

1 Roger French  
2 (appearing pro se)  
3 18001 Cowan, Ste. J  
4 Irvine, CA 92614  
5 Tel: (949) 697-3246  
6 Email: rvrrat3@cox.net

7  
8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF ARIZONA**  
10

11 ROGER FRENCH,

12 Plaintiff,

13 vs.

14 KARLA STARR; et al

15 Defendants.  
16

) Case No. CV-13-02153-JTT

)

) **PLAINTIFF’S OPPOSITION TO**  
) **DEFENDANTS’ MOTION FOR**  
) **SUMMARY JUDGMENT AND**  
) **NOTICE OF MOTION AND**  
) **MOTION FOR SUMMARY**  
) **JUDGMENT; COMBINED**  
) **OPENING/OPPOSITION BRIEF**

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12	<i>McDonald v. Means</i> , 309 F.3d 530, 541 (9 <sup>th</sup> Cir. 2002).....	16
13	<i>Montana v. U.S.</i> (1981) 450 U.S. 544 .....	passim
14	<i>National Farmers Union Ins. Co. v. Crow Tribe</i> , 471 U.S. 845, 853	
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21	<i>Turley v. Eddy</i> , Fed.Appx. 934, 2003 WL 21675511 (9 <sup>th</sup> Cir. July 16,	
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5 COHEN’S HANDBOOK OF FEDERAL INDIAN LAW §4.02[3][c] at

6 241(Neil Jessup Newton ed.,2012)..... 10

7 WILLIAM CANBY, JR., AMERICAN INDIAN LAW IN A NUTSHELL, 5<sup>th</sup>

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9 Witkin Summary of California Law 10<sup>th</sup> Ed. Pgs. 284-85 §256 and §257

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**NOTICE OF MOTION AND MOTION**

TO DEFENDANTS KARLA STARR, et al.:

NOTICE IS HEREBY GIVEN that Plaintiff Roger French will and hereby does move the Court for an order granting Plaintiff summary judgment on all of the claims set forth in Plaintiff's Complaint for Declaratory and Injunctive Relief (Amended) (ECF No. 6) ("First Amended Complaint"). This motion is brought pursuant to Federal Rules of Civil Procedure Rule 56 and Local Rules 56.1 and 56.2 on the grounds that there is no genuine issue of material fact presented by Defendants Joint Motion for Summary Judgment (Opening Brief), Defendants Joint Separate Statement of Facts in Support of Summary Judgment, and Defendants' Request for Judicial Notice, (ECF Nos. 48, 54-57).

This motion is based upon this Notice of Motion and Motion, Plaintiff's Complaint for Declaratory and Injunctive Relief (Amended) ("First Amended Complaint"), Plaintiff's Combined Opening/Opposition Brief, Plaintiff's Separate Statement of Facts in Support of Motion for Summary Judgment, pleadings and papers on file herein, and upon such other matters as may be presented to the Court prior to submission of the motion.

## INTRODUCTION

### I. Context of the Case

It would appear that this case is merely about an Indian tribe's assertions of authority over an individual who has refused to pay rent for the use of reservation land over many years. Indeed, the Colorado River Indian Tribes (CRIT) wish to reduce this matter to such a simple discourse.

But the reality is that this case is about CRIT establishing control over an entire disputed area where to date, CRIT runs from addressing the premises upon which it alleges authority over Roger French and hundreds of other similarly situated non-tribal member citizens. This case is about CRIT's improper use of its Tribal Court system to assert jurisdiction, while avoiding a hearing on the very issues upon which jurisdiction is asserted. In so doing, CRIT seeks to perpetuate a misrepresentation to this Court and to all others by its claims that the courts have determined that the "Western Boundary lands" are indeed tribal land and that the boundary dispute was resolved years ago. This case is about CRIT's attempt to stifle efforts by anyone challenging its claim that the reservation's western boundary has been finally determined. It is about using selected facts to support its claims, while ignoring relevant and compelling facts to the contrary. It is about eliminating the West Bank Homeowners Association, an entity formed to address these issues and preserve the rights of the affected residents in the disputed area.

The Tribes' motivation appears to be securing a trust patent for the western boundary land, which would then allow them to build an Indian casino in spite of the stated objections of the State of California. (See SOF, ¶ 16)

This eviction action is against Roger French, President of the West Bank Homeowners Association ("WBHA"). What better way for CRIT to intimidate WBHA members than to use its court system to both banish the organization's president from the area while simultaneously confiscating his home and imposing huge damage awards against him? What better way to coerce the families of 200 permittees to sign new leases that include tribal jurisdiction? And if the residents don't consent to tribal jurisdiction and CRIT's

1 sovereign immunity, CRIT simply forces them from their homes, even though many have  
2 been on the land for three and sometimes four generations, long before the United States  
3 government even suggested that it might be Indian land.

4 But it is no matter to CRIT, as they have shown nothing but hostility and contempt for  
5 West Bank residents since the infamous 1969 Secretarial Order. CRIT's hostility was  
6 clearly demonstrated by the 2011 ejection of the Blythe Boat Club which had claims to  
7 their property back to 1947 (*Colorado River Indian Tribes v. Blythe Boat Club*), of Red  
8 Rooster where CRIT burned down 27 mobile homes in that 2000 eviction, of Paradise Point  
9 where CRIT destroyed the electrical service to 22 homes in 2001 (*Turley v. Eddy*,  
10 *Fed.Appx. 934, 2003 WL 21675511 (9th Cir. July 16, 2003)*), of Ron Jones in 2010 where  
11 CRIT confiscated his boat then later his mobile home (*West Bank Homeowners*  
12 *Association v. County of Riverside, Riverside County Sheriff's Department: Sheriff Stanley*  
13 *Sniff*), and of Robert Johnson who built them a beautiful multi-million dollar resort only to  
14 find himself now without a business and in financial ruin (*Water Wheel Recreational Area,*  
15 *Inc. v. La Rance, 642 F.3d 802 (9th Cir. 2011)*).

