



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240

IN REPLY REFER TO:

JUN - 8 2018

M-37052

Memorandum

To: Secretary
Deputy Secretary
Assistant Secretary – Indian Affairs

From: Daniel H. Jorjani
Principal Deputy Solicitor Exercising the Authority of the Solicitor Pursuant to Secretary's Order 3345, Amendment No. 18

Subject: Partial Suspension and Temporary Withdrawal of Solicitor Opinion M-37044, "Opinion Regarding the Status of Mineral Ownership Underlying the Missouri River within the Boundaries of the Fort Berthold Reservation (North Dakota)"

On January 18, 2017, the Solicitor issued M-37044 ("Sol. Op. M-37044"), which addressed ownership of minerals located beneath the original bed of the Missouri River, as well as ownership of minerals beneath uplands flooded by the construction of Garrison Dam and the formation of Lake Sakakawea.

In order to ensure a thorough legal and factual basis for Sol. Op. M-37044, the underlying historical record should be reviewed and perhaps expanded upon by a professional historian, a task not performed prior to completion of Sol. Op. M-37044. Pending this review, those portions of Sol. Op. M-37044 that address ownership of minerals located beneath the original bed of the Missouri River are suspended and temporarily withdrawn; those portions of Sol. Op. M-37044 that address the ownership of minerals beneath the flooded uplands are hereby affirmed.

This partial suspension and temporary withdrawal does not affect or otherwise alter the previous Departmental decisions related to this issue. See Solicitor Margold, U.S. Dep't of the Interior, M-28120, *Title to island in the Missouri River within the Fort Berthold Indian Reservation*, reprinted in 1 DEP'T OF THE INTERIOR, OPINIONS OF THE SOLICITOR OF THE DEPARTMENT OF THE INTERIOR RELATING TO INDIAN AFFAIRS 616 (Mar. 31, 1936); *Impel Energy Corp.*, 42 IBLA 105 (Aug. 16, 1979).


Daniel H. Jorjani