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Attorney for Defendants

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

WATER WHEEL CAMP	)	
RECREATIONAL AREA, INC.,	)	No. 2:08-CV-474-PHX-DGC
and ROBERT JOHNSON,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	OPPOSITION TO EMERGENCY
	)	MOTION FOR TEMPORARY
The Honorable GARY LARANCE,	)	RESTRAINING ORDER AND
in his capacity as Chief and Presiding	)	PRELIMINARY INJUNCTION
Judge of the Colorado River Indian Tribes	)	
Tribal Court, and PRISCILLA HILL, in her	)	
Capacity as Chief Court Clerk of the	)	
Colorado River Indian Tribes Tribal Court,	)	
	)	
Defendants.	)	
	)	

Defendants Gary LaRance and Priscilla Hill respectfully urge this Court to deny plaintiffs' Motion for a TRO, which would restrain defendants from holding a hearing on Friday, March 14, 2008, on a Petition for Eviction filed by the Colorado River Indian Tribes, on the various and independent grounds that (1) plaintiffs have failed to exhaust their tribal court remedies; (2) plaintiffs have failed to join two indispensable parties, namely the Colorado River Indian Tribes and the United States; (3) plaintiffs themselves requested the March 14 hearing date, and they will not be irreparably harmed by allowing the Colorado River Indian Tribes Tribal Court to conduct proceedings in this matter; and

(4) plaintiffs are not likely to prevail on the merits of their federal court Complaint challenging the jurisdiction of the Tribal Court.

I. Introduction

The basis of plaintiffs' claim for relief—and their invocation of this court's jurisdiction—lies in two decisions of the U.S. Supreme Court: Montana v. United States, 450 U.S. 544 (1981), and National Farmers Union Insurance Cos. v. Crow Tribe, 471 U.S. 845 (1985). In Montana the Court held that Indian tribes do not retain inherent governmental jurisdiction over non-Indians on the reservation, with two exceptions: (1) The non-Indian has entered into a consensual relationship with the Tribe or its members; and (2) The non-Indian's conduct has a direct effect on the political integrity, the economic security, or tribal health and welfare. 450 U.S. at 565-66.

National Farmers was a case not unlike this one, where a defendant in a tribal judicial proceeding challenged the subject matter jurisdiction of the Crow Tribal Court. The Supreme Court held that a party could invoke federal court question jurisdiction, 28 U.S.C. § 1331, to obtain review of the tribal court's exercise of jurisdiction, but the Court cautioned:

We conclude that the answer to the question whether a tribal court has the power to exercise civil subject-matter jurisdiction over non-Indians in a case of this kind is not automatically foreclosed .... Rather, the existence and extent of a tribal court's jurisdiction will require a careful examination of tribal sovereignty, the extent to which that sovereignty has been altered, divested, or diminished, as well as a detailed study of relevant statutes, Executive Branch policy as embodied in treaties and elsewhere, and administrative or judicial decisions.

We believe that examination should be conducted in the first instance in the Tribal Court itself.

471 U.S. at 855-56. This is generally referred to as the requirement of tribal court exhaustion of remedies.

In this case plaintiffs' principal contention is that the Tribal Court of the Colorado River Indian Tribes lacks jurisdiction because the property from which the Tribes seek to evict plaintiffs is not on the Colorado River Indian Reservation. Plaintiffs assert that that proposition is so evident as to obviate any requirement that their Tribal Court remedies first be exhausted, as required by National Farmers.

## II. Plaintiffs Have Not Exhausted Their Tribal Court Remedies.

As is evident from their Emergency Motion, plaintiffs fled Tribal Court before it had rendered a final judgment. Indeed, Judge LaRance had not yet ruled on all of their jurisdictional defenses. He entered an Order on February 21, 2008 [attached here as Defendants' Exhibit 1], clarifying an earlier Order, which states that the burden is on the plaintiff Tribes to justify the court's jurisdiction under one of the two exceptions set out by the Supreme Court in the Montana case. Then, at the request of counsel for plaintiffs herein [hereinafter referred to as "Water Wheel"], he continued the hearing on that issue, among others, from February 29<sup>th</sup> to March 14<sup>th</sup>. *See* Defendants' Exhibit 2.