16 Unfortunately for the residents, none of the previous cases could steer clear of tribal  
17 sovereign immunity in order to have the disputed western boundary issue considered. In  
18 this case, for the first time, in a proceeding filed by CRIT, CRIT and Defendants have  
19 raised the boundary dispute issue directly by their conduct in finding for tribal jurisdiction  
20 over French on the basis of inherent authority (which can only exist if the land is  
21 conclusively tribal land), and that CRIT is entitled to declaratory relief. CRIT and  
22 Defendants assert that because the dispute has been resolved, the land in question is tribal  
23 land. French has challenged these claims and affirmatively asserts that the tribal court has  
24 no jurisdiction over him as a non-tribal member, providing clear evidence that the boundary  
25 dispute has not been resolved and as a result, a congressional statute, PL88-302, (Act of  
26 April 30, 1964, Public Law 88-302, 78 Stat. 188) specifically precludes CRIT jurisdiction  
27 over him.

## 28 **II. French's History with the West Bank Homeowners Association**



1 French took a position on the board of directors of the West Bank Homeowners  
2 Association in 2001, assuming the role of President in 2003. It was a daunting task, but  
3 French felt that the task of saving the homes of hundreds of families was a just and worthy  
4 cause, knowing full well the difficulties that would lie ahead.

5 Considering that the Permits were issued and administered by the Bureau of Indian  
6 Affairs (BIA) under the Secretary of the Interior, French and members of the WBHA  
7 attempted on several occasions to enlist the help of the BIA, the Secretary of Interior, and  
8 Congresswoman Mary Bono. *See* SOF ¶ 1, **Exhibit A**, p. E.R. 55-56. Neither the BIA nor  
9 the Congresswoman could get the Tribes to discuss possible solutions that would resolve  
10 the residents' concerns about the forfeiture of their constitutional rights under tribal  
11 jurisdiction, tribal sovereign immunity, and the Tribe's insistence on annual leases that  
12 could be terminated at any time without cause. Next, French attempted to work with  
13 members of Congress to provide a solution to the west bank situation via legislation that  
14 would allow CRIT to have rights to another casino on their reservation in Arizona adjacent  
15 to an interstate highway, while simultaneously establishing that the entire western boundary  
16 is indeed riparian in accordance with U.S. Supreme Court Special Master Frank McGarr's  
17 findings in *Arizona v. California*, 493 U.S. 886 (1989) [*Arizona III*], and *U.S. v. Aranson*,  
18 696 F.2d 654 (9<sup>th</sup> Cir.) *cert. denied* 464 U.S. 982 (1983). *See* SOF ¶¶ 3, 9. Although  
19 Congressional representatives were favorable to the proposal, CRIT rejected the offer.

### 20 **III. French's Permit**

21 French assumed an Assignment of Permit WB-129(R) from the United States  
22 Department of the Interior Bureau of Indian Affairs in 1983. The original Permit was  
23 issued in 1979 to Donald & Shirley Neatrour and described the lot as covering 79.5 feet by  
24 233 feet, 0.43 acres. *See* SOF ¶ 24. Although the Permit clearly lists the primary parties as  
25 the Neatrours' and the BIA, CRIT is listed as Permitter, which is further generally defined  
26 within the document as the property "caretaker". The Permit required rental payments be  
27 made to the BIA, defined remedies for default by the Secretary of the Interior, and set the  
28 terms between the Permittee and the Secretary of the Interior / BIA.

1 During the time of the transfer of the Permit to French, the Neatrours' and other local  
2 residents cautioned French about the dispute along the River, and how the rent had doubled  
3 that year. At the request of CRIT, the BIA continued to increase rents during the next 9  
4 years, finally reaching a 9 fold increase by 1992 (\$5.40 to \$45.00). The Permittees were  
5 horrified by the 1992 increase and began seeking legal advice. French continued to pay the  
6 1992 increase through 1994 and partially into 1995. During this period WBHA attorneys  
7 advised residents of the challenge to the western boundary by the State of California in the  
8 *Arizona v. California* litigation, including Special Master McGarr's finding that the  
9 boundary was riparian and that the disputed area was indeed outside the reservation.  
10 Convinced WBHA speculation of CRIT's motives for the recent exorbitant rental increases  
11 were most likely due to the impending Supreme Court ruling against them, French, like  
12 most other Permittees, decided to pay into the WBHA legal fund rather than pay the BIA.  
13 In 1996, the BIA cancelled French's Permit along with approximately 110 other family  
14 Permits. *See* SOF ¶ 25.

#### 15 **SUMMARY OF THE CRIT WESTERN BOUNDARY DISPUTE**

16 The dispute over the western boundary formally began with an order issued by  
17 Secretary of the Interior, Stewart L. Udall, on January 17, 1969, which purported to change  
18 the location and nature of a portion of the reservation's western boundary. The order  
19 effectively extended the reservation to include approximately 17 miles of riverfront land in  
20 California, taking in approximately 3400 acres. The Secretarial order dictated a change  
21 from a riparian boundary to a fixed line approximated by meander surveys done in 1879  
22 (Benson) and 1874 (Calloway). A complete description of the boundary dispute is provided  
23 by expert Holt. *See* SOF ¶ 1, **Exhibit A**, p. E.R.36-56.

