#### Case 2:14-cv-01449-KJM-CMK Document 2 Filed 06/17/14 Page 1 of 6 1 KAMALA D. HARRIS Attorney General of California 2 SARA J. DRAKE, State Bar No. 102565 Senior Assistant Attorney General 3 TIMOTHY M. MUSCAT, State Bar No. 148944 Deputy Attorney General 4 WILLIAM P. TORNGREN, State Bar No. 58493 Deputy Attorney General 5 1300 I Street, Suite 125 P.O. Box 944255 6 Sacramento, CA 94244-2550 Telephone: (916) 323-3033 7 Fax: (916) 323-2319 E-mail: William.Torngren@doj.ca.gov 8 Attorneys for Plaintiff 9 IN THE UNITED STATES DISTRICT COURT 10 FOR THE EASTERN DISTRICT OF CALIFORNIA 11 12 13 14 STATE OF CALIFORNIA, 15 Plaintiff. COMPLAINT FOR INJUNCTIVE AND **DECLARATORY RELIEF** 16 17 PASKENTA BAND OF NOMLAKI INDIANS, A FEDERALLY RECOGNIZED 18 INDIAN TRIBE, 19 Defendant. 20 21 The State of California (State) alleges: 22 **STATEMENT OF THE CASE** 23 1. This action seeks emergency and other appropriate injunctive relief to prevent an 24 imminent threat to the public health and safety. Opposing tribal factions of the Paskenta Band of 25 Nomlaki Indians (Paskenta) claim the right to control the Rolling Hills Casino (Casino). Even 26 though the State gives deference to Paskenta's sovereignty to resolve its intra-tribal dispute, public health, safety, and welfare have become threatened. One faction in the intra-tribal dispute 27

advises that "by and through its Tribal Police, [it] intends to very soon physically repossess and

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# close" the Casino located in Corning, California. This is an imminent threat to the public health and safety of Paskenta's members, the Casino's patrons and employees, and the State's residents. Therefore, this Court should issue orders to protect the public, including temporarily restraining. and permanently enjoining, attempts to take control of, or repossess, the Casino, deploying tribal police or other armed personnel at or near the Casino, and carrying firearms at the Casino and related tribal properties.

### JURISDICTION AND VENUE

- 2. This Court has jurisdiction pursuant to section 1331 of title 28 of the United States Code because the State's claim arises under federal statutes and the federal common law. This Court also has jurisdiction pursuant to section 2710(d)(7)(A)(ii) of title 25 of the United States Code because this action is initiated by the State to enjoin conduct related to Paskenta's class III gaming activity that violates its compact with the State.
- 3. Venue is proper in this District because all of the claims arise from conduct occurring, and the underlying tribal-state compact was entered into and is to be performed, in the Eastern District of California.

#### FACTUAL BACKGROUND

## The Compact and Waiver of Sovereign Immunity

- 4. The State and Paskenta entered into a tribal-state class III gaming compact on September 10, 1999 (Compact). Pursuant to the Compact, Paskenta owns and operates a class III gaming casino in Corning, Tehama County, California.
- 5. Pursuant to section 8.1.2 of the Compact, Paskenta agreed to "[e]nsuring the physical safety of Gaming Operation patrons and employees, and any other person while in the Gaming Facility."
- 6. Section 10.1 of the Compact provides: "The Tribe will not conduct Class III gaming in a manner that endangers the public health, safety, or welfare . . . . "
- 7. Section 9.1 of the Compact provides that, in the case of imminent threat to the public health or safety, the parties may resort to judicial process.

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- 8. Section 9.3 of the Compact provides for a limited waiver of sovereign immunity as follows:
  - (a) In the event that a dispute is to be resolved in federal court . . . as provided in this Section 9, the State and the Tribe expressly consent to be sued therein and waive any immunity therefrom that they may have provided that:
  - (1) The dispute is limited solely to issues arising under this Gaming Compact;
  - (2) Neither side makes any claim for monetary damages (that is, only injunctive, specific performance, . . . or declaratory relief is sought); and
  - (3) No person or entity other than the Tribe and the State is party to the action . . . .

#### **The Intra-tribal Dispute**

- 9. An intra-tribal dispute exists among Paskenta's members. Two factions claim leadership rights and the right to the Casino's possession and control. The intra-tribal dispute involves armed factions and thus poses a threat to the public health, safety, and welfare.
- 10. On June 9, 2014, the United States Department of the Interior, Bureau of Indian Affairs (BIA), issued an administrative cease and desist order (Cease and Desist Order). There, the BIA recited that the security force for one faction had barricaded the entrance to the Casino and that armed agents of the other faction covered the perimeter of the Casino property. The BIA further recited that local law enforcement reported the situation as "very volatile" and "tensions are high." The BIA issued the Cease and Desist Order based upon public endangerment.

## The Threat to Public Health and Safety

11. On June 10, 2014, Gabriel S. Galanda (Galanda), an attorney representing one of the factions to the intra-tribal dispute, sent an email to, among others, the State's agents. That email forwarded the Cease and Desist Order

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## CLAIM FOR RELIEF

## (Breach of Compact)

15. Under the Compact, Paskenta agreed to ensure the physical safety of patrons and employees. Paskenta further agreed not to conduct class III gaming in a manner that endangers the public health, safety, or welfare.

- 16. By the actions alleged in this Complaint, Paskenta materially breached, and continues to breach, the Compact.
- 17. The facts alleged in this Complaint demonstrate that emergency relief is required to maintain the public health and safety. The facts alleged in this Complaint further demonstrate that the State is entitled to injunctive relief to prevent any endangerment or threat to the public health and safety.

#### PRAYER AND RELIEF REQUESTED

WHEREFORE, the State prays that:

- 1. This Court enter a temporary restraining order, and preliminary and permanent injunctions, prohibiting any Paskenta tribal faction, including officers, agents, servants, employees and persons acting under Paskenta's direction and control, from attempting to repossess, or take control of, the Casino.
- 2. This Court enter a temporary restraining order, and preliminary and permanent injunctions, prohibiting Paskenta, including officers, agents, servants, employees and persons acting under Paskenta's direction and control, from deploying tribal police or other armed personnel of any nature within 100 yards from the Casino, the property on which the Casino is located, and tribal properties surrounding the Casino including the nearby hotels, gas station, and RV park (collectively, Tribal Properties).
- 3. The Court enter a temporary restraining order, and preliminary and permanent injunctions, prohibiting Paskenta, including officers, agents, servants, employees and persons acting under Paskenta's direction and control, from possessing, carrying, displaying, or otherwise having firearms on the Tribal Properties.
- 4. This Court declare that Paskenta has materially breached the Compact and that the State may exercise all rights, powers, and privileges accorded it with respect thereto including, without limitation, the right to terminate the Compact.

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1	5. This Court enter such further order	s and judgments as it deems appropriate.
2	Dated: June 17, 2014	Respectfully submitted,
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