

# Mojave Cross

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(Associated Press: <http://www.foxnews.com/us/2012/11/11/veterans-to-resurrect-war-memorial-cross-in-mojave-desert-in-calif-capping-long.html>)

A war memorial cross that once stood on a rocky hilltop in a national park before being deemed unconstitutional and ordered removed was resurrected on Veterans Day at the stunningly stark Mojave Desert site, capping a landmark case for veterans fighting similar battles on public lands.

Henry Sandoz, who cared for the original 1930s cross as part of a promise to a dying World War I veteran, rededicated a new, 7-foot steel cross on the same hilltop before more than 100 people. The site is now in private hands as part of a land swap with the National Park Service that ended the longstanding legal dispute, which had become entangled in the thorny issues of patriotism and religion.

"Judges and lawyers may have played their roles, but it was the veterans who earned this memorial, and it is for them it rises once more," said attorney Hiram Sasser of the Texas-based Liberty Institute, which represented veterans in the legal fight.

The settlement approved by a federal judge in April permitted the Park Service to turn over the acre of land known as Sunrise Rock to a Veteran of Foreign Wars Department of California in exchange for five acres of donated property elsewhere in the 1.6 million acre preserve, about a four hour-drive east of Los Angeles.

The donated land was owned by Sandoz and his wife, Wanda, of Yucca Valley.

Sandoz, 73, has cared for the memorial as a promise to World War I veteran, Riley Bemby, who with other shell-shocked vets went to the desert to help heal and erected a cross on Sunrise Rock in 1934.

Then Sunrise Rock became part of the Mojave National Preserve in 1994, putting the Christian symbol on public land.

The American Civil Liberties Union filed a lawsuit in 2001 on behalf of a retired Park Service employee who argued the cross was unconstitutional on government property because of the separation of church and state, and federal courts ordered it removed.

Congress stepped in and ordered the land swap in 2003, but the courts rejected the transfer. The issue made its way to the U.S. Supreme Court, which in April 2010 refused to order the cross removed. The high court directed a federal judge to review the congressional land transfer plan.

The decision was the latest on the issue by a Supreme Court that has signaled a greater willingness to allow religious symbols on public land amid a number of legal challenges in recent years by civil liberty activists and atheists.

Weeks after the 2010 court decision, the cross — which had been covered up to comply with court injunctions — was stolen. The stolen cross turned up earlier this month in the San Francisco Bay area tied to a fence post. The San Mateo County Sheriff's Department plans to return the cross.

But veterans decided to start fresh and dedicate its replacement in Sunday's ceremony, which included speeches, the Pledge of Allegiance and a bugler playing taps.

"It's there and it's going to stay there," Wanda Sandoz said. "With the land swap we don't have to worry about its fate anymore. We're happy to have it all resolved and back in place to honor the vets."

The Park Service has fenced the site, leaving entrances for visitors, and posted signs noting that it is private land. A plaque stating that the cross is a memorial for U.S. war veterans now sits on the rock.

### **Meet Henry and Wanda Sandoz:**

(Published by First Liberty:<https://firstliberty.org/cases/mojavedesertmemorialcross/>)

Caretakers of the Mojave Desert Veterans Memorial Cross Henry Sandoz, was a friend of Riley Bembry a World War I veteran and one of the founders of the memorial. Riley Bembry took care of the cross until his death in 1984. Shortly before his passing, he asked Henry to care for the memorial. From that time, Henry and his wife, Wanda, faithfully looked after the cross.

However, in 2000, a U.S. National Park Service superintendent showed up and asked Henry to take down the cross. Henry refused, telling the superintendent that he would absolutely not take down the memorial cross.

Henry's decision to take a stand led to the legal battle over the memorial cross that eventually climaxed in a battle at the U.S. Supreme Court.

"I thank God he's a stubborn guy, because otherwise it would have been over and done, and there'd be no World War I memorial," Wanda later said, as reported by WORLD News, when remembering Henry's refusal to take down the cross.

### **ACLU Sues, Saying Memorial Cross on Public Property is Unconstitutional**

In 2001, the ACLU filed a lawsuit on behalf of a man living in Oregon, arguing that the cross was unconstitutional since it was located on government land. Lower federal courts agreed, ordering the removal of the cross and prohibiting Congress from transferring the cross and the land on which it stood to the VFW.

Judges ordered a heavy bag padlocked over the cross to cover it up during the appeals process. Later, the bag was replaced by a wooden box.

### **Legal Action**

To help save the memorial, First Liberty Institute stepped in and filed an amicus (friend of the court) brief at the U.S. Supreme Court on behalf of the VFW, The American Legion, Military Order of the Purple Heart and American Ex-Prisoners of War.

In 2010, the Supreme Court reversed the lower courts' rulings and upheld the constitutionality of a law passed by Congress in 2003 that allowed the transfer of the memorial and the land upon which it stood to the VFW in exchange for land elsewhere in Mojave Desert owned by Henry Sandoz. In its decision, the Supreme Court referenced First Liberty's amicus brief 12 separate times.

Just days after the Supreme Court's ruling, vandals stole the cross, but the VFW promised that the memorial would be rebuilt once the case was finally over and the VFW became the official landowners of the small patch of desert where the cross once stood.

In April 2012, U.S. District Court Judge Robert J. Timlin signed an order ending the ACLU's lawsuit, paving the way for the transfer of the original memorial site on Sunrise Rock to the VFW.

On November 11, 2012, after the conclusion of the land transfer, more than 100 supporters turned out for a special Veterans Day celebration, which included the long-awaited restoration and rededication of the new Mojave Desert Veterans Memorial Cross. At the ceremony, the Sandozes, members of the VFW, and members of The American Legion took turns reflecting on the historic moment – a moment 11 years in the making.

The protection of the Mojave Desert Veterans Memorial Cross, sparked by Henry Sandoz's refusal to take down the cross, created important precedent for defending other memorials that contain religious imagery from being torn down.

In 2015, Henry passed away at the age of 76. Hiram Sasser, Deputy Chief Counsel at First Liberty, said, "If Henry Sandoz had caved in, the only World War I Memorial designated a National Monument by Congress would have come down, and the ACLU's campaign to single out and take down veterans memorials with religious imagery would have claimed its most prominent victim."



Please watch the Mojave cross rededication video: <https://www.youtube.com/watch?v=OsYofdxdg7uE>