24 The basis for the Secretarial Order began during *Arizona v. California*, 376 U.S. 340  
25 [*Arizona I*] with a comprehensive examination of the irrigable acreage within the CRIT  
26 reservation. Analysis revealed that avulsive actions had occurred in two horseshoe bends in  
27 the river that caused land previously in Arizona to become within California. The U.S.  
28 Supreme Court ruled that the reservation boundary did not change as a result of the avulsive

1 acts in accordance with the rules for riparian boundaries. Concurrently, CRIT and  
2 Congressman Morris K. Udall began efforts to acquire additional lands for the Reservation  
3 where the river possibly moved eastward naturally due to erosion and accretion. *See* SOF ¶  
4 17. *See also* SOF ¶ 18 & 19, **Exhibit P**.

#### 5 CRIT V. FRENCH

6 CRIT initiated an eviction action against French, starting with a Notice to Quit followed  
7 by a Complaint for Eviction and Damages in October, 2010 (*CRIT v French*). In January  
8 2011, CRIT filed a Motion for Summary Judgment. After discovery that included  
9 depositions and expert witness testimony on both sides, the Eviction portion of the action  
10 was heard by the CRIT Tribal Court on July 8, 2011. Subsequently a Minute Entry &  
11 Order was issued by the Court along with a Writ of Restitution on September 23, 2011.  
12 French honored the Writ of Restitution and left peaceably, albeit under protest, on October  
13 2, 2011. French also complied with the Tribal Court's warning that all realty improvements  
14 on the property were to remain undisturbed. *See* SOF ¶ 13.

15 The Damages & Attorney Fees portion of the action was heard during trial on December  
16 5, 2011. Subsequently, the Court issued a Minute Entry & Order on December 15, 2011,  
17 which, *inter alia*, awarded Plaintiff damages in the sum of \$53,851.31; interest on holdover  
18 rent in the sum of \$51,782.77; litigation costs and expenses in the sum of \$7,936.43; and  
19 attorney's fees in the sum of \$185,941.50. Interest at 12% was imposed on all sums until  
20 paid. French filed a timely appeal with the tribal appellate court on December 20, 2011.

21 After extensive briefing and a hearing on August 24, 2012, the CRIT Tribal Appellate  
22 Court issued its ruling on February 20, 2013, affirming the Tribal Court's rulings on  
23 summary judgment and "the resulting issuance and execution of the writ of restitution".  
24 Attorneys' fees were affirmed, but remanded to the Tribal Court for reexamination in light  
25 of guidelines outlined. Damages and prejudgment interest were reduced by recognizing a 3  
26 year statute of limitations. **Subject matter jurisdiction was affirmed based upon the**  
27 **power of exclusion and the consensual relationship prong of the *Montana* test.**  
28 (*Montana v. U.S.* (1981) 450 U.S. 544).

1 Each side filed a Petition for Rehearing. French's arguments included misapprehension  
 2 by the court on constitutional issues, due process violations, and denial of damage offsets  
 3 for realty improvements demanded by the Tribal court. *See* SOF ¶ 13. CRIT requested a  
 4 reconsideration of the award of attorneys' fees, and an increase in the statute of limitations  
 5 from 3 years to 6 years and nine months.

6 The Tribal Appellate Court responded with an "Opinion and Order (Corrected)" on July  
 7 30, 2013, incorporating both of CRIT's requests; affirming attorneys' fees without remand,  
 8 and increasing the statute of limitations. French's Petition for Rehearing was ignored  
 9 without comment.

### 10 **STANDARD OF REVIEW**

11 Federal courts have the authority to determine whether a tribal court has exceeded the  
 12 lawful limits of its jurisdiction. *National Farmers Union Ins. Co. v. Crow Tribe*, 471 U.S.  
 13 845, 853 (1985). Legal questions are reviewed de novo. *AT&T Corp v. Coeur d'Alene*  
 14 *Tribe*, 295 F.3d 899, 904 (9<sup>th</sup> Cir. 2002). Factual findings made by tribal courts are  
 15 reviewed for clear error. *FMC v. Shoshone-Bannock Tribes*, 905 F.2d 1311, 1313 (9<sup>th</sup> Cir.  
 16 1990).

17 Congress has authorized the leasing of property on Indian land, but approval by the  
 18 Secretary of the Interior is required. 25 U.S.C § 415 (a).

### 19 **ARGUMENT**

#### 20 **I. The Colorado River Indian Reservation's Western Boundary is in Dispute**

21 Even though the Tribal Courts found that the Property was indeed within the  
 22 Reservation, the Defendants cannot escape the reality of the existing dispute over a portion  
 23 of the CRIT reservation western boundary.

##### 24 **A. Western Boundary Dispute Is Defined Within an Act of Congress**

25 A congressional statute defines CRIT's western boundary disputed area and  
 26 prohibits Secretarial approval of leasing within that area. *See* SOF ¶1.

##### 27 **B. The U.S. Supreme Court Has Rejected the Secretarial Order**

28 Defendants' arguments that the Secretarial Order was a final determination of the

1 reservation western boundary have been rejected by the U.S. Supreme Court in *Arizona*  
 2 *v. California*, 460 U.S. 605, 636 (1983) [*Arizona II*]. See SOF ¶¶ 2-4

3 **C. The Ninth Circuit Court of Appeals Has Recognized the Boundary Dispute**

4 In *Turley v. Eddy*, 70 Fed. Appx. 934 (2003), a case involving CRIT self help  
 5 evictions of residents and WBHA members within the disputed area, the Ninth Circuit  
 6 Court of Appeals recognized the boundary dispute. See SOF ¶ 12.

