

Docket No. 09-17349 (appeal)
Docket No. 09-17357 (cross-appeal)

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

WATER WHEEL CAMP RECREATIONAL AREA, INC. et al.,
Plaintiffs and Appellants,

vs.

GARY LARANCE, The Honorable Judge in his capacity as the Chief and
Presiding Judge of the Colorado River Indian Tribes Tribal Court; et al.,
Defendants and Appellees.

Appeal From The United States District Court
For The Central District of California, District of Arizona, Phoenix
D.C. No. 2:08-cv-00474-DGC

**MOTION OF COLORADO RIVER INDIAN TRIBES FOR LEAVE TO
FILE AMICUS CURIAE BRIEF IN SUPPORT OF APPELLANTS/ CROSS-
APPELLEES THE HONORABLE GARY LARANCE AND JOLENE
MARSHALL**

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Pursuant to Fed. R. App. P. 29(b), the Colorado River Indian Tribes (“CRIT” or “Tribes”) respectfully submits this Motion seeking leave to file the accompanying brief as amicus curiae in support of Appellants/ Cross-Appellees The Honorable Gary LaRance and Jolene Marshall (together, “Tribal Court”).

CRIT requested consent for filing this amicus curiae brief. Appellants/ Cross-Appellees LaRance, et al., consented to the filing of this brief. However, Appellees/ Cross-Appellants Water Wheel Camp Recreational Area, Inc. (“Water Wheel”) and Robert Johnson withheld consent, necessitating this Motion.

CRIT’s Interest In the Appeal

CRIT is a federally recognized Indian tribe whose Reservation is located along the Colorado River in southeastern California and western Arizona. In 2007, CRIT filed an action in the tribal court of the Colorado River Indian Tribes seeking to evict Water Wheel and Johnson from the Tribes’ land and recover related damages. Water Wheel and Johnson filed this action in federal district court, seeking review of the tribal court’s jurisdictional determination pursuant to *National Farmers Union Insurance Companies v. Crow Tribe of Indians*, 471 U.S. 845, 852-53 (1985).

CRIT will be directly affected by the outcome of this case. Most immediately, this Court’s decision will impact how and whether CRIT can regain possession of its property from Johnson and Water Wheel and recover the damages

awarded to CRIT by the tribal court. More generally, this Court's decision will affect CRIT's ability to enforce commercial contracts against non-members in tribal court.

Reasons the Amicus Brief Would Be Helpful To the Court

CRIT's amicus brief would be helpful to the Court in understanding the tribal court proceedings at the heart of this case. As the plaintiff in the tribal court proceedings, CRIT presented voluminous evidence demonstrating Johnson's voluntary, consensual business relationship with the Tribes and the economic impact of Johnson's refusal to return possession of the property to CRIT. CRIT's familiarity with this evidence and the tribal court proceedings would assist the Court in understanding the record upon which the tribal court made its jurisdictional determination. Moreover, CRIT has a substantial, direct interest in the outcome of the case, as its land and tribal court judgment hang in the balance. This perspective is distinct from that of the Tribal Court.

CRIT's proposed amicus brief also supplements the Tribal Court's comprehensive arguments and highlights additional legal authority compelling reversal of the district court's decision. In particular, CRIT's brief explains that, under federal court jurisprudence, all of Johnson's interactions with the Tribes—including those undertaken as an officer of Water Wheel Camp Recreational Area,

Inc.—must be considered in support of the Tribal Court’s jurisdictional determination.

Because CRIT’s amicus brief would serve the “classic role” of “supplementing the efforts of counsel,” this Motion for Leave should be granted. *Miller-Wohl Co., Inc. v. Comm’r of Labor & Industry*, 694 F.2d 203, 204 (9th Cir. 1982).

Conclusion

For the foregoing reasons, CRIT respectfully request that this Court grants it leave to submit an amicus curiae brief in support of Appellants/ Cross-Appellees The Honorable Gary LaRance and Jolene Marshall.

Date: May 21, 2010

Respectfully submitted,

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**BRIEF OF AMICUS CURIAE COLORADO RIVER INDIAN TRIBES IN
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TABLE OF CONTENTS

	<u>Page No.</u>
INTRODUCTION	1
STATEMENT OF INTEREST.....	2
HISTORY OF THE TRIBAL COURT PROCEEDINGS.....	4
ARGUMENT	6
A. More Than Twenty Years of Consensual Business Dealings Between Johnson and CRIT Satisfy the Jurisdictional Requirement of <i>United States v. Montana</i>	6
1. All of Johnson’s Actions—Even Those Taken as President of Water Wheel—Must Be Considered in Determining Tribal Court Jurisdiction.....	6
2. Johnson’s Continued Operation of Water Wheel Demonstrates that His Commercial Dealings with CRIT Were Voluntary.....	8
B. Johnson’s Actions Also Threaten the Economic Security of the Tribes.....	13
CONCLUSION	14

TABLE OF AUTHORITIES

Page No(s).

FEDERAL CASES

Calder v. Jones,
465 U.S. 783 (1984).....7, 8

Davis v. Metro Productions, Inc.,
885 F.2d 515 (9th Cir. 1989)7, 8

Hardin Roller Corp. v. Universal Printing Machinery, Inc.,
236 F.3d 839 (7th Cir. 2001)7

International Shoe Co. v. Washington,
326 U.S. 310 (1945).....7

Keeton v. Hustler Magazine, Inc.,
465 U.S. 770 (1984).....7

National Farmers Union Insurance Companies v. Crow Tribe of Indians,
471 U.S. 845 (1985).....3

Nevada v. Hicks,
533 U.S. 353 (2001).....5

Smith v. Salish Kootenai College,
434 F.3d 1127 (9th Cir. 2006)8

United States v. Montana,
450 U.S. 544 (1981).....passim

FEDERAL RULES

Rule 29 of the Federal Rules of Appellate Procedure4

LAWS OF THE COLORADO RIVER INDIAN TRIBES

Law & Order Code § 101.....8

INTRODUCTION

The district court in this case erroneously concluded that the Tribal Court of the Colorado River Indian Tribes (“CRIT” or “Tribes”) lacked jurisdiction to hear an eviction action brought by the Tribes against Robert Johnson, a non-Indian who has owned and operated a resort on tribal land pursuant to a lease with the Tribes for over twenty years. The crux of the court’s reasoning is that Johnson’s extensive dealings with the Tribes—evidenced by scores of letters to the Tribes, meetings with tribal officials, and rent checks paid to CRIT—had not been undertaken “voluntarily.” Thus, according to the district court, Johnson had not entered into the type of consensual relationship with the Tribes required to maintain tribal court jurisdiction under *United States v. Montana*, 450 U.S. 544 (1981).

