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Via UPS Overnight and Facsimile 928-669-9223  
The Honorable Lawrence C. King  
Colorado River Indian Tribes Tribal Court

RE: CRIT v. French, Case No. CV-CO- 2010-0090/The Impact of Water Wheel v. LaRance

Dear Judge King:

The land upon which Defendant French ("Defendant") resides is not Tribal land. Accordingly, this Court has no jurisdiction over Defendant. That is the key and now only real issue in this case given the recent ruling in *Water Wheel Camp Recreation Area v. LaRance*.

CRIT has alleged under oath in ¶7 of its Verified Complaint that it has inherent authority over Defendant. *Water Wheel* makes clear that a condition precedent to the Plaintiff having inherent authority over Defendant is that the land at issue is Tribal land. That is, "the Tribe has regulatory jurisdiction through its inherent authority to exclude, independent from the power recognized in *Montana v. United States*, 450 U.S. 544 (1981)." The *Water Wheel Court* found that earlier rulings by the lower District Court and CRIT tribal courts basing their decisions on *Montana* were not correctly addressed. Indeed, the *Water Wheel Court* criticized these courts for "... applying *Montana* unnecessarily." (*Id.* at 8030-8031, FN 4).

The holdings in *Water Wheel* require that for this Court to sustain Plaintiff's contention of inherent authority over Defendant, this Court can only so conclude if this Court finds that the land at issue is Tribal land. Necessarily by the contested, affirmative claims of Plaintiff so alleging and by the issues raised in the Declaratory Relief Cause of Action, and the defenses thereunder, which require all necessary findings to support the rulings of the trial court to be explicitly made, this Court must address the issue of whether the land at issue is Tribal land. The *Water Wheel* case so directs. The *Water Wheel* case holds that a *Montana* analysis and a *Montana* basis for jurisdiction only arises if the land at issue is not Tribal land. Accordingly, under *Water Wheel* any finding by this Court of jurisdiction based upon a *Montana* analysis necessarily requires first a finding that the land at issue is not Tribal land.

The only competent evidence before this Court is that the land is not Tribal land, as asserted by both Defendant and the State of California still today. (See September 12, 2008 Letter of Andrea Hoch, Legal Affairs Secretary to the Governor of California.) The evidence presented through the Declaration of Rob Holt is un rebutted in the record. CRIT has presented no competent evidence to establish the land to be Tribal land. Unrebutted in the record is the fact that CRIT is equitably estopped by its own admissions and positions in the *Aranson* case that the Executive Order of 1876, which established the CRIT Reservation and which is at issue here, used a riparian boundary to determine the reservation's western limits. By the admitted use in *Aranson* of a riparian boundary and an interpretation of the 1876 Order exactly the same as Defendant in this case, CRIT successfully obtained land in the southern section of the area described in the 1876 Order. CRIT does not deny and thus admits the southern section of the 1876 lands at issue utilizes a riparian boundary. No justification or evidence has ever

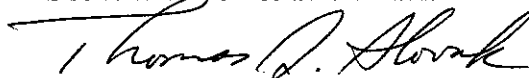
been presented by CRIT to overcome the necessary conclusion the western boundary at issue is also riparian in the northern part of the described area where Defendant's property is located. Therefore, Plaintiff's Motion for Summary Judgment must be denied. With such a finding, Defendant respectfully submits that this Court should dismiss Plaintiff's case on its own motion. At a minimum, trial on this issue must occur.

*Water Wheel* confirms again that a tribe's overall power including the power to exclude is governed and limited by Congressional intent. Public Law 88-302 makes clear the intent of Congress that absent further legislation or legal adjudication, the West Bank Lands including the subject property, are not determined to be Tribal lands. Plaintiff has admitted that the West Bank lands have not been determined to be Tribal Land in the March 2, 2009 letter from CRIT Attorney General Eric Shepard to Andrea Hoch. Thus, the proper result of the *Water Wheel* holdings is to conclude that this Court necessarily can, must and should finally rule on the issue of whether the land is Tribal land, so that through the legal process this matter may be conclusively put to rest.

At a minimum, the *Water Wheel* case and its cited holdings support Defendant's position that the 1969 Secretarial Order is void and that CRIT's attempt to assert a "*Montana theory of jurisdiction*" under the permits cannot survive. The unrebutted evidence in the record is that the 1969 Secretarial Order pursuant to which the permits were issued violates the express restrictions of Congress set forth in Public Law 88-302. Furthermore, the 1969 Secretarial Order was nullified by the 1983 Ninth Circuit Court of Appeals ruling in *Aranson*. Accordingly, any assertion of jurisdiction over Defendant based thereon, i.e. a *Montana* argument, cannot be upheld as the Tribe's power has been expressly limited by this Congressional statute. It is only if PL 88-302 is ignored can a finding of "*Montana jurisdiction*" on non-Tribal land be found. The law does not allow such a result.

The *Water Wheel* court emphasized "...the importance the Supreme Court has placed on land ownership in deciding questions of civil jurisdiction." *Id. at 8030*. CRIT has no land ownership and here CRIT has no similar consensual relationship to that of the *Water Wheel* defendant. Neither prong of *Montana*, as outlined at pp. 8029-8030 by the *Water Wheel* court, applies to Defendant. The land at issue is not "owned by the tribe within its reservation" and no actual revenues are at stake as Defendant's activities do not and cannot "interfere with the Tribe's ability to manage its own land", as the land is not CRIT's. In the end, the only threat to CRIT's political integrity is if CRIT is allowed to continue its knowingly false assertion that the subject property is tribal land. It is not! History and all notions of justice tell us that only a ruling against CRIT will maintain CRIT's political integrity. For the reasons discussed herein and others already cited in the record, Defendant French respectfully submits CRIT's motion for summary judgment must be denied and in so ruling respectfully requests that this Court signal its intent to finally reverse an injustice that no court should let stand.

Respectfully submitted,  
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