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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

DONALD ALLEN; BARBARA CRABTREE;	)	Case No.
LYNN CRABTREE; VENUS HOAGLEN;	)	
DANIEL JACKSON; GWEN JACKSON-	)	COMPLAINT FOR DECLARATORY
LOSS; JESSICA JACKSON; MARTHA	)	AND INJUNCTIVE RELIEF
KNIGHT; LUCILLE SILVA; MICHAEL	)	
TOOLEY, AND CLARENCE WRIGHT,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
UNITED STATES OF AMERICA; and	)	
KENNETH SALAZAR, as Secretary of the	)	
United States Department of the Interior,	)	
	)	
Defendants.	)	
	)	

**INTRODUCTION**

1. This is an action for declaratory and injunctive relief brought against the United States of America and the Secretary of the Interior (“Secretary”) by eighteen individual Indians of the half-blood or more (“Indians”) who reside on the Pinoleville Indian Reservation, seeking an order from this Court declaring that the Secretary has acted in an arbitrary, capricious, and discriminatory manner by: (1) unreasonably delayed calling and conducting an election under the provisions of the Indian Reorganization Act, 25 U.S.C. § 476 (“IRA”), to allow the Indians to organize a tribal government under a written constitution; (2) interpreting 25 C.F.R. § 81.1 (w) as requiring the Indians to be a federally recognized Tribe in order to be eligible for an

election under the IRA; (3) acted in direct violation of 25 U.S.C. § 479 by interpreting that statute and 25 C.F.R. § 81.1(w) to require the Indians to be a federally recognized Indian tribe in order to be eligible for an election under the IRA; and (4) denied services and benefits, to the Indians, including, but not limited to, prevented the Indians from organizing a tribal government. The Indians also seek an order from the Court declaring that interpreting 25 C.F.R. § 81.1(w) as requiring the Indians to be federally recognized is in direct conflict with 25 U.S.C. § 479; declaring that 25 C.F.R. § 81.1(w)(2) does not require the Indians to be currently on the list of federally recognized Indian Tribes in order to be eligible for an IRA election pursuant to 25 U.S.C. § 476, and directing the Secretary to call and conduct an election for the Indian pursuant to 25 U.S.C. § 476.

### **JURISDICTION**

2. This Court's jurisdiction over the Indians' claims is based upon the following:

(a) Article VI, cl. 2 of the Constitution of the United States, in that the Indians assert that the defendants' actions are inconsistent with the Constitution and laws of the United States;

(b) The Fifth Amendment to the United States Constitution, in that Indians assert that the defendants' actions constitute arbitrary and unreasonable discriminatory action;

(c) 28 U.S.C. § 1331, in that Indians' claims arise under the Constitution and laws of the United States;

(d) 28 U.S.C. § 1337, in that this action arises out of Acts of Congress regulating commerce with Indian tribes, pursuant to Article I, section 8, cl. 3 of the United States Constitution, and

(e) 28 U.S.C. § 1361, in that the Indians seek to compel officers and employees of the United States and its agencies to perform duties owed to Indians.

### **WAIVER OF THE UNITED STATES' SOVEREIGN IMMUNITY FROM SUIT**

3. The defendants are subject to suit in this Court and the United States government's sovereign immunity does not bar this action because the Indians seek to compel officers and employees of the United States to take action unlawfully withheld or unreasonably

1 delayed, pursuant to the Administrative Procedure Act, 5 U.S.C. § 701, et seq. (“APA”).

2 **VENUE**

3 4. Venue is proper in the Northern District of California, pursuant to 28 U.S.C. §  
4 1391, as all of the Indians reside and their claims arose in this district, and the defendants are  
5 subject to suit in this district.

6 **PARTIES**

7 5. Each of the individual Indian plaintiffs are American Indians who possess a one-  
8 half or more degree of Pomo Indian blood and who reside on the Pinoleville Indian Reservation  
9 located in Mendocino County, California. At all times material hereto, none of the Indians are  
10 members of a federally recognized Indian tribe.

11 6. The United States of America is a quasi-sovereign governmental entity  
12 organized under a written constitution and which owes a fiduciary duty in the nature of a  
13 continuing trust obligation to assist the Indians in organizing their tribal government.