The only evidence the district court cites in support of this theory is a declaration submitted by Johnson to the district court (but not to the tribal court) stating that, when he purchased the Water Wheel Resort, Johnson was unaware he would have to deal with CRIT in developing and operating it. The evidence in the record flatly contradicts this statement. Even if Johnson’s declaration were accurate, however, the evidence presented by CRIT in the tribal court proceedings shows that Johnson continued to operate his business on tribal land—voluntarily—long after learning that he would have to comply with tribal law to do so.

The district court also erred in concluding that the second prong of the *Montana* test was not at issue in this case. Under that prong, a tribal court can exercise jurisdiction over a non-member when his activities threaten the economic security of the tribe. As the Tribal Court of Appeals held, this second exception formed an alternative basis for the tribal court's jurisdiction, as Johnson's refusal to vacate CRIT's property after the expiration of the lease threatened the Tribes' economic security.

As a result of the district court's error, Robert Johnson remains on the Tribes' land—land held in trust by the United States for the Tribes' benefit—without the Tribes' permission. Johnson has not paid rent to the Tribes in years, yet he continues to collect rent from those who stay at the Water Wheel Resort. Nothing in the record or the law governing tribal court jurisdiction supports—much less mandates—this inequitable result.

STATEMENT OF INTEREST

Amicus curiae Colorado River Indian Tribes is a federally recognized Indian tribe whose Reservation is located along the Colorado River in southeastern California and western Arizona. In 2007, CRIT filed an action in the tribal court of the Colorado River Indian Tribes seeking to evict Appellees/Cross-Appellants Water Wheel Camp Recreational Area, Inc. (“Water Wheel”) and Robert Johnson from the Tribes' land and recover related damages. Water Wheel and Johnson

filed this action in federal district court, seeking review of the tribal court's jurisdictional determination pursuant to *National Farmers Union Insurance Companies v. Crow Tribe of Indians*, 471 U.S. 845, 852-53 (1985).

CRIT will be directly affected by the outcome of this case. Most immediately, this Court's decision will impact how and whether CRIT can regain possession of its property from Johnson and Water Wheel and recover the damages awarded to CRIT by the tribal court. More generally, this Court's decision will affect CRIT's ability to enforce commercial contracts against non-members in tribal court.

The purpose of this amicus brief is to discuss the evidence presented by CRIT to the tribal court demonstrating Johnson's voluntary, consensual business relationship with the Tribes and the economic impact of Johnson's refusal to return possession of the property to CRIT. CRIT's familiarity with this evidence and the tribal court proceedings make it well-suited to present this information to the Court. CRIT also supports the position of the Hon. Gary LaRance, et al. (together, "Tribal Court") both as Appellants and Cross-Appellees.

CRIT requested consent from the parties to this appeal to file this amicus brief. While the Tribal Court consented to this filing, Water Wheel and Johnson did not. Accordingly, CRIT is filing a motion for leave to file an amicus brief in

support of the Tribal Court's appeal concurrently with this brief, pursuant to Rule 29 of the Federal Rules of Appellate Procedure.

HISTORY OF THE TRIBAL COURT PROCEEDINGS

In October 2007, CRIT filed suit in tribal court seeking to evict Water Wheel and Johnson from land held in trust by the United States for the benefit of the Tribes. ER at 300. For many years, Water Wheel and Johnson had occupied the Tribes' property pursuant to a lease with the Tribes. In July 2007, however, this lease expired. Excerpts of Record ("ER") at 222, 227. Although neither Johnson nor Water Wheel had permission to remain on the Tribes' property after expiration of the lease, they refused to leave. ER at 110. Thus, to regain possession of its land, CRIT filed suit.

This straightforward landlord-tenant dispute became more complex when Johnson and Water Wheel challenged the tribal court's jurisdiction under *United States v. Montana*, 450 U.S. 544 (1981). ER at 261-62. Because Johnson and Water Wheel are not tribal members, the tribal court held hearings, heard testimony, and took evidence to determine whether it had jurisdiction over them pursuant to the Supreme Court's decision in *Montana*. ER at 288, 261-62. Four months after CRIT filed its complaint, the tribal court concluded that it did have jurisdiction. ER at 264, 266, 268.

The Tribal Court of Appeals upheld this determination. In its comprehensive analysis of *Montana* and the cases following it (ER at 178-187), the appellate court noted that the United States Supreme Court has “consistently upheld the exercise of tribal authority over non-member activity *on tribal or other Indian owned land* within an Indian reservation.” ER at 182 (emphasis in original).¹ Operating a business on tribal land pursuant to a lease with the Tribes therefore “fully satisfie[d] the consensual relationship prong of the *Montana* test.” *Id.* at 183. The Tribal Court of Appeals also concluded that Johnson and Water Wheel’s actions—failing to pay substantial amounts of rent owed to the Tribes and refusing to return the Tribes’ property after the expiration of the lease—threatened the economic security of the Tribes. *Id.* at 183-84. Thus, the Tribal Court of Appeals upheld the tribal court’s jurisdiction under both prongs of the *Montana* test.

Water Wheel and Johnson filed this action in federal district court seeking to overturn the tribal court’s jurisdictional determination. ER at 351-61.

¹ The court distinguished the one possible exception to this rule—*Nevada v. Hicks*, 533 U.S. 353 (2001)—by its “truly unusual” facts, and noted that the actions challenged in that case actually arose from an investigation of *off-reservation* crimes. ER at 182.

ARGUMENT

A. **More Than Twenty Years of Consensual Business Dealings Between Johnson and CRIT Satisfy the Jurisdictional Requirement of *United States v. Montana*.**

As the district court recognized, a tribal court may exercise jurisdiction over a non-member if that non-member has entered “consensual relationships with the tribe or its members, through commercial dealing, contracts, leases, or other arrangements.” *Montana*, 450 U.S. at 565-66; ER at 4-5. While the district court acknowledged that Johnson’s dealings with the Tribes were “extensive” (ER at 17), the court concluded they were “largely involuntary” and thus insufficient to establish jurisdiction over Johnson. *Id.* In reaching this conclusion, however, the district court apparently discounted Johnson’s dealings with CRIT on behalf of his company, Water Wheel. Moreover, the district court ignored the fact that Johnson continued to operate his business on CRIT’s land long after Johnson realized that doing so would require him to comply with CRIT’s laws. Given the voluminous evidence in the record indicating Johnson’s decades-long business relationship with the Tribes, the district court’s conclusion must be overturned.

1. **All of Johnson’s Actions—Even Those Taken as President of Water Wheel—Must Be Considered in Determining Tribal Court Jurisdiction.**

According to the district court, the Tribal Court had failed to prove that Johnson “*personally* chose to enter into a consensual relationship with the tribe,” and therefore had failed to establish jurisdiction over Johnson. ER at 18 (emphasis

added). By distinguishing between the actions Johnson took in his personal capacity and his actions as an agent of Water Wheel, the district court suggests that Johnson's extensive dealings with the Tribes on behalf of Water Wheel could not be used to establish tribal court jurisdiction over Johnson.