7 **D. CRIT Has Recognized the Boundary Dispute**

8 CRIT fully acknowledged the western boundary dispute in a 1997 tribal ballot. See  
 9 SOF ¶ 8. CRIT recognized the boundary dispute by their signature on the 1999 *Arizona*  
 10 *III* Stipulated Settlement. See SOF ¶ 6. CRIT's Attorney General freely admitted the  
 11 dispute in a letter to the Governor of California. See SOF ¶ 7. CRIT as a Tribe  
 12 recognizes the dispute within their own Constitution. See SOF ¶ 5. Even the CRIT  
 13 Tribal Council Chairman admitted the boundary dispute. See SOF ¶ 11.

14 **E. Defendants Denial of a Boundary Dispute Does Not Change the Facts**

15 Necessary to the Tribal Courts' findings of jurisdiction is the need to deny the reality  
 16 of the CRIT western boundary dispute. This was exemplified during the Tribal  
 17 Appellate Court hearing. See SOF ¶ 14. From the Tribal Court Transcript:

18 JUDGE CLINTON: My question isn't whether or not they -- they took a  
 19 position with respect to whether there was a dispute. I'm just saying did you  
 20 introduce any evidence at trial that they knowingly and intentionally  
 misrepresented -- without knowing that their position was not [inaudible] basis  
 [inaudible]?

21 MR. FRENCH: Yes, sir. Yes, Your Honor.

22 JUDGE CLINTON: And what was that?

23 MR. FRENCH: The evidence included; as I stated before, the tribe's  
 24 signature on this Arizona versus California settlement in 1999; two, the  
 25 admission by the CRIT attorney general in a 2009 letter to the governor of  
 26 California, when they both recognized that the dispute was still existing in that  
 27 letter; and then the number three item is the statement by tribal council chairman  
 Elder Ennis in his deposition, all recognizing and admitting that the dispute still  
 exists.

28 JUDGE MOELLER: That the mere fact that parties like you dispute the  
 western boundary doesn't necessarily mean that it's been final -- hasn't been

1 finally resolved. Another way of putting this, there are people who still believe  
2 the Earth is flat. Does that mean that the fact that it's round has not been finally  
resolved?

3 MR. FRENCH: Well, apparently the state of California still believes the  
4 world is flat, Your Honor.

5 JUDGE MOELLER: That certain -- certain people in this country who  
would believe that that would be true.<sup>1</sup>

6 **F. The State of California Has Reminded CRIT of the Boundary Dispute**

7 In no uncertain terms, the California Governor's office rebuffed efforts by CRIT for  
8 a class III gaming operation by citing the boundary dispute. *See* SOF ¶ 15.

9 **II. CRIT Has Earlier Argued and Admitted A Riparian Boundary Governs The**  
10 **Nature of the Western Boundary**

11 Concurrent with the *AZ v CA* trilogy was *U.S. v. Aranson*, which is particularly relevant  
12 because it demonstrates the inconsistent positions CRIT has taken in federal court regarding  
13 the nature of the western boundary controlled by the same Executive Order of 1876. In  
14 *Aranson*, CRIT moved the court to quiet title to some 2,000 acres of land determined to be  
15 within the Reservation in *Arizona I*. That land, referred to as the "Olive Lake Cutoff", is  
16 currently in California but was separated from the reservation by an avulsive act in 1920.  
17 The district court ruled that in accordance with the riparian rules for accretion, erosion, and  
18 avulsion, the boundary did not change with the avulsive act. The Tribes prevailed on that  
19 issue. This inconsistent position was particularly cited by Special Master McGarr. *See*  
20 SOF ¶¶ 9, 10.

21 **III. Tribal Courts' Findings of Subject Matter Jurisdiction Based on Estoppel**  
22 **Are Rooted in a False Premise and Therefore in Error**

23 Findings of estoppel based upon the Permit ignore the fundamental principle required, a  
24 direct challenge to the ownership of the Property. Here there is no challenge to the  
25 ownership of the property because that challenge has played out in the courts previously,  
26 resulting in recognition of a boundary dispute by the U.S. Supreme Court, the Ninth Circuit

27 \_\_\_\_\_  
28 <sup>1</sup> These statements attributed to Judge Moeller were actually made by Judge Clinton.

1 Court of Appeals, CRIT, its Attorney General, and its tribal council chairman. *See* SOF ¶¶  
 2 1-12. Therefore findings of estoppel are based upon a false premise, that the land  
 3 ownership is being challenged by French. Here, without a direct challenge to land  
 4 ownership, findings of estoppel by the Tribal Courts are misapplied and in error.

5 **IV. Tribal Courts' Findings of Inherent Authority and the Power of Exclusion**  
 6 **Ignore the Boundary Dispute**

7 Federal law established by a Congressional statute, PL88-302, denies authority to the  
 8 Secretary of the Interior to approve leases within the disputed area until a final  
 9 determination of the reservation western boundary finds these lands included within the  
 10 reservation. Therefore, until the boundary has been finally determined in CRIT's favor,  
 11 CRIT cannot possibly have inherent authority or the power of exclusion over nonmembers  
 12 in accordance with federal law. *See* SOF ¶ 1.

