may be affected by the case of the State of Arizona v. State of California, et al., bearing No. 10 original, in the Supreme Court of the United States; and

Whereas full and proper protection of these Indians' rights necessitates extremely close cooperation between the Department of Justice, the Department of the Interior, and attorneys representing these Indians; and

Whereas because of friction which seems to exist between the Department of the Interior and the Department of Justice, it is feared that these Indian rights will not be fully and adequately protected and that such rights may be lost to present and future generations of the Indian people: Now, therefore, be it

Resolved by the National Congress of American Indians at the 12th annual convention assembled at Spokane, Wash., That the Honorable Herbert Brownell, Attorney General of the United States, and the Honorable Glenn L. Emmons, Commissioner of Indian Affairs, be, and they are hereby requested to confer and coordinate the work and efforts of their respective Departments to the end that water rights of Indians within the area covered by the Colorado River watershed will be fully and adequately protected in the case of State of Arizona v. State of California now pending in the Supreme Court of the United States; be it further

Resolved, That such coordinated work and efforts be carried to the extent that each individual Indian water right within said area be so protected and upheld that each individual Indian or group of Indians will receive all of the water to which they are legally and equitably entitled."

Yet even today, no one outside the Department of Justice--not even the United States Supreme Court--knows the Government's theory of the case. This closely guarded secret cannot

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be kept from the Court and others for long unless it be true that the case is in fact not prepared and the Indian interests are not to be represented adequately.

Mr. William H. Veeder, whom we were given to understand was thoroughly versed in the law and facts involved in the litigation, has, we understand, lately been superseded by attorneys with little or no experience in western water litigation.

Mr. C. H. Southworth, after years of doing his best, with virtually no instructions, to prepare the necessary information for Justice, has, we understand, been supplanted by new men.

We believe that neither attorneys nor expert witnesses can present a matter of this magnitude fairly to the Court without thorough preparation.

We may be in error (and, indeed, hope that we are), but it appears to us that those who were or might be adequately prepared have been "dumped". The new replacements, even though able and sincere men, can scarcely hope to do an adequate job within the time available.

The trial is to begin on June 14, 1956. Experts having a thorough knowledge of the litigation should be then prepared to cross examine and otherwise protect Indian rights. We are convinced such is not the case.

Personal conflicts, political disputes and all other differences should be immediately cast aside in order that the United States of America may in this case adequately represent and protect Indian rights and interests.

We urgently and respectfully request that the Attorney General and the Secretary of the Interior immediately call for a conference meeting of all those within the Department of Justice and the Department of the Interior who have in the past or are now working on the Indian phase of the litigation; and that there be included in this conference the private attorneys or other representatives of the Indians and Indian tribes involved.

Very truly yours,

COX AND COX

Z. Simpson Cox

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- cc: Senator Carl Hayden
- Senator Barry Goldwater
- Congressman John J. Rhodes
- Congressman Stewart L. Udall
- Hon. Herbert Brownell, Jr.
- Hon. Clarence M. Davis
- Hon. ...

Hon. J. Reuel A. ...  
Commissioner G. ...  
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