Judge LaRance did rule earlier that the property in question lies within the boundaries of the Colorado River Indian Reservation. Water Wheel then pursued an interlocutory appeal before the Tribal Court of Appeals, which rejected that effort on the straightforward ground that the trial court's ruling was not a final order. The Court of Appeals order states (on page 3) that "the denial of the current Petition for Appeal is without prejudice to Defendants/Appellants challenging the subject matter or personal

jurisdiction of the Tribal Court ... in any subsequent appeal from a final order or final judgment.” See Plaintiffs’ Exhibit C, attached to the Complaint for Declaratory and Injunctive Relief.

Water Wheel contends, in a footnote on page 3 of its Emergency Motion and in Paragraph 21 of its Complaint, that no exhaustion of tribal remedies is required, citing Strate v. A-1 Contractors, 520 U.S. 438, 459, n. 14 (1997). The citation is elliptical and does not stand for the broad proposition offered. The Supreme Court’s footnote states: “When, as in this case, it is plain that no federal grant provides for tribal governance of non-members’ conduct on land covered by *Montana*’s main rule, it will be equally evident that tribal courts lack adjudicatory authority over disputes arising from such conduct.” That case involved a tort action by a non-Indian driver against a non-Indian company over a “commonplace state highway accident” on the reservation. *Id.* The Supreme Court could see no tribal interest whatsoever in the controversy. The Court did not, in one footnote, discard the exhaustion rule of National Farmers for all future challenges to tribal court jurisdiction.<sup>1</sup> Further, as discussed in Part III, below, the issue of reservation status over the land involved here is not as simple as Water Wheel’s characterization.

In the instant case the tribal Court of Appeals has not ruled on the merits of any issue, and Judge LaRance has not yet heard evidence or made any findings of fact—much less ruled—on the applicability of either of the two exceptions to the Montana rule. This case demonstrates the wisdom of the Supreme Court’s insistence in National Farmers on

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<sup>1</sup> The Complaint also cites a recent Ninth Circuit decision, Burlington Northern v. Vaughn, 509 F.3d 1085 (2007), but the appeals court expressly did not review the district court’s determination that exhaustion of tribal court remedies was unnecessary because the tribe had not made a colorable claim of jurisdiction. 509 F.3d at 1094, n.4.

exhaustion of tribal court remedies so the federal court will have a complete record on which to make its determination under federal law.

III. Water Wheel Seeks a Determination of Title to Land as Between the United States and the Colorado River Indian Tribes.

What Water Wheel seeks in federal court is a ruling on whether the land from which it may be evicted is tribal land of the Colorado River Indian Tribes, more precisely Indian reservation land held in trust by the United States for the benefit of the Colorado River Indian Tribes. Yet, it was Water Wheel which entered into a lease with the Tribes in 1975 (Complaint ¶ 17), and now claims rights under that lease. Water Wheel does not claim title to the land for itself, nor could it. It contends that the land is owned outright by the United States, not in trust for the Tribes. Yet, neither the United States nor the Tribes are parties to this suit. Nor could they be. The United States has not consented to suits to quiet title to tribal trust lands, as the applicable federal statute contains an express exception for such suits. 28 U.S.C. § 2409a. See Metropolitan Water District v. United States, 830 F.2d 139 (9th Cir. 1987), *affirmed by an equally divided court*, 490 U.S.920 (1989).

