

# **Colorado River Indian Tribes**

## **Western Boundary Clarification Act (Proposed)**

September 15, 2010

### Background:

The U.S. Congress passed the 2005 Boundary Correction Act for the benefit of the Colorado River Indian Tribes (CRIT) which restored 15,000 acres to the reservation that had been previously incorrectly removed by an Executive Order signed by President Wilson. Although the law restored the land, it included a prohibition of gaming on those lands, referred to as the La Paz lands.

The lands restored to the reservation are located in the southeast corner of the reservation in Arizona. Early in the twentieth century there was some confusion over the location of the La Paz Arroyo which is a defining geological feature for the southern extremity of the reservation. Unfortunately the La Paz Wash was mistaken for the La Paz Arroyo which accounted for the mislocation of the boundary and the separation of the 15,000 acres from the reservation.

Separately, in 1969, the Secretary of the Interior issued a 2 page memorandum purporting to extend the boundary of the reservation across state lines into California over a 17 mile section of the 25 mile western boundary, encompassing approximately 2,000 acres. The Secretary's fixed line theory was negated by the ruling in *U.S. v Aranson*. The U.S. won that case based on the argument that the western boundary established by the Executive Order of 1876 created a riparian boundary. In all three versions of *AZ v CA*, the U.S. Supreme Court ruled that the boundary similarly was riparian, in opposition to the Secretarial Order. However, the Dept of Interior, as trustee for the Tribes, still clings to the Secretarial Order which called for the boundary to be a fixed line rather than riparian for 17 of the 25 miles of boundary. The Dept of Justice maintains their indefensible position that the term "west bank" in the 1876 Executive Order created both a riparian boundary per *Aranson* and a boundary which was a fixed line according to the 1969 Secretarial Order.

### The Need for Clarification

Since the 1969 Secretarial Order, there has been a dispute between the Department of the Interior and the state of California over the proper location of the reservation boundary. That dispute has manifested itself by frequent confrontations between the residents and the Tribes which have subsequently resulted in lawsuits. The Tribes have been able to avoid adjudication of the boundary dispute through the invocation of their sovereign immunity. Hostilities have recently peaked as CRIT has attempted numerous evictions of individuals, businesses, and organizations who have various lease arrangements with either the Secretary of the Interior, or directly with CRIT.

The Tribes have been told by their trustee, the Department of the Interior, that the disputed area is their land, that it is held in trust for them, and that they have jurisdiction. They have even been told that they can use "self help" actions to remove residents and confiscate personal property via tribal law, apparently without due process.

Many residents and property owners have been on the land for decades. The Blythe Boat Club has been on the property since 1947, Rio Loco Resort since 1949, Ranchos Not So Grande since

1958, and Water Wheel Resort since 1960. There is a community spirit along the River and a deep emotional attachment as families have handed down their properties from generation to generation.

Congressional action was taken in the past to help the residents. Although both bills passed, they were subsequently vetoed by then President Johnson. Since that time, the courts have determined that the western boundary is indeed riparian. Considering the court's determinations and the immediate need to end the hostilities before violence erupts, it is appropriate and imperative now for Congressional action to clarify the location of the western boundary and provide a solution.

#### The Compromise Solution:

We propose that legislation be drafted to lift the gaming prohibition on the La Paz lands, restoring the rights of the Native Americans to lands which should never have been removed from the reservation. In return, the legislation should include resolution of the boundary dispute by recognizing that the 1876 Executive Order established a riparian boundary, in accordance with both the *Aranson* case, and the three *AZ v CA* cases.

#### The Effect:

The La Paz Lands includes a small corner of land that straddles Interstate 10, the main thoroughfare between Los Angeles and Phoenix. It presents an ideal location for a casino. It also is far removed from neighboring communities, and other Native American gaming facilities. Any impact to the community would be nil. Although the Tribes might not be able to continue to collect rents from the disputed area, the potential for revenue generated from a gaming facility would be several orders of magnitude greater than anything the Tribes could collect from the leases.

The never ending saga of lawsuits would finally be over and residents would for the first time in 40 years, be able to enjoy their properties with some semblance of stability. The hostilities with the Native Americans would finally be over. Peace and harmony would reign as residents on both sides of the river would be able to live as good and respectful neighbors.

#### Benefits:

- Tremendous economic potential for the Tribes
- Restoration of Native American rights on land that was confiscated from the reservation
- Resolution of the boundary dispute
- The residents on the disputed lands would be allowed to live in accordance with constitutional rights to liberty, property, and the pursuit of happiness
- An end to the endless lawsuits paid for partially by taxpayers
- A new source of revenue for the State of California through property taxes