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NATIONAL COUNCIL ON INDIAN OPPORTUNITY

OFFICE OF THE VICE PRESIDENT

WASHINGTON 20506

June 12, 1974

Mr. Frank G. Zarb
Associate Director
for National Resources,
Energy and Science
Office of Management and Budget
Washington, D. C. 20502

Dear Mr. Zarb:

A problem has been brought to our attention which we are forwarding to you because of your recent, commendable exhibitions of concern for the problems of interest to Indian people and Alaska Natives. The nature of this particular problem is such that it affects all land based, federally recognized Indian people.

The matter at hand concerns the ability of the Bureau of Indian Affairs to obtain excess/surplus Federal property for programs of benefit to Indian people. Apparently there is extant an OMB policy, which we have not seen in writing, which denies GSA the right to turn over to the BIA excess property which, by application, that latter Federal agency is to utilize to conduct programs for the benefit of federally recognized Indians.

Specifically, the problem concerns the San Ildefonso Pueblo in New Mexico and their desire that the BIA receive title to 3,467.70 acres of land near Los Alamos which has been declared excess by the Atomic Energy Commission. Prior to that date in the 1940's when the AEC took over control of the property in question, the land resided in the U.S. Forest Service. The Indian Claims Commission has declared that aboriginal title to the land in question resided in the Pueblo. But, the point is that the BIA is not seeking the return of this land in fee simple or otherwise to the Pueblo. The BIA merely wants title to the property so that it, as a Federal agency, can conduct programs beneficial to the Indians.

If in fact there is a written OMB policy, as cited above, and GSA Fort Worth referred to it yesterday, we are faced with a non sequitur situation: Federal agencies can under the law apply for



title to property excessed by other agencies; the BIA is a Federal agency; but, the BIA cannot take title because Indian programs are the object of its application for title (N.B. the OMB policy alluded to above); other Federal agencies take title to excess property for programs benefiting their constituency - the American public (e.g. the U.S. Forest Service DHEW, etc.). It is our opinion that the totality of the BIA is an Indian program and that to exclude the BIA from being allowed to take over this property as a Federal agency is a questionable practice.

The City of Los Alamos has been concerned in this matter because of the inclusion of four extra parcels of land totalling 3.99 acres, which land lies adjacent to or within the boundaries of the city. The Indians, I have been informed, would like to see the city get this land.

The Director's Office of the Real Property Division, Public Service Buildings, General Services Administration in Fort Worth informed me yesterday that they have recommended to their headquarters in a letter mailed yesterday that the BIA application be denied because of the OMB policy discussed above.

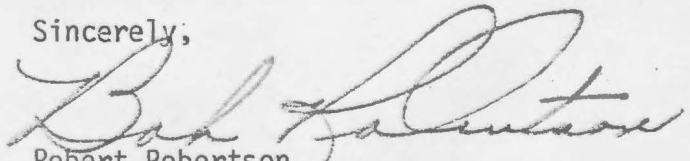
The BIA application has been assigned the following subject numbers by GSA: B-NM-504-G and B-NM-504-I.

It appears that the U.S. Forest Service is energetically seeking the return to itself of this land. Because of this, we would appreciate your intervening on behalf of the Pueblo with the General Services Administration to estop any action on the BIA application until the matter is reviewed thoroughly.

We would appreciate very much being able to sit down with you to discuss this matter which the San Ildefonso people feel is so critical.

Thank you for your cooperation.

Sincerely,


Robert Robertson
Executive Director

cc: Brad Patterson, WH
Commissioner Morris Thompson, BIA
Martin Seneca, BIA
Robert Freedman, BIA (Santa Fe)