13 **V. Disputed Western Boundary Lands Equivalent of non-Indian Fee Land**

14 From WILLIAM CANBY, JR., AMERICAN INDIAN LAW IN A NUTSHELL, 5<sup>th</sup> Edition 85  
 15 (2009) [hereinafter CANBY'S INDIAN LAW]:

16 In *Strate v. A-1 Contractors*, 520 U.S. 438 (1997), the Court held that a tribal  
 17 court lacked jurisdiction over a civil case between nonmembers arising out of a  
 18 vehicle accident on a state highway traversing the reservation. The Court held  
 19 that the grant of right-of-way to the state, **which precluded the tribe from**  
 20 **exercising proprietary rights of exclusion**, rendered the highway the equivalent  
 21 of non-Indian fee land. *Id.* at 454. The Court stated that "*Montana* thus  
 22 described a general rule that, absent a different congressional direction, Indian  
 23 tribes lack civil authority over the conduct of nonmembers on non-Indian land  
 within a reservation." *Id.* at 446. The tribe's interest in safe driving within the  
 reservation was not sufficient to qualify for the second *Montana* exception  
 (matters affecting the tribe's political integrity, economic security, health, or  
 welfare) because such a construction "would severely shrink the [*Montana*]  
 rule." *Id.* at 458.

24 In *Strate v. A-1 Contractors*, 520 U.S. 438 (1997), the Court held that the grant of right-  
 25 of-way to the state, **which precluded the tribe from exercising proprietary rights of**  
 26 **exclusion**, rendered the highway the equivalent of non-Indian fee land. *Id.* at 454. Like  
 27 *Strate*, this case concerns lands whereby the Tribe cannot exercise proprietary rights of  
 28 exclusion or a landowner's right to exclude, due to the dispute over the western boundary

1 coupled with PL88-302. And like *Strate*, the preclusion of the right to exclusion is due to  
 2 the state's interests in the lands at issue. Therefore the irrefutable conclusion is that since  
 3 CRIT is precluded from exercising proprietary rights of exclusion, the disputed area as in  
 4 *Strate*, is the equivalent of non-Indian fee land.

5 Having established the direct correlation between the disputed area and *Strate*, it  
 6 necessarily follows that all claims of inherent authority and the power of exclusion over  
 7 nonmembers as a justification for tribal court jurisdiction must fail because the disputed  
 8 area must be rendered the equivalent of non-Indian fee land.

#### 9 **VI. CRIT Has No Regulatory Authority Over Nonmembers in the Disputed Area**

10 From CANBY'S INDIAN LAW, 5<sup>th</sup> Edition 85-86 (2009):

11 In *Strate v. A-1 Contractors*, 520 U.S. 438 (1997), the Court held... **Because the**  
 12 **tribe could not regulate nonmember activity on the highway, the tribal court**  
 13 **could not entertain the action. "As to nonmembers, we hold, a tribe's**  
 14 **adjudicative jurisdiction does not exceed its legislative jurisdiction."** *Id.* at  
 15 453. Two courts of appeals have interpreted *Strate* to preclude tribal court  
 16 jurisdiction over a civil suit by a *tribal member* against a nonmember arising  
 17 from an accident on a right-of-way within a reservation. *Nord v. Kelly*, 520 F.3d  
 18 848 (8<sup>th</sup> Cir.2008); *Burlington Northern R. Co. v. Red Wolf*, 196 F.3d 1059  
 19 (1999); *Wilson v. Marchington*, 127 F.3d 805 (9thCir.1997). [Emphasis added]

20 In the current case, the regulatory activity in play is the Tribe's asserted right to lease  
 21 land in the disputed area. However, CRIT is precluded from any right to lease the subject  
 22 land due to the disputed boundary coupled with PL88-302. See SOF ¶ 1. Therefore, CRIT  
 23 has no regulatory authority. Without regulatory authority over the activity at issue, the  
 24 CRIT Tribal Courts cannot and do not have adjudicative jurisdiction over French, or any  
 25 other nonmember Permittee in the disputed area, in accordance with findings in *Strate*.

#### 26 **VII. The Montana Exceptions are Unavailing to the Tribal Court's Findings of** 27 **Jurisdiction**

28 From COHEN'S HANDBOOK OF FEDERAL INDIAN LAW §4.02[3] [c] at 241(Neil  
 Jessup Newton ed.,2012) [hereinafter, COHEN'S HANDBOOK]:

In *Plains Commerce Bank v. Long Family Land and Cattle Company*, 554 U.S.



1 316 (2008)<sup>2</sup>...**the Supreme Court characterized the tribal court action as an**  
 2 **effort to regulate** the sale of non-Indian fee land on the reservation. [*Id.* at 370.]  
 3 ...While *Montana's* exceptions, especially its “consensual relations” exception,  
 4 might have justified the tribal court’s jurisdiction, the Court held that these  
 5 exceptions apply only to **“nonmember conduct inside the reservation that**  
 6 **implicates the tribe’s sovereign interests,”** [*Id.* at 332.] ... **not to contests with**  
 7 **nonmembers over land ownership** or the sale of land. [*Id.* at 332, 334, 341.]  
 8 [Emphasis added]

9 As in *Plains Commerce*, this case is also about an Indian tribe’s efforts to regulate  
 10 nonmember activity. However, instead of efforts to regulate one particular party, CRIT  
 11 wishes to establish precedent to assert regulatory jurisdiction over hundreds of families to  
 12 either take their properties without compensation as in the present case, or alternatively,  
 13 force them to be subject to CRIT’s dominion and control. *See* SOF ¶ 13.

14 Also as in *Plains Commerce*, the CRIT Tribal Courts attempted to justify findings of  
 15 jurisdiction based on *Montana's* first exception, “consensual relations”. However, even if a  
 16 “consensual relationship” between French and CRIT could be established by a void and  
 17 cancelled Permit between French and the U.S. Dept. of Interior, such could not possibly  
 18 implicate the **“tribe’s sovereign interests”** as is required in accordance with *Plains*  
 19 *Commerce*.