The district court was wrong as a matter of law. As the Supreme Court has held, a defendant's status as an employee of a corporation does not insulate him from jurisdiction in a forum where he has had sufficient contacts. *Calder v. Jones*, 465 U.S. 783, 790 (1984); *see also Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 781 n.13 (1984) ("Each defendant's contacts with the forum State must be assessed individually."); *Davis v. Metro Productions, Inc.*, 885 F.2d 515, 521-22 (9th Cir. 1989) (holding that Arizona long-arm jurisdiction extended to corporate officers who had sufficient contacts with Arizona); *Hardin Roller Corp. v. Universal Printing Machinery, Inc.*, 236 F.3d 839, 842 (7th Cir. 2001) (noting that "the Constitution does not shield persons who act as corporate agents from individual-capacity suits," and holding that Wisconsin state law did not provide such a shield, either). While these cases arose in the context of analyzing whether an individual's contacts were sufficient to establish personal jurisdiction, the "minimum contacts" test under *International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945), closely resembles the "consensual relationship" analysis under

Montana. See Smith v. Salish Kootenai College, 434 F.3d 1127, 1138 (9th Cir. 2006).

The district court’s distinction between Johnson’s actions in his personal and professional capacity finds no support in CRIT’s own law, either: nothing in CRIT’s tribal code limits jurisdiction based on an individual’s role as corporate officer. *See* Amicus Curiae CRIT’s Request for Judicial Notice (“CRIT RJN”), Exh. H (CRIT Law & Order Code § 101). Thus, all actions taken by Johnson—whether in his capacity as president of Water Wheel or simply as an individual—must be considered in determining the tribal court’s jurisdiction over him. *See Calder*, 465 U.S. at 790; *Davis*, 885 F.2d at 522. As discussed below, these actions were extensive and “consensual.”

2. Johnson’s Continued Operation of Water Wheel Demonstrates that His Commercial Dealings with CRIT Were Voluntary.

The heart of the district court’s determination that the tribal court lacked jurisdiction over Johnson is its conclusion that Johnson’s relationship with the Tribes was “involuntary.” ER at 17. In reaching this conclusion, the district court relies heavily on the fact that, prior to purchasing Water Wheel, Johnson allegedly had been told by the company’s previous owners that the Bureau of Indian Affairs (“BIA”), not CRIT, would administer the lease, and that the County of Riverside would be responsible for inspecting development on the property. ER at 16. This “fact” was presented to the district court by Johnson in a declaration that had not

been submitted to the tribal court, and thus was not part of the tribal court proceedings. Nonetheless, according to the district court, Johnson's misunderstanding of CRIT's role at the time he purchased Water Wheel indicates that Johnson never "intentionally" or "voluntarily" enter into a business relationship with CRIT.

Amicus curiae CRIT agrees with the Tribal Court's argument that the district court erred in its interpretation of *Montana*. Appellants' Principal Brief at 18. Nothing in *Montana* or the cases following it suggests that, in order for an Indian tribe to exercise jurisdiction over a non-member, the tribe must rebut the non-member's subjective (and erroneous) belief that his actions will not create a relationship with the tribe. *Id.* Indeed, *Montana* lists "commercial dealings" as one example of consensual relationships (450 U.S. at 565), indicating that commercial dealings are, by nature, consensual.

However, even if CRIT were required to prove that Johnson's commercial dealings with CRIT were "voluntary," CRIT provided that proof to the tribal court. When Johnson purchased Water Wheel in 1981, the prime asset of the company was its lease with CRIT. ER at 147, 263, 265-66. As Johnson admits in his declaration, he was well aware of the terms of the lease when he purchased Water Wheel. ER at 147. And, as the district court held in analyzing the tribal court's jurisdiction over Water Wheel, the lease expressly names CRIT as the lessor, and

references the Tribes and the reservation status of the land throughout. *See, e.g.*, ER at 4, 219, 221. The lease even contains a provision requiring Water Wheel and its agents, such as Johnson, to abide by the Tribes' laws, including those laws pertaining to tribal court jurisdiction. ER at 249; *see also* ER at 7-8. Thus, by purchasing Water Wheel, Johnson consensually, intentionally, and voluntarily entered into a commercial relationship with the Tribes.

Moreover, even if it were true that Johnson was unaware of CRIT's role as lessor and regulatory authority when he first purchased Water Wheel, undisputed evidence demonstrates that Johnson continued to operate the Resort long after he learned that doing so would require paying rent to CRIT and following CRIT's laws. According to Johnson's own declaration, in 1986—more than *twenty years* before CRIT filed suit against him in tribal court—a BIA official directed Johnson to send rental payments to CRIT. ER at 147. In the years that followed, CRIT required Johnson to comply with the Tribal Code and Tribal procedures in developing the Resort. ER at 148, 265-66. Thus, Johnson knew well before 2007 that he was operating a business on CRIT's land subject to CRIT's laws. If he did not want to be engaged in business dealings with the Tribes, he could have sold the company or found another, off-reservation location to conduct his business. He did not do so.

Instead, Johnson continued operating his business on tribal land and even proposed new business ventures on the Reservation that were entirely unrelated to the Water Wheel Resort. CRIT RJN, Exh. A. Johnson repeatedly met with Tribal officials to discuss the development of the property, sent letters to the Tribes indicating his desire to develop the property for CRIT's benefit, and paid rent to the Tribes. ER at 265-66.

CRIT presented voluminous evidence of this ongoing, voluntary relationship in the tribal court proceedings. For example, in one letter to the Tribes, Johnson proposed a change in the use of the Water Wheel property from that authorized in Water Wheel's lease. In closing, Johnson wrote:

Our existing lease requires us to maximize the leased property to its full potential. ¶ . . . With the completion of our master plan, we will have maximized the leased property to its fullest potential *to insure the Tribe's maximum income.*

CRIT RJN, Exh. B (Letter from Johnson to CRIT (April 6, 1989), introduced as Plaintiff's Exhibit 28 at the March 14, 2008 Tribal Court evidentiary hearing on jurisdiction) (emphasis added). Later that year, Johnson wrote again to CRIT, stating: "Water Wheel Resort has been in business on tribel [sic] property for 19 years. We have maximized the leased property to its fullest potential so that the tribes would receive maximum income." Docket #26, Exhibit E-4.

In another letter, dated May 18, 2000, Johnson wrote:

The process for development of Water Wheel Resort for the last 20 years has been I contact [tribal building inspector] Mr. Howard and inform him of what my intentions are (of which I have on all projects.) If Mr. Howard has any problems or questions about what I am doing he request[s] I contact [Tribal] Realty (Mrs. Fisher) of which I have done on all projects.

Mr. Laffoon my desire is to work with you and be 100% compliance [sic] in my lease and to run and develop a private mobile home park to the benefit of the Colorado River Indian Tribes and Water Wheel Resort.