Water Wheel cites a 1964 Act of Congress for the proposition that the Tribes have no authority over the land which Water Wheel once leased from the Tribes. The fact that the Solicitor of the U.S. Department of the Interior issued an opinion in 1969, finding that boundaries of the Colorado River Indian Reservation include this land; and the fact that the Secretary of the Interior approved an Indian tribal lease in 1975, treating the Tribes as the lessor and Water Wheel as the lessee, makes it clear that the federal government has an essential interest in the outcome of any controversy involving this land's reservation

status. Furthermore, the United States obtained a stipulated federal court judgment in 1973 evicting a previous occupier of the same parcel of land which Water Wheel now occupies. *See* Defendants' Exhibit 3, a judgment of the U.S. District Court for the Central District of California in United States v. Denham, Civil No. 73-495-ALS. Compare the property description therein with the lease document in Plaintiffs' Exhibit A. The judgment states that the land is owned by the United States in trust for the Colorado River Indian Tribes. Thus, this case is hardly an appropriate vehicle for resolving the weighty issues of Indian reservation boundaries, and Indian tribal land title.

IV. Tomorrow's Tribal Court Hearing Was Requested by Plaintiffs Herein, and It Would Cause No Irreparable Harm.

Judge LaRance had originally set the next hearing in the Tribes' case against Water Wheel for Friday, February 29<sup>th</sup>. Water Wheel moved for a continuance to March 14<sup>th</sup>, and Judge LaRance granted that motion. Defendants' Exhibit 2. It is now apparent that counsel wanted the extension to fine-tune its federal court pleadings, and would now, with its Emergency Motion, rush this Court to deny the Tribal Court's jurisdiction. Equity is not on Water Wheel's side here. The Tribal Court proceedings should be allowed to continue, and the Tribal Court of Appeals has already made it clear that it will entertain Water Wheel's appeal, notwithstanding the dismissal of the earlier premature appeal effort.

It is not within Judge LaRance's judicial powers to broker a timetable for Water Wheel's future, presumably ripe, challenge to Tribal Court jurisdiction (whatever the outcome?), but Water Wheel has not demonstrated to this Court that it will necessarily

suffer irreparable harm by waiting for a final judgment from the Tribal Court system. Water Wheel has made no showing that the Tribal Court proceedings will be futile.

V. Water Wheel Cannot Demonstrate That It Is Likely To Prevail on the Merits of Its Claim That the Tribal Court Has No Jurisdiction Over This Eviction Action.

As already demonstrated, there are some important issues which still need to be resolved in the Tribal Court. Thus, it is perhaps inappropriate for either party to this proceeding to offer predictions on the outcome here. But Water Wheel's own pleadings raise serious questions about whether it is immune from tribal court jurisdiction. The lease attached to its own exhibit shows that it entered into an arms-length transaction with the Tribe. Then it offers a novel argument involving construction of its lease, suggesting that its agreement to abide by future tribal laws does not include the enactment of the tribal eviction ordinance. Indeed, whether Water Wheel retains any rights under a 1975 lease is still to be determined by the Tribal Court.

VI. Conclusion

This Court should deny the Emergency Motion for a Temporary Restraining Order in the interest of the orderly administration of justice, and allow the Tribal Court proceedings to continue.

Respectfully submitted,

Tim Vollmann  
Attorney for Defendants

## CERTIFICATE OF SERVICE

I, Tim Vollmann, hereby certify that on March 12, 2008, I served counsel for plaintiffs, whose names and addresses are listed below, with a copy of this Opposition to Emergency Motion for Temporary Restraining Order and Preliminary Injunction, by transmitting it to each of their e-mail addresses below, as directed by Ms. Nancy Johnson, Clerk to Judge David Campbell, during a telephone conference on March 12, 2008.

Michael L. Frame  
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\_\_\_\_\_/s/\_\_\_\_\_  
Tim Vollmann



# **Defendants' Exhibit 1**

IN THE TRIBAL COURT  
OF THE COLORADO RIVER INDIAN TRIBES  
PARKER, ARIZONA

ORIGINAL FILED

2008 FEB 21 AM 10:36

COLORADO RIVER INDIAN TRIBES,

) Case No. CV-CO-2007-0100

Petitioner/Plaintiff

vs.