20 Further refinement of this criterion in *Plains Commerce* (COHEN’S HANDBOOK at  
 21 241):

22 ...pursuant to *Montana's* first exception, tribal regulatory **authority over a**  
 23 **consenting nonmember** “must stem from the tribe’s inherent sovereign  
 24 authority to **set conditions on entry, preserve tribal self-government, or**  
 25 **control internal relations”**); *id.* at 341 [Emphasis added]

26 Clearly CRIT does not have the sovereign authority to (1) set conditions on entry due to  
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28 <sup>2</sup> *See, e.g., Plains Commerce Bank v. Long Family Land & Cattle Co., Inc.*, 554 U.S. 316,  
 337 (2008) (stating that pursuant to *Montana's* first exception, tribal regulatory authority  
 over a consenting nonmember “must stem from the tribe’s inherent sovereign authority to  
 set conditions on entry, preserve tribal self-government, or control internal relations”); *id.* at  
 341 (quoting *Montana v. United States*, 450 U.S. 544, 566 (1981) as standing for the  
 proposition that under the second exception, nonmember “conduct must do more than  
 injure the tribe, it must ‘imperil the subsistence’ of the tribal community”).

1 PL88-302, nor (2) is leasing land to nonmembers necessary to preserve tribal self-  
 2 government, nor (3) is leasing land to nonmembers necessary to control internal relations.  
 3 Therefore, Montana’s first exception, consensual relations, cannot be applied to this matter  
 4 as dictated by *Plains Commerce*.

5 Furthermore, *Plains Commerce* firmly established that the *Montana* exceptions do not  
 6 apply to “**contests with nonmembers over land ownership**”. The irrefutable conclusion  
 7 is that the *Montana* exceptions cannot apply in this case where the land is in dispute, and  
 8 where the activity at issue, leasing of land, cannot possibly implicate the “**tribe’s sovereign**  
 9 **interest**”.

#### 10 **VIII. Montana’s Second Exception is Particularly Inapplicable to French**

11 Further from CANBY’S INDIAN LAW at 228-29:

12 With the *Montana* “rule” broadly applicable throughout reservations, the extent  
 13 of tribal regulation and tribal court jurisdiction over nonmembers is subject to  
 14 great limitation. In their latest formulation in *Plains Commerce Bank*, the two  
 15 *Montana* exceptions are very narrowly construed.... **The second *Montana***  
 16 **exception**, for conduct that “threatens or has some direct effect on the political  
 17 integrity, the economic security, or the health or welfare of the tribe,” **is**  
 18 **described in *Plains Commerce Bank* as requiring conduct that does “more**  
 19 **than injure the tribe, it must ‘imperil the subsistence’ of the tribal**  
 20 **community.”** *Id.* at 2726 (quoting *Montana*, 450 U.S. at 566). Indeed, *Plains*  
 21 *Commerce Bank* **cites with approval a requirement that the second exception**  
 22 **must have “catastrophic consequences,”** and notes that sale of fee land by a  
 23 nonmember cannot be called catastrophic for tribal self-government. *Id.* As  
 24 presently interpreted, therefore, the *Montana* doctrine greatly restricts tribal civil  
 25 authority over nonmembers in Indian country.

21 It is clear that the *Plains Commerce Bank* criteria for the application of *Montana*’s  
 22 second exception cannot possibly apply to French. Here, the leasing of a small lot within a  
 23 community in the disputed area cannot “*imperil the subsistence of the tribal community*”,  
 24 nor does any claim of loss of rental value of the property have “*catastrophic consequences*”  
 25 for the Tribe.

#### 26 **IX. The Tribal Court Erred in Determining that the Property is Conclusively** 27 **Tribal Land**

28 The Tribal Court found the land was indeed tribal land. *See* SOF ¶ 20. The Tribal

1 Appellate Court went further, holding that the western boundary of the reservation was  
2 settled in accordance with the 1969 Secretarial Order and therefore CRIT's Tribal Courts  
3 have jurisdiction due to the power of exclusion. Neither ruling included any mention of the  
4 evidence presented that the boundary is in dispute, resulting in hubris err by the Court. *See*  
5 SOF ¶¶ 21, 22.

6 **X. The Permit for the Property Was in Violation of PL88-302 and is Therefore**  
7 **Void ab initio**

8 Even if the case could be made that the 1969 Secretarial Order was somehow federally  
9 authorized, it is clear that the U.S. Supreme Court in *Arizona II* did not consider it as  
10 binding on any resolution of the Reservation's disputed western boundary. It is also clear  
11 that the State of California did not regard the disputed area as part of the reservation as it  
12 represented to the U.S. Supreme court in the entire *AZ v CA* trilogy from 1962 through  
13 1999. It is beyond doubt that throughout this time period and as it continues today, there is  
14 irrefutably an existing dispute over the northern 2/3 of the CRIT Reservation western  
15 boundary. Coupling that simple fact and the plain wording of PL88-302, it is clear that the  
16 Secretary never had authority to issue leases within the disputed area, including the Permit  
17 for the subject property, and that the Permit was in violation of PL88-302. *See* SOF ¶ 1.  
18 Therefore the Permit was void *ad initio*.

19 The Tribal Appellate Court simply ignored all evidence regarding PL88-302, instead  
20 relying on estoppel to support its conclusion that French cannot cite evidence of the western  
21 boundary dispute. *See* SOF ¶ 23.

22 It is widely held that a "void agreement" whether by mistake or illegality, is one that is  
23 entirely destitute of legal effect. It is also well established that a "void contract",  
24 consensual or otherwise, is deemed *non-existent and cannot be upheld by any law or any*  
25 *Court*. Accordingly, as a matter of law, an improperly issued Permit, which mistakenly  
26 misrepresents proper ownership of title interest in the subject matter property for which the  
27 Permit was issued, is void *ab initio* and entirely without any legal effect under any stated  
28 legal theory.

