

West Bank Homeowners Association

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WATER WHEEL RULING & GENERAL MEETING NOTICE

Dear Members:

The Federal District Court has finally issued a ruling in the Water Wheel case which challenged tribal court jurisdiction. In a nutshell, the federal court ruled that the tribal court **does** have jurisdiction over Water Wheel Corporation, but **does not** have jurisdiction over Water Wheel's owner, Bob Johnson. The court ruled that the **tribal court judgment against Bob Johnson was null and void**, and instructed the tribal court to cease any further litigation against Johnson. The ruling, although disappointing for West Bank residents, is well reasoned given the conditions of the lease, legal precedents, protections afforded by corporate law, and the premise that the boundary dispute would not be addressed by the court. (As indicated in our past newsletters, Water Wheel chose not to raise the boundary argument in the case and conceded that Water Wheel was indeed located on reservation land.)

We have learned much from this case. For instance, it has become clear that the federal court will only allow tribal court jurisdiction over non-tribal members where there is a "consensual relationship" in place. In the case of Water Wheel, the court determined that the signed lease agreement clearly established that requirement for tribal court jurisdiction. However, in the case of West Bank members, the issue of consensual relationship certainly **does not** exist for residents who have purchased homes without executing a CRIT permit transfer, or where CRIT has terminated permits, and may not exist with residents who have not paid rent in many years.

So what does the Water Wheel ruling mean for future attempts by CRIT to evict West Bank residents? It means that the only sure-fire way to way to avoid tribal court jurisdiction is to obtain a favorable federal court ruling on the boundary dispute. It also means that the Tribal Court may have jurisdiction over you if you are engaged in a consensual relationship with the Tribe. But the answer to the question of attempted evictions of permittees by CRIT is really unchanged by the Water Wheel ruling. And our strategy is unchanged. Sovereign immunity prohibits a proactive approach, which leads us to the fallback position of being prepared for a legal battle. And that battle, unlike the Water Wheel case, will focus directly on the disputed area boundary!

We have spent considerable effort researching legal theories that include contacting the Dept of the Interior for their interpretation of requirements for evictions. From those discussions, we suspect that there is resistance on the part of the federal government to assist CRIT with these matters due to the boundary dispute as documented in *AZ v CA*, and the problem Interior has with the *Aranson* decision. (You may recall that the *Aranson* decision effectively negated the '69 Secretarial Order, but CRIT has managed to avoid a review of the boundary dispute in light of *Aranson* by invoking their tribal sovereign immunity.)

Aside from Water Wheel issues, we have become aware of an attempted eviction by CRIT of the owners of the Hidden Valley restaurant/store. Although Hidden Valley (and Rio Loco) are north of the disputed area, we are very interested in monitoring actions by both the Riverside County Sheriff and Riverside County Counsel. We have been informed that Riverside County will insist on appropriate "due process" if they are requested to

participate in any evictions on the reservation. After three attempts to remove the owners of the restaurant/store, no eviction has occurred apparently because CRIT has not complied with due process requirements.

We have been working on other fronts for a solution to the boundary dispute and the ongoing instability within the disputed area. Some of these efforts have been hampered by the mischaracterization of the disputed area in the press. All West Bank members should understand that West Bank fully supports the position advocated by the State of California, which only disputes the validity of the '69 Secretarial Order which purported to add 3,600 acres to the reservation. We do not support the notion that all 43,000 acres of California land within the reservation is in dispute and that the 1876 Executive Order is somehow invalid. As we have stated in the past, it is clear that the 1876 Executive Order was ratified by a Congressional law, PL88-302, and that it established lands in California as part of the CRIT reservation.

There will be a general meeting Saturday following Thanksgiving, November 28, 2009, at 9:00am. The meeting will be held at the Colorado River Senior Center located at Hidden Valley (28-mile marker on Highway 95). All members and interested residents are encouraged to attend.

See you there!

YOUR BOARD OF DIRECTORS

P.S. Please check out our website **Dispute** page