14 7. Defendant Kenneth Salazar (“Secretary”) is the Secretary of the United States  
15 Department of the Interior. The Secretary is an officer or employee of the United States and has  
16 a direct or delegated statutory duty or responsibility to carry out the provisions of the IRA, the  
17 regulations promulgated pursuant to the IRA, and to fulfill the trust responsibilities of the  
18 United States America to the Indians.

19 **GENERAL ALLEGATIONS**

20 8. On June 18, 1934, Congress enacted the IRA. The purpose of the IRA was to  
21 encourage and facilitate the economic development of Indian reservations by Indian tribes and  
22 foster Indian self-determination by encouraging tribes to revitalize their tribal governments.

23 9. Section 16 of the IRA, codified at 25 U.S.C. § 476, authorizes an Indian tribe to  
24 organize a tribal government by adopting a constitution, which becomes effective when ratified  
25 by a majority vote of the adult members of the tribe at a special election called and conducted  
26 by the Secretary for that purpose. These special elections are administered and conducted by  
27 the Secretary under regulations promulgated by the Secretary for the purpose of implementing  
28 the IRA, which are codified at 25 C.F.R. Part 81.



1 and attached hereto as **Exhibit B**.

2           17.     At a meeting held on May 28, 2009, the Indians met with Dale Morris  
3 (“Morris”), then Regional Director (“Regional Director”) of the Pacific Regional Office of the  
4 United States Department of the Interior (“DOI”), Bureau of Indian Affairs (“BIA”), and hand-  
5 delivered to Regional Director Morris the Petition, a proposed tribal membership list, a copy of  
6 the Constitution, and a letter dated May 27, 2009, addressed to Dale Morris. A true and correct  
7 copy of the May 27, 2009, letter, addressed to Morris, Regional Director of the DOI, BIA,  
8 Pacific Regional Office, is hereby incorporated by this reference and attached hereto as **Exhibit**  
9 **C**.

10           18.     At the May 28, 2009, meeting, Morris accepted the documents and  
11 acknowledged that receipt of the documents started the 180-day time period pursuant to 25  
12 U.S.C. § 476 for the Secretary to review the documents, make a determination as to whether the  
13 Indians were eligible for an IRA election, and call and conduct the IRA election on behalf of the  
14 Indians.

15           19.     At the conclusion of the May 28, 2009, meeting, Morris agreed that he would  
16 have his office determine whether the Indians possessed the one-half Indian blood quantum  
17 necessary to qualify as a one-half blood Indian community, as defined by 25 U.S.C. § 479 and  
18 25 C.F.R. § 81.1(w)(2), and, therefore, were eligible to hold an election to organize a tribal  
19 government under the provisions of 25 U.S.C. § 476. In doing so, Morris agreed to utilize the  
20 Indians’ certificates of Indian blood and other information the BIA already had on file.

21           20.     On June 9, 2009, the Indians, acting through their undersigned legal counsel,  
22 sent a letter to Morris, confirming the May 28, 2009, meeting, and what was agreed to at the  
23 meeting. A copy of the June 9, 2009, letter to Regional Director Morris is hereby incorporated  
24 by this reference as if set forth here in full and attached hereto as **Exhibit D**.

25           21.     On November 4, 2009, Morris sent a memorandum to Jerry Gitner, then Director  
26 of the BIA, requesting that he advise Morris on “how to proceed” in response to the Indians’  
27 request for an IRA election. A true and correct copy of the November 4, 2009, memorandum  
28 from Regional Director Morris to BIA Director Gitner is hereby incorporated by this reference

1 as if set forth here in full and attached hereto as **Exhibit E**.

2 22. On November 27, 2009, the 180-day time period for the defendants to call and  
3 conduct the IRA election for the Indians expired, with the defendants taking no action on the  
4 request.

5 23. On May 17, 2010, the Indians' undersigned legal counsel received a letter dated  
6 May 13, 2010, from Acting Regional Director, Dale Risling ("Risling"), requesting that the  
7 Indians submit additional information to the Regional Director in support of the Indians'  
8 request. A true and correct copy of Acting Regional Director Risling's May 13, 2010, letter to  
9 Lester J. Marston is hereby incorporated by this reference as if set forth here in full and attached  
10 hereto as **Exhibit F**.