1 **XI. Under Contract Law the Void Permit Is a Nullity**

2 It has long been held in contract law that if an impossibility exists at the time a contract  
3 is made, no binding contract arises and the document is itself void. See Rest.2d, Contracts,  
4 §266: 14 Corbin (Rev. Ed.), §74.13. Courts have consistently held that a “void contract” is  
5 a nullity by operation of law. It cannot be given any effect, and it cannot be ratified by a  
6 Party. See *Dubin v. Hillman* (1920) 50 Cal. App. 377, 379, 195 P.574. A contract void  
7 because of illegality has no legal existence for any purpose, and it may not serve as the  
8 foundation of any action, either at law or in equity. See *R.M. Sherman Co. v W.R.*  
9 *Thomason, Inc.* (1987) 191 Cal. App. 3d 559, 563, 236 Cal. Rptr. 577.

10 No court throughout this country would be prepared to take such an inappropriate leap  
11 of faith to find validity and/or enforceability in a legally “void” contract. Rather, courts  
12 have consistently and prudently held that *improper title to contract* also renders the contract  
13 void *ab initio*. As set forth in Witkin Summary of California Law 10<sup>th</sup> Ed. Pgs. 284-85  
14 §256 and §257 citing Rest.2d, Contracts §154: “A party bears the risk of a mistake when:

- 15 1. the risk is allocated to him by agreement of the parties, or  
16 2. he is aware, at the time the contract is made, that he has only limited knowledge with  
17 respect to the facts to which the mistake relates but treats his limited knowledge as  
18 sufficient.”

19 It is abundantly clear that PL88-302, adopted within the CRIT Constitution five years  
20 after the 1969 Secretarial Order, created the impossibility at the time of the issuance of the  
21 Permit (contract), which resulted in a contract that was non-binding, void, and a nullity.  
22 See SOF ¶¶ 1, 5.

23 **OPPOSITION TO DEFENDANTS’ OPENING BRIEF**

24 **I. Defendants’ Mischaracterization of the Complaint’s Simple Premise**

25 Defendants’ assert “The primary allegation in French's Complaint is that CRIT's Tribal  
26 Court and Court of Appeals .... lacked jurisdiction to evict him because the property he  
27 occupied (“Property”) is not within the boundaries of the Reservation. First Amended  
28 Complaint (ECF No. 6) at 2.” Defendants’ Joint Motion for Summary Judgment at 4.

1 However, French's Complaint at 2 reads "the actions at issue occurred on lands that are  
 2 **outside the undisputed boundaries** of the CRIT Reservation...". Therefore Defendant's  
 3 entire body of arguments defending the Secretarial Order is misapplied and inapplicable  
 4 because French's jurisdictional question only asserts and only requires the Court's  
 5 recognition of the boundary dispute. It is not French that challenges the Secretarial Order,  
 6 as that was done (successfully) by the State of California. French is also not challenging  
 7 the status of the land; in fact French affirms the status of the land: disputed. See SOF ¶¶ 1-  
 8 4, 6-8, 11, 12, 15.

9 **II. Defendants' Assertions that the 1969 Secretarial Order was the Final**  
 10 **Determination of the Reservation Boundary have been Soundly Rejected**

11 Even though French is not challenging the 1969 Secretarial Order directly, previous  
 12 challenges have been addressed by the courts with a resulting affirmation that a boundary  
 13 dispute exists to this day in spite of the Secretary's order. See SOF ¶¶ 2-4, 12, 15.

14 **III. Defendants' Attempts to Use a Water Wheel "Template" are Invalid**

15 Defendants claim "In circumstances identical to those now before the Court, the  
 16 Arizona District court, in Water Wheel, correctly noted that under Federal rule of Civil  
 17 Procedure 19, dismissal would be required if the plaintiffs disputed the reservation status of  
 18 the land in the absence of the United States and CRIT." Def's Brief at 11 ¶ 2.

19 But the circumstances between this matter before the Court and *Water Wheel* are  
 20 fundamentally incongruent due to the **concession of reservation land** by *Water Wheel*  
 21 within the proceedings. In *Water Wheel*, the Court noted "*Plaintiffs are not here contesting*  
 22 *the reservation status of the land[.] Dkt. #50 at 15. The Court will hold Plaintiffs to this*  
 23 *position...The Court therefore will proceed with the **assumption** that *Water Wheel* occupies*  
 24 *reservation land."* No. CV-08-0474-PHX-DGC, 2009 WL 3089216, at III, (D.Ariz. Sept,  
 25 23, 2009), *aff'd in part, vacated in part, rev'd in part*, 642 F.3d 802 (citing *Dawavendewa*,  
 26 267 F.3d at 1161-63). [Emphasis added]. Unlike *Water Wheel*, French has not conceded  
 27 that the subject land is reservation land. Therefore, the current matter before this Court  
 28 bears no resemblance to *Water Wheel* due to the differing underlying premises and

1 assumptions by the *Water Wheel* Court.

2 Another fundamental difference between French and Water Wheel is the lease itself.  
3 Unlike French whose Permit was between the Permittee and the U.S. government, the  
4 Water Wheel lease was directly between the leasee and CRIT.

5 Therefore these two fundamental differences render the Defendant's assertions of  
6 identical circumstances completely without merit.