Docket # 26, Exhibit G-1a (Letter from Johnson to CRIT, introduced as Exhibit 42 at the March 14, 2008 Tribal Court evidentiary hearing) (emphasis added). The Tribes submitted no fewer than eight additional letters from Johnson to the Tribes in which Johnson proposed various development opportunities for the Water Wheel property (ER at 266), and additional correspondence in which Johnson proposed new development elsewhere on the Reservation. CRIT RJN, Exh. A.

Johnson himself testified in tribal court that he had met with tribal officials and employees *between 80 and 105 times* to discuss the development and operation of Water Wheel Resort. ER at 265-66. Some of these meetings took place in tribal offices, some at the Water Wheel Resort, which is located within CRIT's Reservation. *Id.* CRIT also introduced numerous receipts showing that, until 2000, Johnson regularly paid *to CRIT* the annual rent and percentage of gross receipts due under the lease (ER at 263, 265), and, when Water Wheel could not

make the required payments, Johnson wrote to CRIT to provide an explanation for this failure. CRIT RJN, Exh. C.

Johnson also participated in the (ultimately unsuccessful) attempts to renegotiate Water Wheel's annual rent under the lease. ER at 266. In pursuit of this goal, Johnson sent several letters to Herman Laffoon, Jr., the Commercial Manager of CRIT Realty Services, and attended a meeting with representatives of the Tribes and the United States. *Id.* (citing tribal court Exhibits 77, 85 and 87).

Even after these rent negotiations failed, Johnson sought and received from the CRIT Department of Revenue and Finance annual business licenses to operate the Water Wheel Resort on the Colorado River Indian Reservation. CRIT RJN, Exhs. D & E. In his applications for these licenses, Johnson expressly consented "to the jurisdiction of the tribal court of the Colorado River Indian Tribes and service of process in matters arising from the conduct of business." *Id.* Exhs. F & G at 2.

All of this evidence indicates that Johnson intentionally and voluntarily engaged in a consensual business relationship with the Tribes. The district court erred in concluding otherwise.

B. Johnson's Actions Also Threaten the Economic Security of the Tribes.

The district court erroneously asserted that the second prong of *Montana* was not at issue in this case. ER at 21. The Tribes successfully argued throughout

the tribal court proceedings that Johnson's activities threatened the economic security of the Tribes. ER at 183-84. Specifically, CRIT argued that, by refusing to vacate CRIT's land after the expiration of Water Wheel's lease, both Water Wheel and Johnson were preventing CRIT from earning any income from the land. ER at 184. The fair market rental value of the land occupied by Johnson was determined at trial to be nearly \$200,000 per year. ER at 116. As the Tribal Court of Appeals concluded: "Nothing could more clearly imperil the economic security of an Indian tribe than losing control over both its own lands and the rental income derived therefrom." ER at 184. Therefore, the district court erred in rejecting this basis for tribal court jurisdiction, as well.

CONCLUSION

For the foregoing reasons, CRIT respectfully requests that this Court reverse the district court's order granting declaratory relief to Johnson.

Date: May 21, 2010

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Fed. R. App. P. 28.1(e)(2)(A) because this brief contains 3,168 words.

This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Rule 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft WORD 2007 in 14 point font, Times New Roman.

/s/Winter King
WINTER KING

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk for the Court of the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on May 21, 2010.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage pre-paid, to the following non-CM/ECF participants:

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/s/Natalia Thurston
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AMICUS CURIAE CRIT'S REQUEST FOR JUDICIAL NOTICE

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Pursuant to Rule 201 of the Federal Rules of Evidence (“FRE”), Amicus Curiae Colorado River Indian Tribes (“CRIT”) requests that this Court take judicial notice of the following documents, true and correct copies of which are attached hereto:

Exhibit A: Tribal Court Exhibit 93 (Letter from Robert Johnson to Grant Buma, CRIT Hydrologist, dated September 13, 2005).

Exhibit B: Tribal Court Exhibit 28 (Letter from Johnson to CRIT, dated April 6, 1989).

Exhibit C: Tribal Court Exhibit 3 (Letter from Johnson and Fredrich E. Rose to Donna McCurdy, cc Harry Laffoon, Tribal Councilman, dated August 11, 1983).

Exhibit D: 2004 Colorado River Indian Tribes Department of Revenue and Finance Business License.

Exhibit E: 2006 Colorado River Indian Tribes Department of Revenue and Finance Business License.

Exhibit F: Application for Business License dated October 26, 2004.

Exhibit G: Application for Business License dated January 30, 2006.

Exhibit H: CRIT Law & Order Code § 101.

MEMORANDUM OF POINTS AND AUTHORITIES

Rule 201 requires courts to take notice of any “adjudicative fact” that is “not subject to reasonable dispute” because it is “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b).

Exhibits A, B, and C are letters from Robert Johnson to officials of the Colorado River Indian Tribes that were admitted into evidence at the March 14, 2008 evidentiary hearing in *CRIT v. Water Wheel Camp Recreational Area, Inc.*, Case No. CV-CO-2007-0100, in the Tribal Court of the Colorado River Indian Tribes. Federal courts can take judicial notice of matters of record in other court proceedings. *See Bennett v. Medtronic, Inc.*, 285 F.3d 801, 803 n.2 (9th Cir. 2002) (taking judicial notice of filings in state court proceedings); *United States v. Yates*, 22 F.3d 981, 987, 988 (10th Cir. 1994) (noting that the district court had taken judicial notice of tribal court proceedings). Therefore, this Court may properly take judicial notice of Exhibits A, B, and C.

Exhibits D and E are business licenses issued by the Colorado River Indian Tribes Department of Revenue and Finance to Water Wheel Camp Recreational Area, Inc. Pursuant to FRE Rule 201, federal courts can take judicial notice of governmental records. In *Disabled Rights Action Comm. v. Las Vegas Events, Inc.*, for example, the Ninth Circuit took judicial notice of a “license agreement”

between a state entity (the University and Community College System of Nevada) and a private corporation because the agreement constituted a record of a state agency. 375 F.3d 861, 866 n.1 (9th Cir. 2004). This agreement authorized the private corporation to hold a rodeo in an arena owned by the state entity. *Id.* Exhibits D and E, likewise, are governmental records. They are licenses to conduct business within the Colorado River Indian Reservation issued by an arm of the tribal government, the Department of Revenue and Finance. As such, they are subject to judicial notice.

Exhibits F and G are applications submitted by Robert Johnson to the Colorado River Indian Tribes Department of Revenue and Finance to obtain a business license for Water Wheel Camp Recreational Area, Inc. Like the licenses themselves, these applications are records of the tribal government, and thus are subject to judicial notice. *Disabled Rights Action Comm.*, 375 F.3d at 866 n.1.