11 24. In response to Acting Regional Director Risling's May 13, 2010, letter, the  
12 Indians, acting through their undersigned legal counsel, sent a letter dated July 13, 2010, to  
13 Dale Risling. In the July 13, 2010, letter, to Acting Regional Director Risling, undersigned  
14 legal counsel advised the Acting Regional Director that all of the information that Acting  
15 Regional Director Risling "requested is already in the possession of the BIA, including, but not  
16 limited to, the distribution plan for the distribution of the assets of the Pinoleville Indian  
17 Rancheria; documents verifying the Indian blood quantum of the Indians who signed the  
18 petition requesting that the Secretary call and conduct an election for the Indians under 25  
19 U.S.C. § 476; and the Pinoleville Pomo Nation's constitution that sets forth the criteria for  
20 membership in the Nation." A true and correct copy of Lester J. Marston's July 13, 2010, letter  
21 to Dale Risling, Acting Regional Director, is hereby incorporated by this reference as if set  
22 forth here in full and attached hereto as **Exhibit G**.

23 25. By letter dated August 5, 2010, Acting Regional Director Risling sent a letter to  
24 Lester J. Marston denying the petitioners' request for an IRA election ("Decision") on the  
25 grounds that the petitioners were not a federally recognized Indian tribe as required by 25  
26 C.F.R. § 81.1(w)(1) and, therefore, not eligible for an IRA election. A true and correct copy of  
27 Risling's August 5, 2010, letter to Lester J. Marston is hereby incorporated by this reference as  
28 if set forth here in full and attached hereto as **Exhibit H**.

26. On September 8, 2010, undersigned legal counsel, acting on behalf of the Indians, sent a letter to Acting Regional Director Risling, requesting that he reconsider his Decision denying the Tribe's request for an IRA election, on the grounds that the Indians did not have to be a federally recognized Indian tribe in order to be eligible for an election under the IRA. Marston argued that, to be eligible for an IRA election, the Indians only needed to be Indians of the half-blood or more, residing on a reservation that had been set aside for them. Marston further argued that the petitioners met all of the criteria set forth in the IRA in that they were Indians of the half-blood, they resided on a reservation, and they resided on a reservation that had been set aside for them.

27. At all times material hereto, Risling, in his capacity as the Acting Regional Director for the DOI, BIA, was acting on behalf of the Secretary, pursuant to authority delegated by the Secretary to him.

28. Upon receipt of Mr. Marston's request for reconsideration, Acting Regional Director Risling forwarded the request to George Skibine, then Acting Deputy Assistant Secretary, Policy and Economic Development for the BIA in Washington, D.C. At all time material hereto, George Skibine, in his capacity as the Acting Deputy Assistant Secretary, was acting on behalf of the Secretary, pursuant to the authority delegated to him by the Secretary.

29. The defendants have taken no action on the Indians' request for reconsideration, nor have they called and conducted an IRA election on behalf of the Indians.

### **FIRST CLAIM**

#### **[Violation of the Fifth Amendment]**

30. The Indians reallege each and every allegation set forth in Paragraphs 1-29 above and, by this reference, incorporates each such allegation herein as if set forth in full.

31. As Indians of the half-blood or more that reside upon a reservation set aside for them, the Indians are an "Indian tribe" within the meaning of 25 U.S.C. § 476 and, under the IRA, are vested with the right to organize a constitutional form of government. Under the IRA, the defendants have a duty to assist the Indians in the preparation of their IRA constitution and to conduct an IRA election within 180 days after receiving a request from the Indians for such

1 an election.

2 32. By failing to recognize that Indians are an “Indian tribe” within the meaning of  
3 25 U.S.C. § 476 and 25 C.F.R. § 81.1(w)(2), unreasonably delaying the review of the Indians’  
4 Constitution, and failing to call and conduct an IRA election for the Indians within 180 days of  
5 receipt of their request for such an election, the defendants have acted arbitrarily and  
6 unreasonably discriminated against the Indians, in violation of the Fifth Amendment to the  
7 United States Constitution.

