

Roger French

From: cherylschmit@att.net
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To: 'Cheryl Schmit'
Subject: California, feds disagree on CRIT's western border

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On west banks of Colorado River, boundary tensions between tribes, residents continue decades-long simmer

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Zachary Matson/News-Herald photo

Question of home

Terri Perez, left, and her mother, Bobbie Shaver, in their riverfront backyard. Bobbie and her husband moved to the area in the early-1970s, and she and Terri agreed to sign a lease with CRIT in 2011 to avoid future conflict.

Gwen Girsdansky/News-Herald graphic

Disputed territory

The map above shows an area along the Colorado River about 20 miles north of Blythe. The more than 15-mile long stretch is the center of a long-running dispute between CRIT and residents over whether it is part of the tribes' reservation.

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[California, feds disagree on CRIT's western border](#) By ZACHARY MATSON
TODAY'S NEWS-HERALD Havasu News | [0 comments](#)

A small memorial sits in the gravelly backyard shared by Bobbie Shaver and her daughter and son-in-law, Terri and Charlie Perez. The backyard rests on a bluff above a large bend in the Colorado River and faces east to Arizona.

"That's my dad's memorial, and she wants her memorial right next to it," Terri said Wednesday evening, sitting on a bench beside her mother.

Bobbie and her husband purchased the property in 1971, and she, now 90, has lived there ever since. Terri and Charlie moved to live with Bobbie in 2011 and agreed to sign a lease giving control of the property to the Colorado River Indian Tribes but, they said, only after they felt intimidated and threatened with removal.

Bobbie and her family are current on their lease payments to the tribes, which own hundreds of property leases along a more than 15-mile stretch on the west bank of the Colorado River about 25 miles north of Blythe, Calif. To the tribe the small slice of California is rightfully part of their reservation; to many of the residents, it is known as the "disputed area."

"The only reason we signed a lease was to relieve us we would be here the rest of her life," Terri said.

"They didn't know how long I would be," Bobbie joked with a smile.

"I guess not," Terri said. "I worried that if she had to leave here and live elsewhere it would take her down."

Roger French, who had dropped by to chat with Charlie and Terrie as the sun slowly set behind them, used to have a place a few hundred yards down the river but was evicted in 2011 after more than a decade of refusing to pay his rent to the tribes.

French made the visit to the west bank as he awaits a decision from federal court judge John Tuchi on whether CRIT had jurisdiction to evict him from his riverfront home and award damages to the tribe.

The tribes and the United States government, which supports their position, argue French signed a lease that clearly stated the property was on tribal land and that within their reservation they have full jurisdiction, including the right to remove non-Indians.

French argues previous court decisions have left the reservation boundary in dispute and that the tribes don't have the authority to force rent payments or conduct eviction procedures against him.

A longtime coming

The boundary dispute dates to an 1876 executive order from President Ulysses Grant that defined the reservation's western boundary as "the west bank of the Colorado River." But the river's "west bank" has moved course in the nearly 140 years since the order.

The tribe and the United State Government maintain that the boundary should be a fixed line that represents the location of the bank at the time of the order. The state of California and some of the west bank residents argue the boundary should be considered "riparian" and move with the river over time.

A 1969 secretarial order from the Department of Interior established the reservation's western border in California – an order the tribe and the federal government have cited as the final word on the boundary. But California Attorney General Kamala Harris filed a brief in French's suit in October arguing that the 1969 order is far from the final word and asked the judge to rule on the larger boundary dispute.

In the decades since the order, non-Indian property owners have been moved into lease agreements and make rental payments to the tribes. Some of the residents refused to sign a lease or stopped making rent payments, some have been evicted and some have been forcibly removed by the tribes.

At least one CRIT member thinks the tribe needs to more strongly assert its territorial authority in the so-called disputed area. Michael Tsosie, a tribal member who doesn't hold an official position, released a proposed ordinance earlier this week that calls for removal of non-Indians from the western part of the reservation, imposes access restrictions to the area and encourages tribal settlement.