WATER WHEEL CAMP RECREATIONAL  
AREA, INC., ROBERT JOHNSON, and DOES  
1-20,

ORDER

Respondents/Defendants.

## IT IS ORDERED AS FOLLOWS:

## Re: Defendant Robert Johnson's Motion to Dismiss

On October 19, 2007, Defendant Robert Johnson filed his Motion to Dismiss which set forth seven (7) separate arguments for dismissal of the action. See Motion to Dismiss.

On January 15, 2008, this Court entered an Order denying the arguments in paragraphs 1, 2, 3 and 6 of the Motion to Dismiss.

This Court now clarifies it's January 15, 2008 Order as follows: The Court will reserve its ruling on the arguments in paragraphs 4, 5 and 7 of the Motion to Dismiss until the February 29, 2008 hearing. After the February 29, 2008 hearing, the Court will enter a ruling on the arguments in paragraphs 4, 5 and 7 of the Motion to Dismiss.

As to Defendant's argument in paragraph 4 that the Court lacks jurisdiction because he is "non-Indian," the Court will use the jurisdictional test enunciated in the *United States v. Montana*, 450 U.S. 544 (1981) line of cases to determine whether it has adjudicatory jurisdiction over Robert Johnson (i.e. does Robert Johnson fall within one of the two exceptions to the general rule that Indian tribes do not have civil adjudicatory jurisdiction over non-Indians.) The burden is on Plaintiff to establish adjudicatory jurisdiction over Robert Johnson, a non-Indian.

However, pursuant to the January 15, 2008 Order, Defendant Johnson will not be permitted to question, challenge or litigate the fact or argue as a matter of

law that the property in question is not within the territory, boundaries or ownership of the Colorado River Indian Reservation.

**Re: Defendant Water Wheel Recreation Area's Motion to Dismiss**

On October 19, 2007, Defendant Water Wheel filed its Motion to Dismiss which set forth six (6) separate arguments for dismissal of the action. See Motion to Dismiss.

On January 15, 2008, this Court entered an Order denying the arguments in paragraphs 1, 2, 3 and 5 of the Motion to Dismiss.

This Court now clarifies its January 15, 2008 Order as follows: The Court will reserve its ruling on the arguments in paragraphs 4 and 6 of the Motion to Dismiss until the February 29, 2008 hearing. After the February 29, 2008 hearing, the Court will enter a ruling on the arguments in paragraphs 4 and 6 of the Motion to Dismiss.

As to Defendant's argument in paragraph 4 that the Court lacks jurisdiction because it is a "non-Indian entity," the Court will use the jurisdictional test enunciated in the *United States v. Montana*, 450 U.S. 544 (1981) line of cases to determine whether it has adjudicatory jurisdiction over Water Wheel (i.e. does Water Wheel fall within one of the two exceptions to the general rule that Indian tribes do not have civil adjudicatory jurisdiction over non-Indians.) The burden is on Plaintiff to establish adjudicatory jurisdiction over Water Wheel, a non-Indian entity.

However, pursuant to the January 15, 2008 Order, Defendant Water Wheel will not be permitted to question, challenge or litigate the fact or argue as a matter of law that the property in question is not within the territory, boundaries or ownership of the Colorado River Indian Reservation.

**Re: Plaintiff's Requests for Judicial Notice**

On November 5, 2007, December 18, 2007 and December 28, 2007, the Plaintiff filed three Requests for Judicial Notice.

cited by the Plaintiff supports, as a matter of law and evidence, the three Requests. Furthermore, the Defendants have not filed their opposition to the three Requests. It is therefore ordered that the Court will take judicial notice of the following items:

1. Judgment entered March 5, 1975 in *United States v. Denham*, Civ. No. 73-495-ALS (C.D. Cal.),
2. Memorandum from United States Department of Interior Re: *United States v. Bert Thomas Denham, et al.*, Civ. No. 73-495-ALS (April 2, 1975),
3. Memorandum from Solicitor to Secretary of the Interior, Re: Western boundary of the Colorado River Indian Reservation from the top of Riverside Mountain,
4. Memorandum from Secretary of the Interior to Director of the Bureau of Land Management, Re: Western boundary of the Colorado River Indian Reservation from the top of Riverside Mountain, California, through

