

SOME OBAMA FOLKS MIFFED ABOUT AL- HARAMAIN

In an article about the anticipated headaches Eric Holder will have once he's confirmed as Attorney General today, some anonymous Obama figures reveal their thoughts about the last minute al-Haramain filings by Bush dead-enders.

The case dealing with the state secrets doctrine, which allows the government to rebuff lawsuits by invoking national security concerns, involves al-Haramain Islamic Foundation. A federal trial judge in San Francisco ruled that the government could not invoke the doctrine to block a lawsuit by al-Haramain, which has asserted that the government illegally listened in on its conversations.

The Bush administration used the doctrine to block more than two dozen lawsuits. In timing that was a bit of a surprise, the Justice Department lawyers who have handled the lawsuit filed a motion with the court an hour before Inauguration Day that held to the same position.

Some Obama administration figures regarded the filing before midnight on Jan. 19 as a rear-guard action to make it more difficult to reverse course.

The Justice Department has to file a new brief by Feb. 13. Jon B. Eisenberg, who represents al-Haramain, said the schedule meant that "Holder and company have to decide pretty quickly if they want to keep opposing this case with the state secrets doctrine."

The case also provides an opportunity to have a court assess the Bush

administration's domestic wiretapping
program. [my emphasis]

None of that, of course, explains what Obama will do once Holder and the rest of his department gets in place. None of it explains why Obama didn't take a stronger stand when the dead-enders were filing documents in his name.

But at least some folks in the Obama Administration are watching the dead-enders closely.