

PRESS STATEMENT  
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## Federal Appeals Court Sends Rincon Case Back to Tribal Court

For several years running, the Rincon Band has been embroiled in a dispute with non-Indian property owners over their refusal to comply with Rincon tribal law regarding the regulation of land use activities within its reservation boundaries. The Tribe's efforts to make sure the activities do not pollute the Tribe's water supply and do not unreasonably increase the risks and severity of damage from wildfires was seemingly dealt a fatal blow in April when the United States Court of Appeals ruled that the Rincon Band has no jurisdiction over the activities of non-Indians on fee lands within the reservation boundaries. The Appeals Court has now withdrawn that opinion and the case has been sent back to tribal court.

Rincon said at the time that the decision was wrong and that it would seek rehearing of the decision. This time, nearly 100 tribes throughout the Ninth Circuit chimed in with 'friend of the court' briefs in support of the Rincon Band. The new ruling did not rule that the Tribe has jurisdiction, but ruled that that the Tribe had made a 'colorable' argument that it has jurisdiction such that the property owners must exhaust their remedies in Inter-Tribal Court of Southern California before the question may be heard in federal court.

The Supreme Court has opined that a tribe may regulate non-Indian activities on non-Indian lands within a reservation where the regulation is necessary to protect the Tribe from catastrophic damage to tribal interests. The Court's ruling today enables the Tribe to develop the record in the Tribal Court that the owners' activities have for quite some time endangered the tribe's water supply and unreasonably enhance the risk and severity of damage caused by wildfires. Twice in the last few years, wildfires have swept across the Rincon reservation destroying several buildings and put the Harrah's Rincon Resort at risk. The property at issue is immediately upwind from the resort. Recently, a large diesel plume has been discovered under the subject property.

"On the one hand, we wish we did not have hard evidence to present to the Tribal Court to demonstrate that the Tribe's efforts to regulate the activities is truly needed. On the other hand, the Court of Appeals has now has given us the opportunity to present that hard evidence to the Tribe Court. We are confident that the evidentiary record will demonstrate to the federal courts that Rincon's exercise of jurisdiction falls well within the limits set by the Supreme Court." Said Scott Crowell, Deputy Attorney General to the Rincon Band.

"We are grateful for the support of nearly 100 tribes that made their voice known to the Appeals Court, and we are grateful the Appeals Court heard their voice. This case is about our sovereignty; it is about responsible governance. These land-owners were looking to create a lawless enclave, thumbing their nose at both the Tribe and San Diego County, while engaging in dangerous activities. We have the sovereign right and the responsibility to protect tribal interests. We are relieved that the Court has admitted its own error, which now allows our case in Tribal Court to proceed on the merits.", said Tribal Chairman Bo Mazzetti.