- section 12, T. 5 S., R 23 E., S.B.M. California (January 17, 1969) ("1969 Order).
5. Certified Statement by Acting Assistant Land Office Manager, Bureau of Land Management (May 17, 1972).
  6. Letter from William D. Keller, United States Attorney, to the Honorable Wallace H. Johnson, Assistant Attorney General, Land and Natural Resources Division, United States Department of Justice (October 1, 1974).
  7. Secretary of State for the State of California, Corporate Status Report for Water Wheel Camp Recreation Area, Inc. (December 14, 2007).
  8. Findings of Fact and Conclusions of Law (Feb. 10, 1977), *United States v. Aranson*, U.S. District Court, Central District of California, Case No. 72-1621-R Civil.
  9. Modified Final Judgment (Apr. 19, 1990), *United States v. Aranson*, U.S. District Court, Central District of California, Case No. 72-1621-R Civil.
  10. Settlement Agreement (Jan. 22, 1990), *United States v. Aranson*, U.S. District Court, Central District of California, Case No. 72-1621-R Civil.
  11. California Gambling Control Commission, Revenue Sharing Trust Fund Recipients (Sept. 20, 2007).
  12. Judgment (Nov. 22, 1993), *United States v. Burson, et al.*, U.S. District Court, Central District of California, Case No. CV 91-2410 ("Red Rooster" Trespass Action).
  13. Final Judgment Following Remand (July 8, 1988), *United States v. Aranson*, U.S. District Court, Central District of California, Case No. 72-1621-R Civil, and
  14. Order Granting Joint Motion to Vacate Judgment and to Enter Modified Final Judgment (Apr. 19, 1990), *United States v. Aranson*, U.S. District Court, Central District of California, Case No. 72-1621-R Civil.

**Re: Plaintiff's Motion Requesting Leave to Serve Interrogatories and Request for Documents and Requesting Shortened Response Time**

The Plaintiff's Motion Requesting Leave to Serve Interrogatories and Request for Documents and Requesting Shortened Response Time (filed January 25, 2008) is DENIED.

**Re: Plaintiff's (1) Request for Subpoena Compelling Attendance of Robert Johnson at Deposition and Production of Documents (filed February 1, 2008) and (2) Ex Parte Application For Hearing And Subpoena Compelling Attendance At Deposition**

The Plaintiff's (1) Request for Subpoena Compelling Attendance of Robert Johnson at Deposition and Production of Documents (filed February 1, 2008) and (2) Ex Parte Application For Hearing And Subpoena Compelling Attendance At Deposition (filed February 12, 2008, are DENIED.

**Re: Plaintiff's Request for Clarification  
Re Order Denying Defendant's Motion to Stay.**

In response to Plaintiff's Request for Clarification Re Order Denying Defendant's Motion to Stay. The Court clarifies the Order as follows: By "subject matter" jurisdiction, the Court refers to the Black's Law Dictionary definition "subject matter jurisdiction," which refers to the court's competence to hear and determine cases of the general class to which proceedings in question belong: the power to deal with the general subject involved in the action (here Plaintiff CRIT's action is entitled 'Petition for Eviction; Complaint for Damages in Contract And Tort).

