West Bank Homeowners Association

P. O. Box 970 Blythe, California 92226 TEL: (760) 921-3339 email: westbank@cox.net

May 19, 2011

The Honorable Dianne Feinstein
United States Senator
Attn: Devin Rhinerson
Senate Hart Building 331
Washington, D.C. 20510

RE: Colorado River Indian Tribes
Eviction of West Bank Residents

Dear Senator Feinstein:

Today I write you on behalf of 650 families who, without your assistance, will either lose their homes or forfeit their constitutional rights as American citizens to an Indian Tribe. This unfortunate situation is due to the dispute over the Colorado River Indian Tribes (CRIT) reservation boundary, and elevation of the Tribes' efforts to eject families from their homes in the disputed area. We have written you numerous times in the past regarding difficulties the residents have experienced with the Tribes as a result of their attempts to establish jurisdiction through evictions. But now the situation has escalated to the point that Congressional action is required. As of today, the Tribes have initiated legal actions against at least 13 individual residents, 2 major resorts, and the Blythe Boat Club, who has been on their property since 1947. Although the dispute has been ongoing since 1969, we have come to the point where it is clear that continued inaction by the federal government will result in all families losing their properties, either now or in the near future.

The West Bank Homeowners Association (WBHA) has attempted to discuss resolution of difficulties with CRIT for years. Each and every attempt has been rejected by the Tribes, without explanation. Due to an illegal confiscation of a mobile home and boat by the Tribes in the summer of 2010, WBHA filed a civil rights lawsuit against the Riverside County Sheriff to force the Sheriff to require due process for attempted evictions by CRIT, and to protect private property. Earlier this year in an unprecedented action, Federal Court Judge Otero attempted to bring about a negotiated settlement between WBHA and CRIT, even though CRIT was not a party to the lawsuit. After 2 days of discussion, CRIT rejected all proposals (even those offered previously by their attorneys) and Judge Otero's efforts were unfortunately wasted.

Recently, we received documentation from the Governor's office indicating that CRIT has attempted to negotiate with the State of California for Class III gaming operations, apparently for a new casino in the disputed area. The State's position remains unchanged as argued in *AZ v CA*, which is the western boundary of the reservation is riparian, and not within California. CRIT has attempted to convince the Governor's office otherwise, citing the 1969 Secretarial Order which claimed that 17 of the 25 miles of the western boundary includes a strip of land within California, based on a fixed line theory. CRIT (and the Department of the Interior) refuse to discuss the remaining 8 miles of the western boundary because it would expose the hypocrisy of claiming diametrically opposed interpretations of the boundary controlling document, the 1876 Executive Order. This 8 mile portion of the western boundary was the subject of *U.S. v Aranson* in which CRIT urged the court to recognize that the western boundary is riparian in order to recover 2,000 acres of land lost due to an avulsive action in 1920. The complaint also sought to

remove residents and quiet title. Although the case was ultimately settled 19 years later in 1991, the quiet title action was successful and the residents were ejected with damages awarded to CRIT.

In addition to the attempted negotiation with the Governor's office for a casino, CRIT has recently been successful at persuading the BLM to perform and produce a Dependent Resurvey of the disputed area. From our knowledge of the Chemehuevi obtaining a trust patent for their reservation which ultimately led to the construction of a tribal casino at Lake Havasu, it is clear that CRIT is following the same process. The first step requires that the BLM prepare the Dependent (Cadastral) survey, which then provides a basis for an application to the Secretary of the Interior for a trust patent. Once the trust patent is secured, CRIT can then force the Governor's office to enter into good faith negotiations for a tribal casino compact.

However, the trust patent process requires public review, which allows objection by those with land claims. It is this land claims requirement that we believe is the reason that CRIT is embarking on this full frontal assault of the western boundary residents. CRIT may very well be motivated entirely by the desire to obtain rights to put a casino on the western boundary. In other words, the motivation to remove residents is simply greed.

