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12 UNITED STATES DISTRICT COURT  
13  
14 CENTRAL DISTRICT OF CALIFORNIA  
15  
16 EASTERN DIVISION

17 DESERT WATER AGENCY, ) Case No. CV -13-606 DMG (OPx)  
18 )  
19 )  
20 Plaintiff, ) DECLARATION OF ELIZABETH APPEL  
21 )  
22 v. )  
23 )  
24 UNITED STATES DEPARTMENT )  
25 OF THE INTERIOR, )  
26 et al., )  
27 )  
28 Defendants. )  
\_\_\_\_\_ )

1. My name is Elizabeth Appel. I am the Acting Director,  
Office of Regulatory Affairs and Collaborative Action at the  
Office of the Assistant Secretary - Indian Affairs, which  
includes the ("BIA"), within the U.S. Department of the Interior  
in Washington, DC.

1 2. I have held this position for one and a half years. Prior  
2 to that, my title was Regulatory & Policy Specialist. My duties  
3 in both positions include regulatory development from the early  
4 drafting stages through finalization in the Federal Register.  
5

6 3. As part of my duties, I am responsible for coordinating the  
7 promulgation of BIA regulations including leading internal  
8 Departmental workgroups in the drafting of regulations;  
9 providing technical writing assistance; drafting preambles to  
10 regulations; coordinating the internal Departmental clearances  
11 of regulations; serving as the Departmental contact person for  
12 collecting, categorizing and summarizing comments received on  
13 regulations; facilitating workgroup consensus on how to address  
14 comments; and serving as liaison to the Federal Register for  
15 publication of proposed and final rules.  
16  
17

18 4. I was the person responsible for overseeing and  
19 coordinating the promulgation of the Final Rule, Residential,  
20 Business, and Wind and Solar Resources Leases on Indian Land, 25  
21 C.F.R. Part 162 ("Final Rule").  
22

23 5. I was the official contact person for and the person to  
24 whom the public could submit comments on the proposed rule, 76  
25 Fed. Reg. 73784 (Nov. 29, 2011), Final Rule codified at 25  
26 C.F.R. Part 162.  
27  
28

1 6. The public comment period to the proposed rule, 76 Fed.  
2 Reg. 73784, was open from November 29, 2011, until January 30,  
3 2012.

4 7. In addition to the public comment period, the BIA held  
5 several consultation sessions on the proposed rule, 76 Fed. Reg.  
6 73784. These consultation sessions were held on: January 10,  
7 2012, in Seattle, Washington; January 12, 2012, in Palm Springs,  
8 California; and January 18 in Rapid City, South Dakota. See 77  
9 Fed. Reg. 72442.  
10

11 8. The public was notified of the opportunity to submit  
12 comments on the proposed rule, 76 Fed. Reg. 73784, by email, by  
13 person, or by mail. The consultation sessions were transcribed  
14 and, using those transcripts, the BIA identified substantive  
15 comments raised at the sessions and considered those comments as  
16 properly submitted.  
17

18 9. I compiled, organized and reviewed all of the comments  
19 submitted to the BIA during the notice-and-comment period on the  
20 proposed rule, 76 Fed. Reg. 73784, Final Rule codified at 25  
21 C.F.R. Part 162.  
22

23 10. I have reviewed the Complaint filed in this case by  
24 Plaintiff Desert Water Agency.  
25

26 11. Plaintiff Desert Water Agency did not submit any comments  
27 to the BIA on the proposed rule, 76 Fed. Reg. 73784, Final Rule  
28 codified at 25 C.F.R. Part 162.


1 12. Plaintiff Desert Water Agency did not participate in or  
2 make any public comment during the consultation sessions  
3 identified in paragraph 6 above.

4 13. No other entity submitted comments to the BIA on the  
5 proposed rule, 76 Fed. Reg. 73784, Final Rule codified at 25  
6 C.F.R. Part 162, concerning fees, taxes or assessments similar  
7 to those described by Plaintiff Desert Water Agency in its  
8 Complaint.  
9

10 14. In reviewing and responding to the public comments  
11 submitted to the agency during the notice and comment period,  
12 the BIA did not have an opportunity to entertain or consider the  
13 fees, taxes, or assessments imposed by Plaintiff Desert Water  
14 Agency as described in its Complaint, or similar fees, taxes or  
15 assessments, as they relate to or are potentially impacted by  
16 the proposed rule, 76 Fed. Reg. 73784, Final Rule codified at 25  
17 C.F.R. Part 162, because neither Plaintiff Desert Water Agency  
18 nor any other entity submitted comments to the BIA concerning  
19 the specific fees, taxes, assessments identified in Plaintiff  
20 Desert Water Agency's Complaint.  
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25 I declare under penalty of perjury that the foregoing is true  
26 and correct to the best of my knowledge and belief.

27 Dated: 06/14/2013

  
Elizabeth Appel