Exhibit H is an excerpt of CRIT's Law and Order Code, which sets forth the Tribes' law governing the jurisdiction of its court. Exhibit H is a legislative enactment of the Colorado River Indian Tribes. As such, the attached excerpt is subject to notice under Rule 201. *See Santa Monica Food Not Bombs v. City of Santa Monica*, 450 F.3d 1022, 1025 n.2 (9th Cir. 2006) (taking notice of city ordinances). The full text of the Law and Order Code is available online at: http://www.crit-nsn.gov/crit_contents/ordinances.

As described in CRIT's Amicus Brief, these documents are all relevant to this Court's determination of whether Robert Johnson had a consensual relationship with CRIT justifying the Tribal Court's exercise of jurisdiction over him. Accordingly, CRIT respectfully requests that the Court grant this Request for Judicial Notice.

Date: May 21, 2010

Respectfully submitted,

/s/Winter King

ELLISON FOLK

WINTER KING

Shute, Mihaly & Weinberger LLP

396 Hayes Street

San Francisco, California 94102

Telephone: (415) 552-7272

Facsimile: (415) 552-5816

Attorneys for Amicus Curiae

Colorado River Indian Tribes

EXHIBIT A

Playa del Rio Resort

On the Colorado River
29630 Hwy. 95 Blythe, Ca. 92225
(760) 922-3863 Fax (760) 922-8299
E-mail: h2owhl@aol.com

received
9/18/08

Grant Buma, Hydrologist
Colorado River Indian Tribes
Route 1, Box 23-B
Parker, Arizona 85344

Dear Mr. Buma:

We are pleased that the Bureau of Indian Affairs and the Colorado River Indian Tribes (CRIT) have agreed to assist and cooperate in the development of Playa del Rio Resort.

It is our understanding that the BIA and CRIT officials have recently had meetings with the BIA's Regional Realty Officer and other Department of Interior representatives to discuss Business Lease Number B-509-CR (Lease). You informed us that it was the joint consensus of those attending this meeting that the Lease was, in essence, "ownership of the subject land" for fifty-year period. It was also the opinion of the BIA that the unfettered right to develop the property was clearly stated on the Lease, and that development should not be interfered with.

You further stated that the BIA had agreed to provide electrical power essential for further development, and that CRIT has agreed to inspect the electrical equipment and otherwise fully cooperate in all aspects necessary to move the development forward as soon as possible. This includes immediate issuance of all permits that CRIT would like to see obtained for the development and formal contact with the Army Corp. of Engineers by the appropriate CRIT Officials to convey Tribal approval for the development. In addition, you stated that you would assist in obtaining permits for land clearing, Fish and Game approval and other permits. In this regard, please recall that Tribal Fish and Game personnel inspected and approved the land clearing in this area that was done approximately two years ago. I believe that you and Craig Chute were also involved in the inspection of that work.

We also discussed the need for the BIA to complete the 'power loop' necessary to bring in the additional power required by our development and other power users on the California side of the River. You stated that this was in progress and its completion was anticipated in the near future. Obviously, this is essential to fully develop our facility.

DEPOSITION
EXHIBIT

93

Jennison 2/2-1/08

Exh. 93

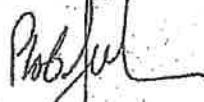
You requested that I follow the following steps to expedite construction:

1. Contact Mr. Eric Shepherd (Attorney General, Colorado River Indian Tribes) to complete and legal documentation.
2. Contact Tribal Building and Safety Department for land clearing permit and electrical permits. I did call Ambrose Howard, Jr. on Friday, September 2, 2005. Mr. Howard stated that he was not aware of any change of Tribal policy on this development. He took no action and told me to contact T. J. Laffoon.
3. Contact T.J. Laffoon (Realty Services) for recognition letter to the Army Corp of Engineers for Playa del Rio Resort.
4. Obtain a density land permit from NEPA.

We are available to discuss any issue to expedite the development of Playa del Rio Resort. You may rest assured that everyone involved will have our full and immediate cooperation on all aspects of this important project. We will apply for the above requested permits this week. We would like to have the first electrical equipment, which is already installed inspected, approved and energized this week. If you would discuss this with Mr. Howard and the Tribal Realty Services Manager immediately it would be greatly appreciated.

Please have Mr. Shepherd contact us at his earliest convenience to discuss completion of any necessary legal documentation.

Sincerely,



Bob Johnson
Playa del Rio Resort

Cc: T.J. Laffoon
Eric Shepherd, Esq.
Bill Tuttle
Tim Moore

EXHIBIT B



Colorado River Indian Tribes
Resource and Development
Lease Agreement No. B-468-CR

April 6, 1989

Water Wheel Resort at the present has 139 permanent trailer sites, 34 over night sites, and 100 camping sites.

We are proposing to change our 34 over night trailer sites to permanent trailer sites plus adding 13 more sites.

To do this we will need to reduce the water, electric, and sewer of our 34 over night trailer sites. Develop remaining leased land approximate 8 acres. And eliminate camping sites.

Accompanying this proposal are three plans:

1. Existing plan as the park is today.
2. Proposal of improvements.
3. Master site plan.

ELECTRIC: Electricity for the park is provided by Southern California Edison.

WATER: The park has two wells; one pumps 150 gallons per minute; the other, 300 gallons per minute. With additional trailers we will install another 300 gallon per minute well.

SEWAGE: The park has four evaporation ponds. For the past ten years we have pumped into one pond for six months and have maintained three dry ponds. The addition of 47 more trailers should not have any affect on our ponds. During the summer month we have had to add fresh water to our ponds to maintain a constant water level.

No anticipated density changes will occur the end result will be an addition of 47 permanent trailer sites. We are eliminating 34 over night sites, and 100 camping sites.

Page 2

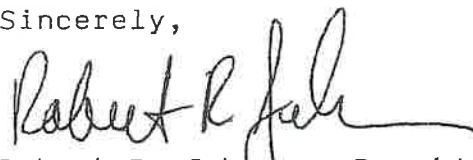
Water Wheel Resort is operated as a weekend, vacation resort. During our busy season April thru October our permanent trailer park has a 25% occupancy and our over night trailer sites and camping has a 50% occupancy. By changing to a permanent trailer park we will decrease the amount of people that are in the park at peak times. But, increase the gross receipts because permanent trailers spaces pay all year.

Our existing lease requires us to maximize the leased property to its full potential. And also states that the lessee agrees that, at all times during the term of this lease, it will diligently attempt to keep the leased premises and all part thereof actively used.

With the completion of our master plan we will have maximized the leased property to its fullest potential to insure the Tribe's maximum income.

Anxiously awaiting your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Johnson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert R. Johnson, President
Water Wheel Resort, INC.
(619) 922-3863

EXHIBIT C



Water Wheel Recreational Area, Inc.

