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2024 Real Property Law Retreat

An Overview of Historical Land Transactions of the Agua Caliente Tribe

Saturday, March 9, 2024
3:30pm - 4:30pm

Speakers: John Plata, Rahsaan Tilford, Cynthia Morales

Conference Reference Materials

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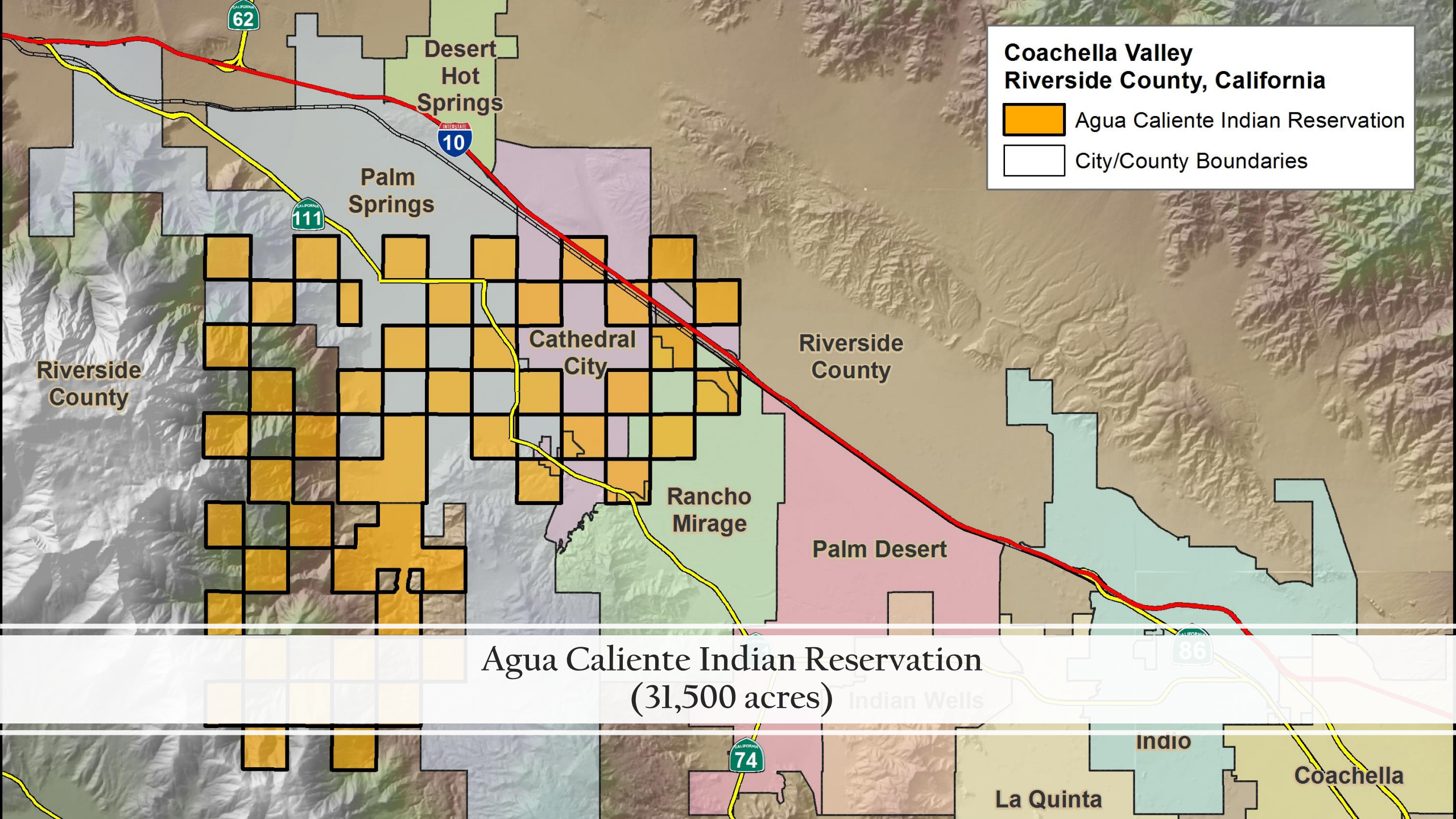
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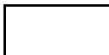
An aerial photograph of a desert valley. In the background, there are large, rugged mountains under a clear blue sky. The middle ground shows a town with many houses and palm trees. A river or stream flows through the valley. The foreground is a dry, hilly area with sparse vegetation.