CRIT Chairman Dennis Patch in a written statement said Tsosie's proposal did not represent the official position of the tribes. Moreover, he said that some of the items in Tsosie's proposal "clearly do not" comply with tribal and federal law.

“While CRIT shares Mr. Tsosie’s frustration with trespassers – and will continue to focus on removing them from our lands – we have no intention of taking action against the many tenants in good standing and our business partners on the California side of CRIT’s reservation,” Patch said.

During a visit to the west bank, each resident had a unique story to share and varying histories with the tribes. “They have always been very cooperative with us,” said Bill Luttrell, who has had a place on the west bank since 1993 and said he has never had a problem with the tribes. “I’m very happy with their services.”

But some of the residents, especially those who purchased property before the 1969 order, have refused to sign leases with the tribes.

“We don’t have a problem paying, but we don’t want to sign over our rights,” said Ben Fraga, whose family first purchased property in 1958 – he said he has received at least 10 eviction notices from the tribes over the years. “We don’t want to sign something that says they can kick us off at any time.”

In January 1949, Bill Tuttle purchased nearly 100 acres of riverfront on the west bank, hoping to one day develop and sell parts of the land. The tribes and the federal government sued Tuttle in 1971 to give his property over to the reservation. After six years, with a settlement conference nearly every month, Tuttle relented and agreed to sign a 50-year lease with the tribe, relinquishing ownership of the property. He said he was advised by his attorney that he had no choice but to sign the agreement. “It certainly wasn’t voluntary.”

Tuttle, now 92, said he still holds out hope that the land along the river will be developed which, he said, could help improve Blythe’s economy.

“I hope to stay here long enough to see some of this land developed,” he said. “It will be the next land boom.”

On the merits

When Roger French returned to the site of his old property Wednesday, he stepped through the charred remains of the mobile home he had spent weekends and holidays at for nearly 30 years. In August, the home burned down, destroying a neighbor’s garage that housed one of French’s prized boats. Neither the Riverside County fire department nor CRIT would conduct an arson investigation, he said, the cause of the fire that French suspects.

He showed off a deck and boat launch and three-car garage that he had installed while living at the site before taking a seat at a picnic table overlooking the river and recounting his long legal saga.

“I’m an engineer, I’m not a lawyer,” said French, who has represented himself in federal court. “I’ve had to become a lawyer over the last 10 years.”

French said that he does not challenge the boundary itself but that CRIT has jurisdiction over him and the right to evict him.

CRIT and the federal government have argued that the tribes were well within their jurisdiction to evict French and seek damages after he stopped paying rent on his property, refuting the status of any legally-relevant dispute over the reservation’s boundary.

“The land that Mr. French occupied for nearly thirty years is part of the Colorado River Indian Reservation, and is held in trust by the United States for the tribes,” US Department of Justice attorneys wrote in a brief. “The Secretary of the Interior declared it so in 1969 (and reaffirmed it in 1970), and the (order) has never been withdrawn, reversed, or overturned... and thus remains valid and legally binding.”

Moreover, the government argued, French agreed to the terms of a lease that clearly stated that the property was “within the Colorado River Indian Reservation” and is “tribal land,” and he paid his rent for more than 10 years.

“Mr. French cannot rely on a purported dispute that is not properly before this court to defeat tribal jurisdiction...” the brief continued. “(He) relies heavily on selective quotes and never-adopted factual findings...” And, the justice lawyers argue, any challenge to the reservation boundary as set by the 1969 order would fall outside the statute of limitations.

French isn’t alone, however, in arguing that the boundary dispute is material to his case. California filed an amicus brief – which has not yet been accepted into the court record by the judge – that argues the US Supreme Court had “stated multiple times” the 1969 order did not resolve the boundary dispute and that the federal government had supported the riparian boundary theory in a previous case.

“California urges this court to fully review the long history of the dispute... and determine that the Colorado is the riparian western boundary of the reservation and that the disputed area is not part of the (CRIT) reservation.”