



# **Investigative Report of Markley Cove Marina**

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This is a version of the report prepared for public release.

## **SYNOPSIS**

The Office of Inspector General initiated this investigation in September 2013 after receiving an allegation that the Bureau of Reclamation (USBR) intended to award a noncompetitive 30-year concession contract to John and Linda Frazier of Winters, CA, to operate the Markley Cove Marina on Lake Berryessa in Napa Valley County, CA, potentially violating USBR and U.S. Department of the Interior (DOI) regulations. The allegation further stated that the former director of USBR's Mid-Pacific Region may have arranged this contract and that high-level USBR and DOI executives may also have been involved.

Since May 2013, the Fraziers have been operating Markley Cove Marina under a 19-month interim concession contract with two 1-year optional extensions. The purpose of this interim contract is to provide uninterrupted public services on Lake Berryessa after a previous concession contract was terminated in December 2012. The interim contract was awarded by Drew Lessard, USBR Area Manager, Central California Area Office, in accordance with USBR directives and standards.

The USBR officials we interviewed stated that USBR intends to open the bidding process for a competitive contract when the Fraziers' current interim contract ends. Our investigation did not reveal any mismanagement or unlawful involvement by the former director of the Mid-Pacific Region or any other USBR or DOI executives or officials. We provided this report to USBR's Acting Commissioner for his information.

## **BACKGROUND**

Markley Cove Marina, located on Lake Berryessa in Napa Valley County, CA, is operated by John and Linda Frazier of Winters, CA. According to Linda Frazier, the marina was originally owned and operated by her husband's father, John Carl Frazier. The Bureau of Reclamation (USBR) awarded the original 50-year concession contract to John Carl Frazier in the 1950s, and Linda and John Frazier took over the marina's operation in 1987. The marina is one of several contracted concession sites around Lake Berryessa.

In 2007, the Fraziers' contract was nearing its expiration. USBR issued requests for proposals (RFPs) from potential concession contractors to take over concession operations at the lake. The Fraziers submitted a proposal for Markley Cove, and USBR initially told them they had won the contract. After USBR's lawyers discovered a flaw in the RFP, however, the contract was re-solicited.

The Fraziers submitted a second proposal, but Pensus Lake Berryessa Properties (Pensus), LLC, of Phoenix, AZ, won the re-solicited contract in April 2010. After Pensus was awarded the contract, Linda Frazier said, she and her husband were upset and complained to their Congressman because they had spent \$200,000 on bid preparation fees for the two proposals and they did not feel USBR had treated them fairly.

Before Pensus could begin operations at Lake Berryessa, some of the other contractors that had lost their bids decided to remove all salvageable materials from their concession sites. Pensus

was therefore unable to open some concessions on time, and while the company had subcontracted with the Fraziers to operate the marina, other services around the lake were affected.

Because Pensus was not prepared to provide public services at the marina, its contract was terminated on December 6, 2012, for failure to perform. On May 1, 2013, USBR awarded a 19-month interim contract with two 1-year optional extensions (Contract No. 13-LC-20-0320) to the Fraziers so that Markley Cove could continue to operate.

### **DETAILS OF INVESTIGATION**

We initiated this investigation on September 17, 2013, after receiving an anonymous complaint that USBR may be planning to award a noncompetitive 30-year concession contract to the Fraziers to operate Markley Cove Marina. The complainant alleged that awarding this contract would potentially violate USBR and U.S. Department of the Interior (DOI) regulations. The complainant further alleged that the former director of USBR's Mid-Pacific Region may have arranged the contract in question and that high-level USBR and DOI executives may also have been involved.

We did not find evidence to support the allegation that USBR is planning to award a long-term noncompetitive contract to the Fraziers. We interviewed Linda Frazier; Drew Lessard, Area Manager for the Central California Area Office; the former director of the Mid-Pacific Region; and David Murillo, the current director of the Mid-Pacific Region. All indicated that they knew a future long-term contract for Markley Cove would be competitively advertised.

During her interview, Linda Frazier said she had had some contact with the former director of the Mid-Pacific Region before the interim contract was awarded, but he did not promise them a long-term contract. She said that the former director was one of the few USBR executives who took the time to personally inspect the facilities at Lake Berryessa.

As part of our investigation, we examined the current interim contract under which the Fraziers are operating Markley Cove. We asked Lessard, as well as the former director of the Mid-Pacific Region and Murillo, about their involvement in the contract process.

Lessard said he was responsible for awarding the interim contract to the Fraziers in May 2013. He said providing uninterrupted public marina services on Lake Berryessa was a primary USBR concern, which was why he decided to award the interim contract until a long-term competitive contract was ready to be advertised.

The former director of the Mid-Pacific Region, who served in that role from May 2008 until December 2012, said he had been responsible for the award and termination of the Pensus contract, but had left his position before the interim contract was awarded. He is no longer involved in the contracting process for the region. He said that before he left, he directed Lessard to develop a plan for providing marina, lodging, and associated services on Lake Berryessa until new long-term competitive contracts for the lake's various concessions could be awarded. The former director told us that he did not direct Lessard to award the interim contract to the Fraziers,

but he agreed with Lessard's decision to do so. He said that he felt awarding the interim contract to the Fraziers was a "good public decision."

We reviewed Lessard's and the former director's emails and found no evidence of improper conduct or mismanagement.

Murillo said he became the director of the Mid-Pacific Region on December 15, 2012. According to Murillo, the award of the interim contract was one of the Region's priorities. Like the former director, Murillo said that he did not direct Lessard to award the interim contract, but he supported the decision because it allowed USBR to continue to provide public marina services on Lake Berryessa until a long-term competitive contract could be awarded.

Both the former director and Murillo said no one in USBR or DOI pressured them regarding any of their decisions concerning concession contracts at Lake Berryessa. Moreover, neither was aware of any pressure placed on Lessard to award the interim contract to the Fraziers. Lessard also said that he was not influenced by the former director or any other USBR or DOI executive to award the Fraziers the interim contract.

#### **SUBJECT**

Former Director, USBR Mid-Pacific Region.

#### **DISPOSITION**

We provided this report to USBR's Acting Commissioner for his information.