The Court has ruled that Defendants may not challenge or question CRIT's ownership, interest and right to occupy the land in question, however, the Court must still determine whether it has jurisdiction:

- (1) over Defendants who argue in paragraphs 4 of their Motions to Dismiss to be non-Indians. This is a question of whether the Court has adjudicatory jurisdiction over the Defendants. The Court will use the jurisdictional test enunciated in the *United States v. Montana*, 450 U.S. 544 (1981) line of cases to determine whether it has adjudicatory jurisdiction over the Defendants (i.e. does Robert Johnson and Water Wheel fall within one of the two exceptions to the general rule that tribe's do not have civil adjudicatory jurisdiction over non-Indians.) The burden is on Plaintiff to establish adjudicatory jurisdiction over both Defendants,
- (2) over Defendant Robert Johnson who claims in paragraph 5 of his Motion to Dismiss "not to be a party to the lease." This is a question of personal jurisdiction over the Defendant apart from his "non-Indian" status. Every Court must determine that it has "personal" jurisdiction over the Defendant regardless of the Defendant's race. See Black's Law Dictionary for definition of personal jurisdiction.
- (3) over the Petition for Eviction; Complaint for Damages in Contract And Tort. This is a question of subject matter jurisdiction as clarified above.

These three jurisdictional issues will be heard simultaneously with the Petition for Eviction at the February 29, 2008 hearing.

SO ORDERED this 21<sup>st</sup> day of February, 2008.

  
\_\_\_\_\_  
Gary LaRance, Judge, CRIT Tribal Court

## **Defendants' Exhibit 2**

ORIGINAL FILED.

2008 FEB 22 PM 3:38

CLERK  
TRIBAL COURT OF THE  
COLORADO RIVER INDIAN TRIBES

1 ERIC SHEPARD (Ariz. State Bar No. 21323)  
2 COLORADO RIVER INDIAN TRIBES  
3 Office of the Attorney General  
4 Route 1, Box 23-B  
5 Parker, AZ 85344  
6 Tel. (928) 669-1271  
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8 ELLISON FOLK (CA State Bar No. 149232)  
9 WINTER KING (CA State Bar No. 237958)  
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14 Fax: (415) 552-5816

15 Attorneys for Colorado River Indian Tribes

16 IN THE TRIBAL COURT  
17 OF THE COLORADO RIVER INDIAN TRIBES

18 COLORADO RIVER INDIAN TRIBES

19 Petitioner/Plaintiff,

20 vs.

21 WATER WHEEL CAMP RECREATIONAL  
22 AREA, INC., ROBERT JOHNSON, and DOES  
23 1-20,

24 Respondents/Defendants.

Case No. CV-CO-2007-0100

STIPULATION RE CONTINUANCE OF  
HEARING AND TRIAL

Case No. CV-CO-2007-0100  
STIPULATION RE CONTINUANCE



1 Due to a change in counsel and scheduling conflicts that have arisen for  
2 Defendants, the parties have stipulated and agreed to the following revised schedule:

3 1. The parties stipulate and agree to continue the evidentiary hearing and  
4 eviction trial until 9:00 a.m. on March 14, 2008.

5 2. The parties further stipulate and agree that Defendants will produce  
6 Robert R. Johnson for a deposition to be held the Office of Attorney General, 26000  
7 Mohave Road, Parker, AZ 85344, commencing at 11:00 a.m. on February 29, 2008.

8  
9 Dated: February 22, 2008

SHUTE, MIHALY & WEINBERGER LLP

10 By   
11 WINTER KING 

12  
13 Dated: February 22, 2008

COLORADO RIVER INDIAN TRIBES

14 By   
15 ERIC SHEPARD

16 Attorneys for Plaintiff Colorado River Indian Tribes

17  
18 Dated: February 22, 2008

19 By   
20 FRED WELCH

21 Attorney for Defendant Robert Johnson

22 Dated: February \_\_, 2008

23 By \_\_\_\_\_  
24 MICHAEL L. FRAME

25 Attorney for Defendant Water Wheel Camp Recreational  
26 Area, Inc.  
27  
28



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2 Defendants, the parties have stipulated and agreed to the following revised schedule:

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8  
9 Dated: February \_\_, 2008