8 33. Unless the defendants are provisionally and permanently restrained and enjoined  
9 from refusing to recognize that the Indians are a tribe within the meaning of 25 U.S.C. § 479  
10 and 25 C.F.R. § 81.1w)(2), and, therefore, are eligible to conduct an IRA election to organize a  
11 tribal government for the Indians, the Indians will suffer severe and irreparable injury for which  
12 the Indians have no plain, speedy, or adequate remedy at law. The Indians will be denied the  
13 right to organize a tribal government, to govern themselves, and will be unable to engage in  
14 their governmental functions, including, but not limited to, entering into contracts with federal  
15 agencies to provide housing and health care to their members. The Indians’ economic, cultural,  
16 and political development efforts will collapse, and any prospects for the economic, cultural,  
17 and political advancement of the Indians will be destroyed.

18 34. An actual and substantial controversy exists between the Indians and the  
19 defendants, in that the Indians contend that the defendants’ actions as set forth above are  
20 arbitrary and capricious and unreasonably discriminatory and, therefore, violate of the Fifth  
21 Amendment to the United States Constitution, while the defendants contend that their actions  
22 do not constitute such a violation.

## 23 **SECOND CLAIM**

### 24 **[Violation of 25 C.F.R. § 81.1(w)(2)]**

25 35. The Indians allege each of the allegations set forth in Paragraphs 1-34 above,  
26 and by this reference incorporates herein each such allegation as if set forth in full.

27 36. Title 25 of the United States Code § 476 authorizes any Indian tribe to organize  
28 a tribal government under a written Constitution adopted at an election called and conducted by



1 the Secretary. Title 25 of the United States Code § 479 defines the term “Indian tribe,” for  
2 purposes of 25 U.S.C. § 476, as the Indians residing on one reservation the terms “Indian” is  
3 defined in 25 U.S.C. § 479 as “are persons of one-half or more Indian blood”. In enacting the  
4 definition of “Indian tribe” in 25 U.S.C. § 479, Congress did not limit the definition to federally  
5 recognized Indian tribes whose names appear on the current list of federally recognized tribes  
6 published by the Secretary in the Federal Register. Rather, Congress included all Indians of the  
7 half-blood or more residing on one reservation.

8 37. 25 C.F.R. § 81.1(w)(1), which the Secretary relied upon in making his Decision  
9 that the Indians were not eligible for an IRA Election, imposes conditions for the conducting of  
10 IRA Elections that Congress never intended and conflicts with judicial interpretations of the  
11 IRA, in direct violation of 25 U.S.C. §§ 476 and 479 and 25 C.F.R. § 81.1(w)(2). The Decision  
12 is therefore void.

13 38. By requiring that the Indians be a federally recognized Indian Tribe, the  
14 Secretary acted in excess of the Secretary’s authority, in violation of the IRA and 25 C.F.R. §  
15 81.1(w)(2).

16 39. Unless the defendants are provisionally and permanently restrained and enjoined  
17 from enforcing 25 C.F.R. § 81.1(w)(1) against the Indians and ruling that the Indians are not  
18 eligible for an IRA Election based upon said regulation, the Indians will suffer severe and  
19 irreparable injury for which the Indians have no plain, speedy, or adequate remedy at law. The  
20 Indians will be denied the right to organize a tribal government and govern its members as an  
21 exercise of its tribal sovereignty. As a result, the Indians will be prevented from providing  
22 essential governmental services to its members. In addition, the Indians’ economic, cultural,  
23 and political development efforts will be hampered, and the Indians’ efforts to promote the  
24 economic, political, and cultural advancement of the Indians and its members will be thwarted.

25 40. An actual and substantial controversy exists between the Indians and the  
26 defendants. The Indians contend that the defendants’ actions, as set forth above, are in direct  
27 violation of the IRA and 25 C.F.R. § 81.1(2)(2), and, therefore, the Decision is void, while the  
28 defendants claim their actions are lawful and the Decision is valid.

1 WHEREFORE, plaintiffs pray as hereafter set forth.

2 **THIRD CLAIM**

3 **[Violations of the IRA]**

4 41. The Indians reallege each of the allegations set forth in Paragraphs 1-40 above  
5 and, by this reference, incorporate each such allegations herein as if set forth in full.

6 42. Section 16 of the IRA, codified at 25 U.S.C. § 476, directs the Secretary to  
7 authorize and call a special election under such rules and regulations as he may prescribe,  
8 within 180 days of receipt of a request from an eligible tribe. Pursuant to 25 U.S.C. § 479, the  
9 Indians are an “Indian tribe” within the meaning of § 476, in that they are Indians of the half-  
10 blood or more who reside on a reservation set aside for them.