7 **IV. Defendants' Claims of Indispensable Party Derived from FRCP 19 Were**  
8 **Rejected by the *Water Wheel* Court**

9 The citation to FRCP 19 by Defendants (Def's Brief at 10-12) is confounding because  
10 the *Water Wheel* decision rather than supporting grounds for dismissal as claimed by  
11 Defendants, instead rejected CRIT's assertions of indispensable party based on FRCP 19.  
12 Quoting *Water Wheel*, *Id.* at VII. :

13 CRIT urges the Court to dismiss this action because CRIT is an indispensable  
14 party under Federal Rule of Civil Procedure 19 and has not been sued. CRIT  
15 makes several arguments. **The Court finds none of them persuasive....**

16 CRIT argues that it is an indispensable party because it has an interest in  
17 preserving the Tribal Court judgment in this case. In response to a different  
18 tribe's argument that it was an indispensable party, the Ninth Circuit held that the  
19 "tribe does not have 'a legally protected interest in maintaining a court system.'" *McDonald v. Means*, 309 F.3d 530, 541 (9<sup>th</sup> Cir. 2002) (quoting *Yellowstone County v. Pease*, 96F.3d 1169, 1173 (9<sup>th</sup> Cir. 1996)). *A fortiori* the tribe does not  
20 have a legally protected interest in a particular judgment of that court system.  
21 Furthermore, if the judgment against Johnson was entered without jurisdiction, it  
22 is "null and void." *Plains Commerce Bank*, 128 S.Ct. at 2716. The tribe has no  
23 legally protected interest in a null and void judgment.

24 \*13 CRIT argues that it has an interest in protecting tribal sovereign immunity,  
25 but this action does not challenge CRIT's sovereign immunity. It concerns  
26 Tribal Court jurisdiction. It is well settled that "federal courts are the final  
27 arbiters of federal law, and the question of tribal court jurisdiction is a federal  
28 question." *FMC*, 905 F.2d at 1314. As the Ninth Circuit further observed,  
29 "**holding that a tribe is a necessary party 'whenever [its] jurisdiction is  
30 challenged would lead to absurd results.'**" *McDonald v. Means*, 309 F.3d  
31 530,541 (9<sup>th</sup> Cir. 2002) (quoting *Yellowstone*, 96F3d at 1173).

32 Finally, CRIT asserts that it can enforce the Tribal Court judgment against  
33 Johnson regardless of this Court's ruling. Dkt. #70 at 11. As the Supreme Court  
34 has explained, however, **a tribal court decision entered without jurisdiction is  
35 null and void.** *Plains Commerce Bank*, 128 S. Ct. at 2716. **The tribe cannot**

1 **enforce a null and void judgment.** [Emphasis added]

2 As described by the *Water Wheel* Court, Defendant's claims of indispensable party  
3 derived from FRCP 19 are just as inapplicable here as they were in *Water Wheel*.

4 **V. Tribal Appellate Court's Assertions that French Failed to Provide**  
5 **Explanations of Due Process Violations Ignore French's Briefs**

6 Defendants' claim:

7 While French also complained generally of "due process" violations in the Tribal  
8 Court proceedings, the CRIT Court of Appeals noted he was "*unable to explain*  
9 *either in his brief or at oral argument ... precisely how the Tribal Court denied*  
10 *him due process of law or exactly what his claim of such denial involved*". Def's  
11 Brief at 4 n. 1, "Statement of Facts" ¶ 76.

12 However, the lack of due process was fully explained throughout French's briefs at  
13 length and in very specific terms, including the Tribal Court's refusal to provide the  
14 constitutional standards by which the issues before the Court were to be adjudicated. In  
15 fact, the sheer extent to which the lack of due process was included in French's briefs, in  
16 spite of the Court's bold statement to the contrary, demonstrates either sophistry by the  
17 Tribal Appellate Court, or a total disregard of French's briefs. *See* SOF ¶ 26.

18 **CONCLUSIONS**

19 For the foregoing reasons, the CRIT Tribal Court has no subject matter jurisdiction  
20 over French, the CRIT tribal officials have no jurisdiction over French, and French's  
21 Motion for Summary Judgment should be granted.

22 Respectfully submitted this 25<sup>th</sup> day of July, 2014.

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Roger L. French  
18001 Cowan, Ste. J  
Irvine, CA 92614  
Tel: 949 697-3246  
Email: [rvrrat3@cox.net](mailto:rvrrat3@cox.net)

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**CERTIFICATE OF SERVICE**

I, hereby certify that on July 25, 2014, I electronically filed the foregoing with the Clerk of the U.S. District Court using the CM/ECF System which will send notifications of such filing to all persons on the CM/ECF list for this matter, as indicated below:

Roger French  
Pro Se  
18001 Cowan Ste. J  
Irvine, CA 92614  
[rvrrat3@cox.net](mailto:rvrrat3@cox.net)

*Plaintiff*

Rob Roy Smith  
Claire Newman  
Kilpatrick Townsend  
1420 Fifth Avenue, Suite 4400  
Seattle, WA 98101  
[rsmith@kilpatricktownsend.com](mailto:rsmith@kilpatricktownsend.com)  
[cnewman@kilpatricktownsend.com](mailto:cnewman@kilpatricktownsend.com)  
Telephone: (206) 467-9600

*Attorneys for Tribal Court Defendants*

Winter King  
Sara A. Clark  
Shute, Mihaly & Weinberger LLP  
396 Hayes Street  
San Francisco, CA 94102  
[king@smwlaw.com](mailto:king@smwlaw.com)  
[clark@smwlaw.com](mailto:clark@smwlaw.com)

*Attorneys for Defendants Patch and Laffoon*

Executed on July 25, 2014, at Irvine, California.

\_\_\_\_\_  
s/

ROGER L. FRENCH