SHUTE, MIHALY & WEINBERGER LLP

10  
11 By \_\_\_\_\_  
WINTER KING

12  
13 Dated: February \_\_, 2008

COLORADO RIVER INDIAN TRIBES

14  
15 By \_\_\_\_\_  
ERIC SHEPARD

16 Attorneys for Plaintiff Colorado River Indian Tribes

17  
18 Dated: February \_\_, 2008

19  
20 By \_\_\_\_\_  
FRED WELCH

21 Attorney for Defendant Robert Johnson

22 Dated: February 22, 2008

23  
24 By \_\_\_\_\_  
MICHAEL L. FRAME

25 Attorney for Defendant Water Wheel Camp Recreational  
26 Area, Inc.

## **Defendants' Exhibit 3**

FILED

MAR 5 1975

CLERK, U. S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

BY

DEPUTY

ENTERED

MAR 5 1975

CLERK, U. S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
DEPUTY

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FREDERICK M. BROGIO, JR.  
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Attorneys for Plaintiff,  
United States of America

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
Plaintiff,

v.

BERT THOMAS DENHAM AND  
BARBARA I. DENHAM,  
Defendants.

CIVIL NO. 73-495-ALS

JUDGMENT

Plaintiff, United States of America, and defendants Bert Thomas Denham and Barbara I. Denham, by their respective attorneys of record, having stipulated and agreed that a Judgment may be entered in the within action, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That the plaintiff, United States of America, is the owner of the real property and premises situated in the County of Riverside, State of California, described as follows:

Fractional Section 11 and Fractional Section 14  
Township 3 South, Range 23 East, San Bernardino  
Meridian, California, together with any accretions  
thereto.

///

DNF:mg  
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- 1 -

ENTERED APR - 7 1975



1        2. That, of those portions of the lands described in  
2 Paragraph 1 heretofore occupied by defendants, the plaintiff,  
3 United States of America, is the owner in trust for the Colorado  
4 River Indian Tribes of the real property and premises described  
5 as follows:

6                The lands as shown on the Bureau of Land Management  
7 plat of survey of Township 3 South, Range 23 East,  
8 San Bernardino Meridian, California, accepted May  
9 21, 1962,

10                Section 14: Lots 5 and 6  
11                Containing 50.86 acres more or less,  
12                together with any accretions thereto  
13                formed subsequent to said survey

14        3. That, of those portions of the lands described in  
15 Paragraph 1 heretofore occupied by defendants, the plaintiff,  
16 United States of America, is the owner in its sovereign capacity  
17 of the real property and premises described as follows:

18                The lands as shown on the Bureau of Land Management  
19 plat of survey of Township 3 South, Range 23 East,  
20 San Bernardino Meridian, California, accepted May  
21 21, 1962,

22                Section 11: Lot 4

23                Section 14: Lot 1

24        4. That the possession by the defendants, and each of them,  
25 of said property is, and has been, without any right, title or  
26 interest therein;

27        5. That plaintiff recover possession of said real property  
28 and premises wrongfully occupied by the defendants;

29        6. That the defendants remove themselves and all personal  
30 belongings from said real property and premises, wrongfully  
31 occupied by them, within thirty (30) days following the entry of  
32 this Judgment;

1 7. That the defendants may not and shall not in any manner  
2 interfere with plaintiff's right to administer, possess, and  
3 control said real property and premises from and after thirty (30)  
4 days following the entry of this Judgment;

5 8. That the defendants cease and desist from trespassing  
6 on said real property and premises from and after thirty (30)  
7 days following the entry of this Judgment;

8 9. That plaintiff's second cause of action filed herein  
9 is hereby dismissed with prejudice;

10 10. That each party bears his own costs of suit.

11 DATED: This 5th day of March, 1974.

12 ALBERT LEE STEPHENS, JR.

13 UNITED STATES DISTRICT JUDGE

14  
15  
16 PRESENTED BY:

17 WILLIAM D. KELLER  
18 United States Attorney  
19 FREDERICK M. BRODIO, JR.  
20 Assistant U. S. Attorney  
21 Chief of Civil Division

22 BRYAN N. FREEMAN  
23 Special Assistant to the  
24 U.S. Attorney

25 Attorneys for Plaintiff,  
26 United States of America.  
27  
28  
29  
30  
31  
32