11 43. As heretofore alleged, the Indians have submitted a Constitution to the Secretary  
12 with a request that he authorize, call and conduct a special election among the Indians to allow  
13 them to organize a tribal government. In spite of this request, the defendants have failed to call  
14 a special election for the Indians and refuse to recognize that the Indians are an Indian tribe  
15 eligible for such a special election within the meaning of 25 U.S.C. § 476.

16 44. Unless the defendants are provisionally and permanently restrained and enjoined  
17 from denying that the Indians are an eligible Indian tribe within the meaning of 25 U.S.C. § 476  
18 and 25 C.F.R. § 81.1(2)(2), the Indians will suffer severe irreparable injury, in that the Indians  
19 will be denied the right to organize a government and govern themselves under a written  
20 constitution, perform tribal governmental functions and services for their members, and  
21 maintain a government-to-government relationship with the United States. An actual  
22 controversy exists between the Indians and defendants, in that the Indians contend that the  
23 failure of the defendants to call a special IRA election for the Indians constitute arbitrary and  
24 capricious action and an abuse of discretion, all of which is in direct violation of the provisions  
25 of the IRA and the regulations promulgated thereunder, while the defendants claim that their  
26 actions are lawful.

27 WHEREFORE, the Indians pray as hereinafter set forth.

28 //

**FOURTH CLAIM****[Violation of Administrative Procedure Act]**

45. The Indians reallege each of the allegations set forth in Paragraphs 1-44 above and, by this reference, incorporate each allegation herein as if set forth in full.

46. As heretofore alleged, the defendants have a statutory obligation to authorize and call a special IRA election on behalf of the Indians within 180 days from receiving a request from the Indians. Notwithstanding the statutory obligation, the Secretary has not called a special IRA election for the plaintiffs, even though they have requested him to do so more than 180 days ago.

47. The failure of the Secretary to call a special IRA election for the Indians within the 180-day time period, to recognize the Indians as an "Indian tribe" within the meaning of 25 U.S.C. § 476 and 25 C.F.R. § 81.1(w)(2), and to allow the Indians to organize a tribal government under a written constitution, constitutes agency action unreasonably delayed in violation of the Secretary's own regulations, the IRA, and the Administrative Procedure Act, 5 U.S.C. § 706.

48. Unless the defendants, their employees and agents, are provisionally and permanently restrained from denying that the Indians are an Indian tribe within the meaning of 25 U.S.C. § 476, and until the Secretary conducts a special IRA election for the Indians to allow them to organize a tribal government that can provide essential governmental services to its members, the Indians will suffer severe and irreparable injury for which the Indians have no plain, speedy, or adequate remedy at law, in that the federal statute, regulations, and policies enacted, promulgated, and developed to strengthen tribal governments will be violated, the Indians will be unable to organize a tribal government that can provide essential governmental services and benefits to its members. The efforts of the Indians to exercise their powers of government, and thereby benefit their members, will be thwarted.

49. An actual controversy exists between the Indians and defendants, in that the Indians contend that the defendants' actions are arbitrary, capricious, discriminatory, and not in accordance with the law, while the defendants contend that their actions are nor arbitrary,

1 capricious, discriminatory, or contrary to the law.

2 WHEREFORE, the Indians pray as hereinafter set forth.

3 **FIFTH CLAIM**

4 **[Breach of Trust]**

5 50. The Indians reallege each of the allegations set forth in Paragraphs 1-49 above  
6 and, by this reference, incorporates each such allegation herein as if set forth in full.

7 51. In addition to the express statutory obligation owed to the Indians under the IRA  
8 and the regulations promulgated thereunder, defendants have a fiduciary duty in the nature of a  
9 continuing trust obligation to assist the Indians in organizing a tribal government and to  
10 conduct a government-to-government relationship with the tribal government that the Indians  
11 form.

12 52. The failure of the defendants to recognize the Indians as being eligible to  
13 organize a tribal government pursuant to the IRA, and to conduct a special IRA election for the  
14 benefit of the Indians, constitutes a direct breach of the United States government's trust duty  
15 owed to the Indians under the IRA.

