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OPINION: More questions about Turkey role in tribal issues

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By **Lawrence A. Kogan** | 0 comments

As the readership of the Daily Inter Lake may recall, on Sept. 2, 2015, my law firm filed suit against the Federal Energy Regulatory Commission and the U.S. Department of Interior on behalf of two Montana state senators and a Montana-based recreational enterprise. The action challenged the administration's historic condition-free conveyance of Kerr Dam to the Confederated Salish and Kootenai Tribes.

As the result of this filing, my co-counsel, a former Defense Department inspector general, and I were taken to task by the national (<http://bigstory.ap.org/article/d91798968349400bb20782604ca65dea/lawsuit-montana-dam-transfer-tribes-security-risk>) and local press.

As the direct result of this reporting, we counsels and our clients had been castigated by the U.S. State Department and by the liberal press of Montana (http://missoulian.com/news/opinion/columnists/honor-the-salish-kootenai-and-drop-the-kerr-dam-lawsuit/article_05f4b35f-38c9-50c1-beed-25a334dd08ef.html) as racially biased and conspiracy minded. This eventually caused our clients to seek voluntary withdrawal of this action, but without prejudice. However, as subsequent publicly available facts have come to light, it has become more apparent that our lawsuit had actually struck a sensitive chord within the Obama administration by publicly exposing highly questionable policies that officials preferred remained covered up.

Our lawsuit alleged that said transfer had been deceptively achieved via a public hearing-free process and procedure, a series of numerous substantive FERC-approved nonpublic Department of Interior amendments of the Kerr Dam operating license, and key FERC regulatory waivers. These included waivers of dam acquisition, license transfer, safety inspection and public reporting and transparency-related regulatory requirements which arguably endanger the public welfare and safety of Northwest Montana residents.

The lawsuit also questioned the sensitive national security clearances granted to the Confederated Salish and Kootenai Tribes to assist the U.S. military services in undertaking uranium mill tailing spill cleanups and rendering software-based logistical support in procuring parts for the Saudi Arabia and other foreign air forces.

Moreover, our lawsuit questioned the motivations underlying the government of Turkey's outreach to 14 federally recognized tribes, including the Salish and Kootenai, and, in particular, Turkey's direct lobbying for an oversight-free reservations leasing law. Our lawsuit also alleged that the Confederated Salish and Kootenai Tribes and other HEARTH Act-approving Native American tribes were naively supportive of Turkey doing business on their reservations. Furthermore, our lawsuit surmised that Turkey and the internationally recognized terrorist groups it is known to harbor could have intentions inconsistent with U.S. national interests — e.g., the potential building of madrassas and spreading Islam among Native Americans and the potential pursuit of materiel for nuclear weapons.

Since its filing, however, subsequently discovered publicly available information concerning the Obama administration's Turkey, open borders, and greater tribal sovereignty policies and initiatives sheds new light on the allegations contained in our prior lawsuit. In an effort to set the record straight about Turkey, a knowledgeable colleague and I recently prepared a web-accessible working paper entitled "*Highly Questionable Turkey, Open Border & Greater Tribal Sovereignty Policies Together Undermine U.S. National Security*" (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2704179).

This working paper endeavors to relate the national security-oriented facts and allegations contained in our prior lawsuit to subsequently discovered publicly available information concerning this administration's Turkey, open borders, and greater tribal sovereignty policies and initiatives. It then cross-analyzes these otherwise distinct and separate policy areas to show how their implementation together serves to undermine U.S. national security and the security of Montanans.

We invite the Daily Inter Lake's editors and readership to review our working paper and to judge for themselves whether, based on such information, reasonable persons can conclude that our prior lawsuit's allegations against Turkey were rather prescient, and that, consequently, U.S. national security and the security of Montanans are being greatly undermined.

Kogan, a New York attorney, has represented opponents of the Salish and Kootenai water compact as well as opponents of the Kerr Dam transfer.