



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 22, 2014

The Honorable Neil Kornze
Director
Bureau of Land Management
U.S. Department of the Interior
1849 C Street NW, Rm. 5665
Washington, DC 20240

Dear Director Kornze:

Respect for property rights and the rule of law are fundamental principles in the State of Texas and the United States. When governments simply ignore those principles, it threatens the foundation of our free and prosperous society. That is why I am deeply concerned about reports that the Bureau of Land Management (BLM) is considering taking property in the State of Texas and that it now claims belongs to the federal government. Given the seriousness of this situation, I feel compelled to seek answers regarding the BLM's intentions and legal authority with respect to Texas territory adjacent to the Red River.

I understand that your office is in the early stages of developing a plan—known as a Resource Management Plan/Environmental Impact Statement (RMP/EIS)—to regulate the use of federal lands along a 116-mile stretch of the Red River. As Attorney General of Texas, I am deeply troubled by reports from BLM field hearings that the federal government may claim—for the first time—that 90,000 acres of territory along the Red River now belong to the federal government.

Private landowners in Texas have owned, maintained, and cultivated this land for generations. Despite the long-settled expectations of these hard-working Texans along the Red River, the BLM appears to be threatening their private property rights by claiming ownership over this territory. Yet, the BLM has failed to disclose either its full intentions or the legal justification for its proposed actions. Decisions of this magnitude must not be made inside a bureaucratic black box.

Nearly a century ago, the U.S. Supreme Court determined that the gradient line of the south bank of the Red River—subject to the doctrines of accretion and avulsion—was the boundary between Texas and Oklahoma. *Oklahoma v. Texas*, 260 U.S. 606 (1923). More recently, in 1994, the BLM stated that the Red River area was “[a] unique situation” and stated that “[t]he area itself cannot be defined until action by the U.S. Congress establishes the permanent state boundary between Oklahoma and Texas.” Further, the BLM determined that one possible scenario was legislation that established the “south geologic cut bank as the boundary,” which could have resulted “in up to 90,000 acres” of newly delineated federal land. But no such legislation was ever enacted.

Instead, in 2000, the U.S. Congress enacted legislation ratifying an interstate boundary compact agreed to by the State of Texas and the State of Oklahoma. With Congress' ratification of the Red River Boundary Compact, federal law now provides that the boundary between Texas and Oklahoma is “the vegetation on the south bank of the Red River . . .”—not the “south geologic cut bank.” Given this significant legal

development, it is not at all clear what legal basis supports the BLM's claim of federal ownership over private property that abuts the Red River in the State of Texas.

This issue is of significant importance to the State of Texas and its private property owners. As Attorney General of Texas, I am deeply concerned about the notion that the BLM believes the federal government has the authority to swoop in and take land that has been owned and cultivated by Texas landowners for generations. Accordingly, I hereby request that you or your staff respond in writing to this letter by providing the following information as soon as possible:

1. Please delineate with specificity each of the steps for the RMP/EIS process for property along the Red River.
2. Please describe the procedural due process the BLM will afford to Texans whose property may be claimed by the federal government.
3. Please confirm whether the BLM agrees that, from 1923 until the ratification of the Red River Boundary Compact, the boundary between Texas and Oklahoma was the gradient line of the south bank of the Red River. To the extent the BLM does not agree, please provide legal analysis supporting the BLM's position.
4. Please confirm whether the BLM still considers Congress' ratification of the Red River Boundary Compact as determinative of its interest in land along the Red River? To the extent the BLM does not agree, please provide legal analysis supporting the BLM's new position.
5. Please delineate with specificity the amount of Texas territory that would be impacted by the BLM's decision to claim this private land as the property of the federal government.

In short, the BLM's newly asserted claims to land along the Red River threaten to upset long-settled private property rights and undermine fundamental principles—including the rule of law—that form the foundation of our democracy. It is incumbent on BLM to promptly disclose both the process it intends to follow and the legal justification for its position.

Sincerely,



Greg Abbott
Attorney General of Texas

cc: The Honorable Mac Thornberry
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