Congress alone has the authority to establish Indian reservations. Congress spoke clearly in 1964 with PL88-302; the Secretary of the Interior was specifically denied authority to issues leases in the disputed area until the boundary dispute was resolved. In 1969, the Secretary of the Interior usurped his authority, ignored Congress, and attempted to resolve the boundary dispute himself despite known objections from the state parties in *AZ v CA*. Since then, the Secretary has issued numerous leases in the disputed area, all in violation of PL88-302. The residents and resort owners have spent millions of dollars in the court system attempting to secure their rights and property. Although the courts have consistently treated the boundary as riparian, the U.S. Supreme Court has deferred the boundary decision, apparently respecting Congressional authority. The Department of the Interior, as trustee for CRIT, continues to rely upon the '69 Secretarial Order in spite of rulings in the series of *AZ v CA* cases, and in *U.S. v Aranson*. In cases involving individual residents and resort owners, each has lost due to the "colorable claim" provided for Indian Tribes, tribal sovereign immunity, or other legal technicalities that bypass jurisdictional or ownership establishment.

The WBHA has recently been in contact with the California Attorney General's office, seeking information regarding the State's communications with CRIT regarding the boundary dispute, and requesting their assistance with the Riverside County Sheriff to prevent further theft of personal property by the Tribes. The best case scenario for us is that California supports our legal efforts in federal court which hopefully will keep the Indians at bay. But our real long term solution requires Congressional assistance unless the Tribes have a change of heart and finally agree to long term enforceable leases for us, their neighbors across the river in California.

We have solicited assistance from Congresswoman Mary Bono Mack (see letter dtd March 15, 2011, attached). Over the last 10 years we have provided her information that conclusively shows that a) the boundary is riparian as interpreted and argued by the State of California, and b) the U.S. Supreme Court considers the resolution of the boundary dispute to be the responsibility of Congress. We have reminded the Congresswoman that it is her duty as our elected representative to initiate legislation that puts an end to this never ending saga of interminable lawsuits that force the residents to expend enormous amounts of resources to protect their

property and prevent being overrun by a foreign sovereign. Unfortunately, our discussions with the Congresswoman's staff have not produced any improvement in the hostilities by the Tribes. Her staff has explained that due to the position of the Department of the Interior, the current administration, possible earmark implications, and sensitivity to tribal concerns, Congressional action would not be practical. So with that avenue effectively closed, we are hopeful that you will help us.

We are aware of your courageous efforts in the initiation of the Tribal Gaming Eligibility Act, and we commended you for those efforts in our letter of April 14, 2011. The sound reasoning for that legislation is similar to our request to you today; the use of Congressional authority to a) prevent the overreach of the Department of the Interior in favor of Native Americans at the expense of their non-tribal neighbors, and b) limit Indian gaming to its original intentions and charter.

As CRIT has initiated removal of two elderly families this week, time is of the essence. Those families have until June 30 to vacate their homes. In addition, eviction actions in tribal court are pending. CRIT daily harasses residents to sign on to their "consent to tribal jurisdiction" 1 year lease that specifically does NOT waive tribal immunity, creating agreements whereby CRIT does not have to adhere to any terms or conditions. Intimidation techniques by CRIT include serving summons to residents with drafts of eviction and monetary damage complaints to be filed in CRIT tribal courts, telephone calls that include devious deceptions to "special" deals for individual residents, and email communications that threaten eviction actions.

As I'm sure you can imagine, there is a tremendous outrage to this sinister undertaking by CRIT. In addition, residents are fearful of evictions and monetary judgments being awarded in Tribal courts, where CRIT pays the judge. There is true agony and distraught in residents being forced to examine the real possibility of losing their properties that have been in their family for generations. Emotions are running high. We would very much appreciate the opportunity to review our plight with you or your staff, and then work toward a solution to the current problems being experienced by the residents. We would appreciate a response at your earliest convenience.

Sincerely,

Roger L French
President

cc: Congresswoman Mary Bono Mack, CA 45th District
Cheryl Schmit, Stand Up For California