16 53. An actual controversy exists between the Indians and defendants, in that the  
17 Indians contend that defendants owe them a continuing trust duty, which they have breached, by  
18 failing to recognize that they are an "Indian tribe" within the meaning of 25 U.S.C. § 476 and  
19 25 C.F.R. § 81.1(w)(2), and refusing to conduct an IRA election to organize a tribal government  
20 for the benefit of the Indians, while the defendants contend that they owe no such fiduciary duty  
21 to the Indians.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, the Indians, pursuant to each of their claims, pray as follows:

24 1. Declare that the defendants have arbitrarily and capriciously discriminated  
25 against the Indians by refusing to recognize that they are an Indian tribe within the meaning of  
26 25 U.S.C. § 476, and failing to conduct an IRA election for them, in violation of their express  
27 statutory and trust obligations;

28 2. Declare that the defendants have arbitrarily subjected the Indians to a

1 discriminatory denial of equal BIA benefits and services, similar to those furnished to other  
2 Indians in other parts of the United States, in violation of the Fifth Amendment to the United  
3 States Constitution, and the Administrative Procedure Act, 5 U.S.C. § 701, et seq.;

4         3.         Declare that the defendants have arbitrarily and capriciously discriminated  
5 against Indians by refusing to recognize that they are an Indian tribe within the meaning of the  
6 IRA and by failing to conduct an IRA election for the Indians, in violation of the Fifth  
7 Amendment to the United States Constitution, the IRA, and the Administrative Procedure Act,  
8 5 U.S.C. § 701, et seq.;

9         4.         Declare that the defendants have unreasonably delayed calling and conducting an  
10 IRA election for the Indians within the 180-day time period established in 25 U.S.C. § 476, in  
11 violation of the IRA, regulations promulgated thereunder, and the APA § 701, et seq.;

12         5.         Declare that the Secretary acted arbitrarily and in excess of his authority in  
13 making the Decision by imposing additional conditions for the definition of an “Indian tribe”  
14 that Congress never intended, in direct violation of 25 U.S.C. § 479 and 25 C.F.R. § 81.1(w)(2),  
15 and that, as a result, the Decision is void;

16         6.         Declare that the defendants, by failing to construe 25 U.S.C. § 479 in such a  
17 manner as to allow the Indians to organize a tribal government under 25 U.S.C. § 476, and by  
18 interpreting 25 U.S.C. § 479 in a manner that makes the Indians ineligible for an IRA Election,  
19 acted in direct violation of the IRA;

20         7.         Declare that the defendants, by failing to construe 25 U.S.C. § 479 in such a  
21 manner as to allow the Indians to organize a tribal government under the IRA, and by  
22 interpreting 25 U.S.C. § 479 that excludes the Indians because they are not federally  
23 recognized, acted arbitrarily and capriciously in direct violation of the APA;

24         8.         Declare that the defendants, by failing to consider the Indians’ argument that  
25 they were and “Indian tribe” within the meaning of 25 U.S.C. § 476 and 25 C.F.R. §  
26 81.1(w)(2), so as to allow the Indians to be eligible for an IRA election, acted arbitrarily and  
27 capriciously in direct violation of the APA;

28         9.         Declare that the defendants, by narrowly construing the phrase “Indian tribe” in

1 25 U.S.C. § 479, through the adoption of 25 C.F.R. § 81.1(w), breached the Secretary's trust  
2 obligation to the Indians, because it precludes a determination that the Indians qualify as an  
3 "Indian tribe" under the IRA;

4 10. Declare that the defendants' actions as set forth above are arbitrary, capricious,  
5 an abuse of discretion and clearly contrary to the provisions of the IRA, in violation of the  
6 Administrative Procedure Act;

7 11. Ordering the defendants, their offices, agents and employees to make a decision  
8 on the Indians' request for consideration and directing the defendant to call and conduct an IRA  
9 election for the Indians.

10 12. Preliminarily and permanently enjoin the defendants, their officers, agents, and  
11 employees, from refusing to recognize the Indians as an "Indian tribe" within the meaning of  
12 the IRA, and direct the defendants to call and conduct an IRA election for the Indians to allow  
13 them to organize a tribal government under a written constitution; and

14 13. Award costs, reasonable attorney's fees, and such other relief as the Court may  
15 deem appropriate.

16 DATED: October 6, 2011

RAPPORT AND MARSTON

17  
18 By: \_\_\_\_\_

Lester J. Marston  
Attorney for Plaintiffs