

West Bank Homeowners Association

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March 15, 2011

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

RE: Colorado River Disputed Area
Legislative Solution

Dear Congresswoman Bono Mack:

Please reference prior correspondence to you from the West Bank Homeowners Association (WBHA) evidenced by letters enclosed. Also enclosed are U.S. Supreme court documents for both the series of *AZ v CA* cases and *U.S. v Aranson*. Additional documents include the Holt Report which includes an analysis of the CRIT western boundary, the WBHA Western Boundary Dispute that is an exhibit to the report, a CRIT map, and a letter from the Dept of Justice dated 1966.

It is with much disappointment that we write to you now in light of your apparent refusal to meet with us. We appreciate your efforts in the past to assist with the difficulties our community continues to experience with the Dept of the Interior. However, we have come to the point in this never ending saga of governmental irresponsibility where your action is required immediately.

Since 2007, WBHA has dutifully followed your suggestions to attempt to work out differences with the Colorado River Indian Tribes (CRIT). We developed a legislative compromise solution to the boundary dispute that your office presented to the Tribes in October, 2010. As you know, that proposal was rejected by CRIT. Recently, we have engaged CRIT in settlement discussions through a federal court judge. Judge Otero, U.S. District Court, Central District of California, took it upon himself in an unprecedented action, to facilitate a solution to the occupancy disputes between WBHA and CRIT. In spite of this extraordinary effort by Judge Otero, the Tribes refuse to consider lease agreements with the residents that are enforceable, even in Tribal court. As Judge Otero explained to members of the WBHA earlier this month, the Tribes proposed lease is at best a one way lease, with the Tribes in no way obligated to adhere to conditions of even their own lease. Judge Otero also explained that due to the Tribes claim of jurisdiction over the disputed area, residents may effectively have no constitutional, civil, or due process rights.

Summarizing the CRIT western boundary dispute:

Congress accepted the Executive Order of 1876 defining the boundaries of the reservation in PL88-302. The Dept of Interior in *Arizona I* proposed a different interpretation of the term "west bank" in the Executive Order that would allow CRIT to have additional water rights. The U.S. Supreme Court disagreed with the DoI and found the boundary to be riparian as previously determined by the DoI, and awarded no water rights to CRIT for the disputed lands. Shortly after the determination in *Arizona I*, the Secretary of the Interior ignored the Supreme Court's ruling and clear language of PL88-302, and instead attempted to establish a portion of the western boundary as a fixed line, consistent with the DoI's proposed interpretation in *Arizona I*. That attempt was manifested by a Secretarial Order issued in January, 1969. However, the U.S. Supreme Court rejected the '69 Secretarial Order in *Arizona II*, and again in *Arizona III* (see McGarr Order No. 14 enclosed).

In addition to the rulings of the U.S. Supreme Court in the *AZ v CA* series, the Tribes successful quiet title action in *U.S. v Aranson* in 1983 effectively nullified the '69 Secretarial Order. In that case, the U.S. and the Tribes urged upon the court that the 1876 Executive Order created a riparian boundary, allowing the Tribes to recover lands lost due to an avulsive act. This diametrically opposed interpretation of the intent of the 1876 Executive Order was not lost on Special Master Frank McGarr as he expressed in Order No.14 (cited above).

Purpose herein:

The purpose of this letter is to respectfully request that you, as our representative in Congress, initiate legislation that finally provides clarification of the western boundary of the CRIT reservation. The courts have interpreted the intent of the 1876 Executive Order, which is the controlling document for the western boundary, as establishing a riparian boundary. But the courts have not been able to adjudicate the boundary issue due to CRIT's invocation of sovereign immunity and prior cases involving only water rights. The Dept of Interior, as trustee for the Tribes, consistently ignores the findings in the *AZ v CA* series, the *Aranson* hypocrisy, the *AZ v CA* settlement agreement whereby the disputed boundary was not resolved, and instead clings to the '69 Secretarial Order as somehow still valid and viable.

