

West Bank Homeowners Association

P. O. Box 970 Blythe, California 92226

TEL: (949) 697-3246

email: westbank@cox.net

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California tells the Federal Court “The Disputed Area is not part of the Reservation”

After decades of failures in the courts to clear the hurdle of tribal sovereign immunity, the residents of the disputed area who have struggled dearly for property and constitutional rights, are now being supported by the state of California against the federal government’s claim that the 1969 Secretarial Order established the disputed area within the reservation. On October 15, 2014, the California attorney general filed a brief in federal court in support of Plaintiff Roger French’s challenge to the Colorado River Indian Tribes (CRIT) claim of tribal jurisdiction (*French v. Starr*), while simultaneously urging the federal court to expand the case to make a determination of the boundary:

While the dispute has lasted for many years, it is not resolved, and this Court is not precluded from bringing a final resolution to it. California urges this Court to fully review the long history of the dispute, particularly the 1876 Executive Order itself, and determine that the Colorado is the riparian western boundary of the Reservation and that the disputed area is not a part of the Reservation.

California’s brief was prompted by a WBHA letter dtd Sept. 10, 2014, requesting Governor Brown’s assistance in defending against an Amicus Brief filed by U.S. Dept. of Justice supporting CRIT’s jurisdiction over the disputed area, claiming that the ’69 Secretarial Order resolved the dispute and could not be challenged. California’s brief not only challenges the Secretarial Order, it speaks to the rights of the residents, and more importantly, exposes the federal government’s hypocrisy in its claim that the western boundary is a fixed “meander line” in the north, while claiming it to be a moving “riparian” boundary in the south.

In addition to the fundamental defects in the U.S. brief, California brings to the federal court’s attention several important state interests including 1) “*whether tribal gaming may be conducted by CRIT ... in the disputed area*”, 2) “*environmental and land use issues ...in relation to CRIT’s purported exercises of governmental jurisdiction in the disputed area*”, 3) CRIT’s “*exercise of claims to water from the Colorado may profoundly affect California*”, and 4) “*on behalf of the non-Indian residents in the disputed area, California has an interest in their access to the State judicial system to resolve disputes [instead of a tribal court], such as the one before this Court here, involving Plaintiff French*”.

Regardless of ultimate rulings by the federal court, this legal action by California will have a dramatic effect on CRIT, as it threatens their ability to issue leases or permits in the disputed area, and potentially puts the status of current leases in jeopardy.

We are most grateful to Governor Brown for this unprecedented legal action on behalf of the State of California, and his support for the rights of the West Bank Homeowners Association members in particular. Hopefully the Governor’s help will lead to a final resolution of the untenable situation within the disputed area that has been allowed to persist now for such an obscene length of time.

For further information, please see our website: www.westbankmembers.com