BOX 2900, PARKER STAR RT. - BLYTHE, CALIFORNIA 92225

(714) 922-3863

AUG 12 1983

August 11, 1983



Mrs. Donna J. McCurdy
Bureau of Indian Affairs
Colorado River Agency
Route 1, Box 9-C
Parker, Arizona 85344

Dear Mrs McCurdy,

As you know, our percentage lease payment for the lease year ended July 7, 1983 is now due. Our minimum lease payment for the year was made on July 5, 1983 as per our lease. Enclosed is the percentage calculation statement for the year. Unfortunately, because of the River being closed, we do not have the money to pay the entire amount. Since our lease provides for 10% interest on unpaid amounts, we have calculated interest through August 15. The check enclosed is for all the interest thru August 15 and \$1000.00 on the total due. Because it is beginning to look like the River will be closed all summer, we probably will not be able to pay more than \$1000.00 plus the interest each month.

The summer, of course, is our busiest time. In a normal year, we just about break even from October thru March, and the money we make in April and May is used to make note payments to former owners. Generally, the months of June and July, particularly the fourth of July, provide the money to pay the tribe. This year the River was closed on June 21. We have done our best to get the River open, including many phone calls to the Coast Guard and phone calls and trips to the Riverside County Board of Supervisors, so we could make our payment. Now the tribe has apparently determined that erosion is so severe that we will not be able to attract people to Water Wheel until the water recedes, possibly not until the first of the year. Incidentally, we are not sure of the impact this will have on winter visitors, many of whom bring small fishing boats with them.

We hope you and the tribal council understand our predicament and will bear with us until we pay the total amount of percentage rental now due.

Respectively,

cc: Harry Laffon Tribal Council
Attachment

Fredrick E. Rose
Robert R. Johnson

EXHIBIT D

COLORADO RIVER INDIAN TRIBES
DEPARTMENT OF REVENUE AND FINANCE

Business License

2004

LICENSE NO.
BL-00052-04

BUSINESS NAME: Water Wheel Resort
OPERATOR'S NAME: Robert Ray Johnson
BUSINESS ADDRESS: 29630 Highway 95 Blythe, CA 92225
TYPE OF BUSINESS: Private Mobile Home Resort

Date Valid: October 26, 2004

Date Expires: December 31, 2004



Issuing Official

ANNUAL



POST THIS LICENSE IN A CONSPICUOUS PLACE

EXHIBIT E

COLORADO RIVER INDIAN TRIBES
DEPARTMENT OF REVENUE AND FINANCE

Business License

2006

**LICENSE NO.
BL-00052-04**

BUSINESS NAME: Water Wheel Resort
OPERATOR'S NAME: Robert R. Johnson
BUSINESS ADDRESS: 29630 Hwy 95, Blythe, California 92225
TYPE OF BUSINESS: Private Mobile Home Resort

Date Valid: February 7, 2006

Date Expires: December 31, 2006

R. Johnson
Issuing Official

ANNUAL



POST THIS LICENSE IN A CONSPICUOUS PLACE

EXHIBIT F



COLORADO RIVER INDIAN TRIBES
DEPARTMENT OF REVENUE AND FINANCE
 1000 WEST AGENCY ROAD, PARKER ARIZONA 85301
 COLORADO RIVER INDIAN RESERVATION
 PH (928) 669-2711 FAX (928) 669-5891



APPLICATION FOR BUSINESS LICENSE

Note: Application must be filled-in completely or it will be returned to applicant and will cause a delay in issuing license.

DATE: 10-20-04 CRIT LEASE/CONTRACT NO. (if applicable): _____
 LEGAL BUSINESS NAME/OWNER: WATER WHEEL RESORT, INC
 TRADE OR "DOING BUSINESS AS" NAME: WATER WHEEL RESORT
 PHYSICAL BUSINESS LOCATION/ADDRESS: 29630 HWY 95 BUTTE, CA 92225
 MAILING ADDRESS: 29630 HWY 95 BUTTE, CA TEL NO. 760-922-3863
 FAX NO. 760-922-8299

DESCRIBE THE TYPE OF BUSINESS TO BE CONDUCTED: PRIVATE MOBILE HOME RESORT

DOES YOUR BUSINESS SELL? TOBACCO ALCOHOL

TYPE OF ENTITY: SOLE PROPRIETORSHIP CORPORATION
 PARTNERSHIP LIMITED PARTNERSHIP
 LIMITED LIABILITY CORPORATION UNINCORPORATED ASSOCIATION
 OTHER (specify) _____

IF A CORPORATION, NAME STATE (if applicable) WHERE INCORPORATED: CALIFORNIA

REASON FOR APPLYING: STARTED NEW BUSINESS PURCHASED GOING BUSINESS

RENEWAL OF LICENSE

CHANGED TYPE OF ORGANIZATION (specify) _____

OTHER (specify) _____

DATE BUSINESS STARTED/ACQUIRED: 1970

IF PURCHASED GOING BUSINESS, NAME OF FORMER OWNER: _____

NAME AND ADDRESS OF AGENT WHO WILL ACCEPT PROCESS ON BEHALF OF THE BUSINESS: BOB JOHNSON
29630 HWY 95 BUTTE, CA 92225

ARE YOU A TRIBAL MEMBER? YES NO RESERVATION RESIDENT? YES

IF YES, ENROLLMENT NO. _____

IDENTIFICATION OF OWNER (AND SPOUSE IF MARRIED) PARTNERS, CORPORATE OFFICERS, MEMBERS (OR MANAGING MEMBERS) OR OFFICIALS:

Name (Last, First, MI)	SSN	%Owned	Residence Address	Phone Number
JOHNSON ROBERT R	552-64-9706	100%	29630 HWY 95 BUTTE CA 92225	760-922-3863

I AM REQUESTING THE FOLLOWING TYPE OF LICENSE: (check only one)

TEMPORARY - ENGAGED IN BUSINESS FOUR (4) DAYS OR LESS FEE: \$ 25.00
(Applicant must indicate date (month, day and year) business is to commence)
Date _____, 20__.

SEASONAL - ENGAGED IN BUSINESS FOR MORE THAN FOUR (4) DAYS BUT LESS THAN THREE (3) MONTHS. FEE: \$ 60.00
(Applicant must indicate date (month, day and year) business is to commence)
Date _____, 20__.

ANNUAL - ENGAGED IN BUSINESS EXCEEDING 3 MONTHS. FEE: \$100.00
(Expires December 31st of each year)

BY SIGNING BELOW, I UNDERSTAND AND AGREE TO THE FOLLOWING CONDITIONS OF LICENSE:

Each licensee shall comply with all tribal laws, including but not limited to: tribal tax laws, Indian employment and contracting preference laws and applicable federal law. The licensee is required to comply with any additional tribal laws as such laws are enacted by the Tribal Council.

Each licensee consents to the jurisdiction of the Tribal Court as to any cause of action arising in connection with the transaction of any business within the reservation, or any tortious acts committed in connection with the transaction of any business within the reservation. Each licensee consents to the service of process of the Tribal Court with respect to all actions over which the Tribal Court has subject matter jurisdiction, in accordance with the rules of procedure of the Tribal Court.

