West Bank Homeowners Association

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August 1, 2010

The Honorable Mary Bono Mack
U.S. House of Representatives
Washington, D.C. 20515

RE: Colorado River Disputed Area
DoJ letter of June 16, 2008

Dear Congresswoman Mack:

I have recently become aware of a letter addressed to both you and Congressman Dreier from the U.S. Department of Justice concerning your request to provide clarification of a portion of the western boundary of the Colorado River Indian Tribes (CRIT) reservation. The West Bank Homeowners Association (WBHA) is cited in the letter correctly as one of the affected parties in this dispute. The determination included in the DoJ letter remains consistent with the position asserted by the Department of the Interior since the infamous '69 Secretarial Order. However, there are gross deceptions and distortion of facts that I would like to address here.

The single most offensive factual distortion in the letter is the contention that the '69 Secretarial Order established a meander line western boundary for the full 25 miles of "west bank" from Riverside Mountain to the La Paz Arroyo. The fact is that Secretary Udall only used the Benson Survey for the northern 2/3 of the western boundary. The southern 1/3 (8 miles) is not the meander line, not the Benson Survey, but riparian according to the Dept. of the Interior. The reason for this deception is explained below.

The second most offensive deception: while the DoJ reiterates the position of the U.S. in its quote from the AZ v CA 1999 stipulation, they purposely omitted the phrase "but not the other parties to this Stipulation and Agreement". They also chose not to include the next sentence:

> **"The State of California disagrees, and expressly reserves the right to challenge the validity, correctness, and propriety of the 1969 Secretarial Order."**

Also offensive is that the DoJ refuses to recognize that in all three decisions rendered in the ***AZ v CA*** series, the U.S. Supreme Court ruled that for the purpose of water rights, the boundary was found to be riparian for the entire length of the western boundary defined in the 1876 Executive Order. The tribes received **no water rights for the disputed area** as a result.

The DoJ continues to avoid the most important element of this argument, the one that clearly shows the corruption within the Department of the Interior: The ***Aranson*** case.

In ***Arizona I***, the tribes received water rights for California lands within the western boundary that were lost due to avulsive changes in the river, finding that the 1876 Executive Order established a riparian boundary (not the meander line, not the Benson survey). Since the boundary was riparian, the tribes were entitled to water rights for these 2200 acres. Once obtaining the Supreme Court ruling for water rights to these two "cut-off" areas, the U.S. in 1972 filed action to quiet title to those same lands (***U.S. v Aranson***). The tribes won ***Aranson*** and the residents were ejected. The effect is that the U.S. Dept of Justice claimed that the boundary was riparian for the lower 1/3 to quiet title against occupants, yet today still maintains the exact

opposite argument to support the '69 Secretarial Order for the upper 2/3. It is obvious that the simple phrase in the 1876 Executive Order "west bank" could not possibly mean both riparian here and a fixed line over there. The ***Aranson*** inconsistency was noted by both Special Master Rifkind and Special Master McGarr in ***Arizona I*** and ***Arizona III***, respectively.

Please see enclosed a copy of a letter from the DoJ to Congressman Morris K. Udall dated March 30, 1966. At that time the tribes had been awarded water rights for the avulsive lands in ***Arizona I***. The letter to Udall recognizes that the cut-off lands, located in the lower 1/3 of the western boundary, "are properly a part of the reservation." But more importantly, it addresses the supposition by Congressman Udall that possibly more land should be added to the reservation due to a meander line theory. While the DoJ assured Udall that the issue would be properly addressed by the Dept of Interior, it was clear that "**the western boundary of the Reservation was intended to be a shifting water line or a fixed topographical feature".** Note that even the Dept of Justice recognized that the boundary was one or the other, and **certainly not both**.

The U.S. Supreme Court has ruled in all three ***AZ v CA*** cases that the boundary was **riparian** for the purposes of water rights. The U.S. Supreme Court ruled in ***Aranso***n that the boundary was **riparian**. The continued assertion that the Secretarial Order established a fixed line is contrary to four Supreme Court rulings, indefensible, dishonest, and reprehensible.

Members of the West Bank Homeowners Association are once again grateful for your efforts to help with the absurd situation that the U.S. government has imposed upon the residents and allowed to persist for 40 years. With CRIT now starting to assert their jurisdiction with the exercising of self help, it is essential that we finally get assistance from the U.S. Congress. Your continued help now would be even more appreciated.

Sincerely,

Roger L. French
President

cc: Congressman David Dreier, California 26th District
Senator Dianne Feinstein, California
Stanley Sniff, Riverside County Sheriff-Coroner
Bryan Bowker, Bureau of Indian Affairs
Cheryl Schmit, Stand Up for California