Introduction to Indian Country

Rahsaan J. Tilford, Deputy General Counsel
Agua Caliente Band of Cahuilla Indians



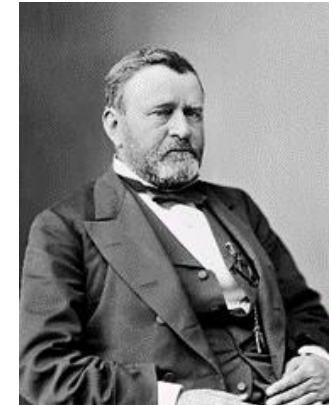
**Coachella Valley
Riverside County, California**

-  Agua Caliente Indian Reservation
-  City/County Boundaries

Agua Caliente Indian Reservation
(31,500 acres)

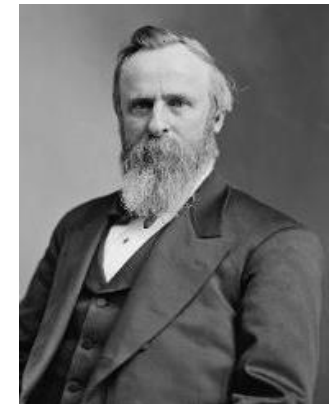
1876 | May 15

Agua Caliente Indian Reservation is established by President Ulysses S. Grant. Originally, Section 14 and the northeast $\frac{1}{4}$ and east $\frac{1}{2}$ of the southeast $\frac{1}{4}$ of Section 22, T4S, R4E.



1877 | September 29

Agua Caliente Indian Reservation is expanded by President Rutherford B. Hayes to the even numbered sections in three townships (odd numbered sections granted to the Southern Pacific Railroad).





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- 1893 | County of Riverside
 - 1938 | City of Palm Springs
 - 1973 | City of Rancho Mirage
 - 1981 | City of Cathedral City

18 U.S.C. § 1151
“Indian
Country”
means...

- (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation,
- (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and
- (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Land Status Types Within Indian Country

- Tribal Trust Lands: Lands held by the United States in trust for a tribe.
- Allotted Trust Lands: Lands held by the United States in trust for a tribal citizen.
- Fee Lands: Lands owned by a non-tribal citizen, a tribal citizen, or a tribe in fee simple.

Civil Regulatory Authority - Tribes

Tribes have exclusive authority to regulate the conduct of their citizens within Indian Country.

Tribes retain authority to regulate the conduct of non-citizens on Tribal Trust and Allotted Trust Lands, except when a federal statute divests a tribe of that authority or when tribal authority conflicts with an overriding national interest.

Tribes do not have authority to regulate the conduct of non-citizens on non-citizen owned Fee Lands within Indian Country, except that (*Montana* test):

- A tribe may regulate, through taxation, licensing, or other means, the conduct of non-citizens who enter consensual relationships with the tribe or its citizens, through commercial dealing, contracts, leasing, or other arrangements.
- A tribe may regulate the conduct of nonmembers when that conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe.

Civil Regulatory Authority – States/Local Governments

States/local governments do not possess civil regulatory authority over tribal citizens and tribes in Indian Country except when:

- authorized by federal law, or
- exceptional state interests exist.

States/local governments have civil regulatory authority over non-citizens in Indian Country, except when the state regulation:

- conflicts with an express federal statutory prohibition,
- is impliedly preempted by federal law, or
- infringes on tribal self-governance.

Indian Country Jurisdictional Soup – Civil Regulatory Authority

Status of Individual	Tribal Trust Lands	Allotted Trust Lands	Fee Lands
Tribal Citizen	Exclusive Tribal Civil Regulatory Authority	Exclusive Tribal Civil Regulatory Authority	Exclusive Tribal Civil Regulatory Authority
Non-Tribal Citizen	Concurrent Tribal and State/Local Civil Regulatory Authority	Concurrent Tribal and State/Local Civil Regulatory Authority	<p>Presumption of State/Local Civil Regulatory Authority</p> <p>Tribal Civil Regulatory Authority if Tribe can meet <i>Montana</i> test</p>

Land Use on the ACBCI Reservation

- Tribe has exclusive land use authority over Tribal Trust and Allotted Trust Lands.
- Tribe has delegated its land use authority to the cities of Cathedral City, Palm Springs, Rancho Mirage, and the county of Riverside for Allotted Trust Lands.
- Tribe has not delegated its land use authority over Tribal Trust Lands.
- Cities and County are designated the Tribe's agent with respect to land use on all Allotted Trust Lands.
- Cities and County collect fees to cover costs.
- Cities and County consult with Tribe.
- Land use decisions can be appealed to Tribal Council.

Development on the ACBCI Reservation

- Development (whether approved by the Tribe or its agents) is primarily achieved through long term leasing, which is authorized by the Long-Term Leasing Act (25 U.S.C. § 415) and its implementing regulations at 25 C.F.R. Part 162.
- Alternatively, the Tribe can approve leases on Tribal Trust Lands pursuant to the HEARTH Act (25 U.S.C. § 415 (h)) and Chapter 4.16 of the ACBCI Tribal Code.



Additional Information

Agua Caliente Band of Cahuilla Indians:

www.aguacaliente.org

Bureau of Indian Affairs:

www.bia.gov