Each licensee shall respond in a timely manner to requests by the Department of Revenue and Finance for information about the licensee's business for the purpose of establishing whether the licensee is in compliance with the terms of the Business and Professions Code.

The Director of the Department of Revenue and Finance or his designee shall have the authority to assess penalties and costs of collection, and issue notices of violation of the Business and Professions Code. The notice shall be the final decision of the Director. Any appeal shall be taken in accordance with the rules of the Tribal Court.

I DECLARE THAT I HAVE EXAMINED THIS APPLICATION AND THE INFORMATION CONTAINED HEREIN AND TO THE BEST OF MY KNOWLEDGE AND BELIEF, IT IS TRUE AND CORRECT. I SWEAR OR AFFIRM THAT I WILL COMPLY WITH ALL TRIBAL LAWS APPLICABLE TO MY BUSINESS AND CONSENT TO THE JURISDICTION OF THE TRIBAL COURT OF THE COLORADO RIVER INDIAN TRIBES AND SERVICE OF PROCESS IN MATTERS ARISING FROM THE CONDUCT OF BUSINESS.

Signature: [Signature] Date: 10-26-04

Print Name: R.R. JOHNSON

AGENT FOR SERVICE OF PROCESS:
Signature: [Signature] Date: 10-26-04

Please make check/money order payable to "CRIT Department of Revenue and Finance" NO CASH ACCEPTED

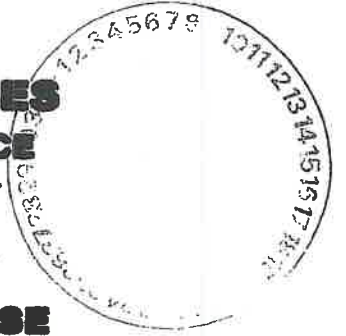
FOR OFFICIAL USE ONLY		
FEE PAID: <u>100</u>	BUSINESS LICENSE NO. <u>BL-00052-04</u>	DATE ISSUED <u>10/26/04</u>
CHECK/MO NO. <u>10265</u>		DATE EXPIRES <u>12/31/04</u>
APPROVED BY <u>[Signature]</u>		DATE <u>10/26/04</u>

EXHIBIT G



COLORADO RIVER INDIAN TRIBES DEPARTMENT OF REVENUE AND FINANCE

1000 WEST AGENCY ROAD, PARKER ARIZONA 85344
COLORADO RIVER INDIAN RESERVATION
PH (928) 669-2711 FAX (928) 669-8891



APPLICATION FOR BUSINESS LICENSE

For Calendar Year _____

Note: Application must be filled-in completely or it will be returned to applicant and will cause a delay in issuing license.

DATE: 1-30-06 CRIT LEASE/CONTRACT NO. (if applicable): _____

LEGAL BUSINESS NAME/OWNER: WATER WHEEL CAMP RECREATION AREA INC.

TRADE OR "DOING BUSINESS AS" NAME: WATER WHEEL RESORT

PHYSICAL BUSINESS LOCATION/ADDRESS: 28630 HWY 95 25 MILES N. OF BLUETTE

MAILING ADDRESS: 28630 HWY 95 TEL. NO. _____
BLUETTE, CA 90225 FAX NO. _____

DESCRIBE THE TYPE OF BUSINESS TO BE CONDUCTED: PRIVATE MOBILE HOME RESORT

DOES YOUR BUSINESS SELL? TOBACCO ALCOHOL

TYPE OF ENTITY: () SOLE PROPRIETORSHIP () PARTNERSHIP () LIMITED LIABILITY CORPORATION
() LIMITED PARTNERSHIP CORPORATION () UNINCORPORATED ASSOCIATION
() LIMITED LIABILITY PARTNERSHIP
() OTHER (specify) _____

IF A CORPORATION, NAME STATE (if applicable) WHERE INCORPORATED: CALIFORNIA

REASON FOR APPLYING: () STARTED NEW BUSINESS () PURCHASED GOING BUSINESS RENEWAL OF LICENSE
() CHANGED TYPE OF ORGANIZATION (specify) _____
() OTHER (specify) _____

DATE BUSINESS STARTED/ACQUIRED 1970

IF PURCHASED GOING BUSINESS, NAME OF FORMER OWNER: _____

NAME AND ADDRESS OF AGENT WHO WILL ACCEPT PROCESS ON BEHALF OF THE BUSINESS: ROBERT R. JOHNSON

ARE YOU A TRIBAL MEMBER? () YES NO RESERVATION RESIDENT? YES
IF YES, ENROLLMENT NO. _____

I AM REQUESTING THE FOLLOWING TYPE OF LICENSE: (check only one)

TEMPORARY - ENGAGED IN BUSINESS FOUR (4) DAYS OR LESS (Applicant must indicate date (month, day and year) business is to commence) Date _____, 20____. FEE: \$ 25.00

SEASONAL - ENGAGED IN BUSINESS MORE THAN FOUR (4) DAYS BUT LESS THAN THREE (3) MONTHS. FEE: \$ 50.00
(Applicant must indicate date (month, day and year) business is to commence)
Date _____, 20____.

ANNUAL - ENGAGED IN BUSINESS EXCEEDING 3 MONTHS. FOR CALENDAR YEAR _____ FEE: \$100.00
(Expires December 31st of each year)

BUSINESS LICENSE APPLICATION CONT'D

IDENTIFICATION OF OWNER (S) (AND SPOUSE IF MARRIED) PARTNERS, CORPORATE OFFICERS, MEMBERS (OR MANAGING MEMBERS) OR OFFICIALS:

Name (Last, First, MI)	SSN	%Owned	Residence Address	Phone Number
JOHNSON ROBERT R.		100%	29620 Hill 95 PLUMTHE, CA 90225	7609223863

BY SIGNING BELOW, I UNDERSTAND AND AGREE TO THE FOLLOWING CONDITIONS OF LICENSE:

Each licensee shall comply with all tribal laws, including but not limited to: tribal tax laws, Indian employment and contracting preference laws and applicable federal law. The licensee is required to comply with any additional tribal laws as such laws are enacted by the Tribal Council.

Each licensee consents to the jurisdiction of the Tribal Court as to any cause of action arising in connection with the transaction of any business within the reservation, or any tortious acts committed in connection with the transaction of any business within the reservation. Each licensee consents to the service of process of the Tribal Court with respect to all actions over which the Tribal Court has subject matter jurisdiction, in accordance with the rules of procedure of the Tribal Court.

Each licensee shall respond in a timely manner to requests by the Department of Revenue and Finance for information about the licensee's business for the purposes of establishing whether the licensee is in compliance with the terms of the Business and Professions Code.