Since the *AZ v CA* settlement in 2000, there have been numerous cases filed due to a portion of the western boundary being in dispute per the '69 Secretarial Order. In 2002, WBHA supported a case involving the Paradise Point resort where CRIT severed electrical service to 22 mobile homes after the BIA refused to evict tenants without CRIT first obtaining a court order. In 2008, Water Wheel Resort was the defendant in a case brought by CRIT in tribal court, and subsequently in federal district court, all on the basis of CRIT attempting to assert jurisdiction in the disputed area.

Currently, WBHA has filed suit against the Riverside County Sheriff for failing to enforce criminal laws in the disputed area in spite of their obligation under PL 280. Riverside County Supervisors have claimed that their "hands are tied" due to the Tribe's claim of jurisdiction in the disputed area. CRIT has recently initiated eviction actions in Tribal Court against 3 WBHA members, again based on a claim of jurisdiction in the disputed area. The WBHA has done everything that your office has suggested, all to no avail. The Tribes refuse to negotiate in any reasonable fashion, and have embarked upon the legal process to displace all 400 families from the disputed area.

Realities:

We are well aware that it has been your hope that residents could reach agreement with CRIT that would avoid legislation. But the reality is that there is no such resolution possible. It is clear that CRIT desires to remove the disputed area residents, thereby eliminating challenges to the boundary. It is clear from the current lawsuit against the Riverside County Sheriff that the county recognizes no civil rights for residents within the disputed area. CRIT demonstrated its intentions last summer when they sent Notices to Vacate to WBHA members, filed suit to remove the Blythe Boat Club, had the BIA terminate the Rio Loco Resort lease, and began stealing personal property including a mobile home in the Wind River community.

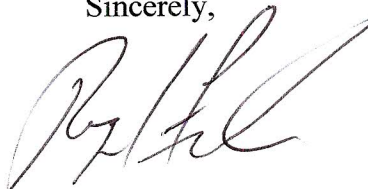
As you are aware, WBHA has attempted to engage CRIT for many years in a productive fashion that would solve the occupancy problems in the disputed area. You have assisted several times with those efforts, and we are appreciative. But the reality is that CRIT has no desire to reach a workable accord with the residents.

Conclusion:

The courts have ruled that the disputed area is not within the CRIT reservation. The DoI, as trustee for the Tribes, disagrees. But Congress alone has the authority to determine Indian Reservation boundaries. And as such, it is Congress that must provide the required clarification of this boundary to put a stop to the hostilities, unnecessary lawsuits, wasted legal fees, and unrest in this 17 mile stretch of land along the Colorado River. And since the disputed area is within your Congressional district, it is up to you, our Congressional representative, to finally initiate that legislation.

Your constituents need you to do your job as our Congressional representative. We are confident that you will endeavor to reinstate the constitutional rights of your constituents and initiate the appropriate legislation. We would be pleased to assist in any way possible. We would appreciate your response before March 26, 2011 due to pending eviction actions in Tribal Court.

Sincerely,



Roger L French
President

Enclosures:

1. U.S. Supreme Court, *Arizona v California*, Special Master McGarr Order No. 14
2. U.S. Supreme Court, *Arizona v California*, Special Master McGarr Order No. 19
3. Settlement Agreement *U.S. v Aranson* Pages 1-6
4. Holt Group Report dtd February 7, 2011 w/ exhibits
5. WBHA letters dtd Sept 15, 2010, Aug 31, 2010, Nov 1, 2009, Feb 19, 2004
6. Dept of Justice letter to Morris Udall dtd March 30, 1966

cc: Congressman Raul Grijalva, Arizona 7th District
Congressman John Campbell, CA 48th District
Congressman Ed Royce, CA 40th District
Congressman David Dreier, CA 26th District
Senator Dianne Feinstein, CA
Senator Barbara Boxer, CA