The Director of the Department of Revenue and Finance or his designee shall have the authority to assess penalties and costs of collection, and issue notices of violation of the Business and Professions Code. The notice shall be the final decision of the Director. Any appeal shall be taken in accordance with the rules of the Tribal Court.

I DECLARE THAT I HAVE EXAMINED THIS APPLICATION AND THE INFORMATION CONTAINED HEREIN AND TO THE BEST OF MY KNOWLEDGE AND BELIEF, IT IS TRUE AND CORRECT. I SWEAR OR AFFIRM THAT I WILL COMPLY WITH ALL TRIBAL LAWS APPLICABLE TO MY BUSINESS AND CONSENT TO THE JURISDICTION OF THE TRIBAL COURT OF THE COLORADO RIVER INDIAN TRIBES AND SERVICE OF PROCESS IN MATTERS ARISING FROM THE CONDUCT OF BUSINESS.

Signature: Robert R. Johnson Date: 1-30-06

Print Name: ROBERT R. JOHNSON

AGENT FOR SERVICE OF PROCESS
Signature: Robert R. Johnson Date: 1-30-06

Please make check/money order payable to "CRIT Department of Revenue and Finance" NO CASH ACCEPTED

FOR OFFICIAL USE ONLY			
FEE PAID: <u>1029</u>	BUSINESS LICENSE NO. <u>BL 00052-04</u>	DATE ISSUED <u>2-7-06</u>	
CHECK/MO NO. <u>17328</u>	RECEIPT NO. <u>RF-1231</u>	DATE EXPIRES <u>12-31-06</u>	
APPROVED BY <u>Deanne Pater</u>		DATE <u>2-7-06</u>	

EXHIBIT H

GENERAL PROVISIONS

LAW AND ORDER CODE

ARTICLE I

GENERAL PROVISIONS

[NOTE: Except as otherwise noted, the provisions of Article I of the Law and Order Code were enacted on June 22, 1974 by Ordinance No. 26.]

CHAPTER A. JURISDICTION

Section 101. Personal Jurisdiction.

Subject to any limitations, restrictions or exceptions imposed by or under the authority of the Constitution or laws of the United States, or by the Constitution or By-Laws of the Tribes, or by ordinances of the Tribes, or by express provisions elsewhere in this Code, the courts of the Tribes shall have civil and criminal jurisdiction over the following persons:

a. Any person residing, located or present within the Reservation for:

(1) any civil cause of action; or

(2) any charge of criminal offense prohibited by this Code or ordinances of the Tribes when the offense alleged to have occurred within the Reservation.

b. Any person who transacts, conducts or performs any business or activity within the Reservation, either in person or by an agent or representative, for any civil cause of action or charge of criminal offense prohibited by this Code or ordinances of the Tribes arising from such business or activity.

c. Any person who owns, uses or possesses any property within the Reservation, for any civil cause of action or charge of criminal offense prohibited by this Code or ordinances of the Tribes arising from such ownership, use or possession.

d. Any person who commits a tortious act or engages in tortious conduct within the reservation, either in person or by an agent or representative, for any civil cause or action arising from such act or conduct.

e. Any person who commits a criminal offense prohibited by this Code or ordinances of the Tribes, by his own conduct or the conduct of another for which he is legally accountable, if:

(1) The conduct occurs either wholly or partly within the Reservation; or

(2) The conduct which occurs outside the Reservation constitutes an attempt, solicitation, or conspiracy to commit an offense within the Reservation, and an act in furtherance of the attempt or conspiracy occurs within the Reservation; or

(3) The conduct which occurs outside the Reservation constitutes an attempt, solicitation, or conspiracy to commit in another jurisdiction an offense prohibited by this Code or ordinances of the Tribes and such other jurisdiction.

None of the foregoing bases of jurisdiction is exclusive, and jurisdiction over a person may be established upon anyone or more of them as applicable.

Subject to the provisions of Section 102, nothing contained within this Code shall be deemed to constitute a waiver or renunciation of the sovereign immunity of the Tribes to suit, which immunity is hereby reaffirmed.

Section 102. Subject Matter Jurisdiction.

A. Notwithstanding any other provision of law, for purpose of this section, the term "Person" shall mean any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, a state of the United States, any county, city, municipality, district, or other political subdivision of a state, or any other group or combination acting as a unit but does not include the Colorado River Indian Tribes, any of its enterprises or subdivisions or any of its officers, agents or employees while acting in their official capacity.

B. Subject to any limitations, restrictions or exceptions imposed by or under the authority of the Constitution or laws of the United States, or by the Constitution or Bylaws of the Tribes, or by the ordinances or codes of the Tribes, or by express provision elsewhere in this Code, the courts of the Tribes shall have jurisdiction over all civil causes of action and over all controversies between any persons. Subject to the same limitations, restrictions or exceptions, the courts of the Tribes shall have criminal jurisdiction over all offenses prohibited by ordinances or codes of the Tribes.

C. The courts of the Tribes shall have jurisdiction to determine any claim of violation of Section 202 of Title II, P.L. 90-284 (82 Stat. 77) enacted by the Congress of the United States on April 11, 1968, the Constitution or Bylaws of the Tribes, or of any ordinances or codes of the Tribes and to grant appropriate relief for injustice or deprivation resulting directly and exclusively from such violation only upon an express and effective waiver of the Tribe's sovereign immunity from unconsented suit.

D. No action brought against the Tribes under this section shall be brought in the name of an enterprise, subdivision, agent or elected official of the Tribe but shall be brought in the name of the Colorado River Indian Tribes.

E. Service of process in any action brought against the Tribes shall be individually made both on the Chairman of the Colorado River Indian Tribes and the Tribal Attorney of the Colorado River Indian Tribes. Notwithstanding any other provision of law, service made in any other manner on the Tribe will be invalid and ineffective.

F. Nothing contained in subsection (C) shall be deemed to constitute a waiver or renunciation of the sovereign immunity of the Tribes for any purpose.
[As Amended December 13, 1985, Ord. No. 85-6.]

Section 103. Concurrent Jurisdiction.

The jurisdiction invoked by this Code over any person, cause or subject shall be concurrent with any valid jurisdiction over the same of the courts of the United States, any state, or any political subdivision thereof; provided, however, this Code does not recognize, grant, or cede jurisdiction to any other political or governmental entity which jurisdiction does not otherwise exist in law.

CHAPTER B. ADMINISTRATIVE PROVISIONS

Section 104. Definitions and Construction.

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk for the Court of the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on May 21, 2010.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage pre-paid, to the following non-CM/ECF participants:

Michael Leland Frame
Law Office of Michael Frame
1308 Joshua Avenue
Parker, AZ 85344

Richard Timothy Moore
Law Offices of Tim Moore
707 Torrance Blvd., Suite 2200
Redondo Beach, CA 90277

Dated: May 21, 2010

/s/Natalia Thurston
NATALIA THURSTON