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10 Attorneys for Plaintiffs Citizens for a Better
11 Way, Stand Up For California!, Grass Valley
Neighbors, William F. Connelly, James M.
12 Gallagher, Andy Vasquez, Dan Logue, Robert
Edwards, and Roberto's Restaurant
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14 UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF CALIFORNIA

16 CACHIL DEHE BAND OF WINTUN
17 INDIANS OF THE COLUSA INDIAN
COMMUNITY, a federally recognized Indian
18 Tribe,

19 *Plaintiff,*

20 v.

21 S.M.R. JEWELL, Secretary of the Interior, *et*
al.,

22 *Defendants.*

CASE NO. 2:12-CV-03021-TLN-AC

**PLAINTIFFS' UNOPPOSED MOTION TO
AMEND THE STIPULATION AND
ORDER GOVERNING FURTHER
PROCEEDINGS**

Date: July 30, 2015
Time: 2:00 P.M.
Courtroom: 2, 15th Floor
Judge: Hon. Troy L. Nunley

23 UNITED AUBURN INDIAN COMMUNITY
24 OF THE AUBURN RANCHERIA,

25 *Plaintiff,*

26 v.

27 S.M.R. JEWELL, Secretary of the Interior, *et*
al.,

28 *Defendants.*

1 CITIZENS FOR A BETTER WAY, *et al.*,
2 *Plaintiffs*,
3 v.
4 UNITED STATES DEPARTMENT OF THE
5 INTERIOR, *et al.*,
6 *Defendants*.

7
8 TO DEFENDANTS AND THEIR COUNSEL OF RECORD:

9 PLEASE TAKE NOTICE that at 2:00 p.m. on Thursday, July 30, 2015, before the
10 Honorable Judge Troy L. Nunley, the undersigned plaintiffs will, and hereby do, move the Court
11 to amend its Order of March 4, 2013.

12 The Court has ordered the defendants and Enterprise to provide 60 days' notice "prior to
13 commencing any activity at the Proposed Site." Order of January 30, 2013, at 12 (Doc. No. 57)
14 (requiring 30 days' notice); Order of March 4, 2013, at 2 (Doc. No. 69) (increasing notice period
15 to 60 days). Plaintiffs have 15 days after such notice to file for injunctive relief. Order of March
16 4, 2013, at 2.

17 On June 15, 2015, Enterprise gave notice (the "Notice") that it intends to construct a
18 "small, temporary Class II gaming facility" at the Proposed Site in an area depicted on a map
19 attached to the Notice, which would "be designed and implemented so as to avoid any portion of
20 the . . . Site identified as a garter snake habitat, a potential wetland, or within the 100-year flood
21 plain." Notice of Construction Activities, at 3 (Doc. No. 157).

22 The noticed project is very different from the casino facility that was offered as
23 justification for the trust acquisition and for which an Environmental Impact Statement (EIS) was
24 prepared. Although Enterprise's Notice represented that the planned Class II facility will not
25 have water or wastewater connections, and that its design and construction will "comply with all
26 applicable mitigation measures set forth in Interior's EIS and Record of Decision," *id.*, a central
27 purpose of an EIS is to apprise the public of the environmental consequences of a course of action
28

1 and afford the public an opportunity to comment and participate in the decision process. That is
2 not occurring here.

3 We know little about this temporary project other than what Enterprise has represented in
4 its Notice, but, relying upon Enterprise's representations, the plaintiffs do not intend to seek an
5 injunction against the construction of the temporary Class II facility as described in Enterprise's
6 Notice. The plaintiffs do, however, reserve their right to seek injunctive relief against any
7 construction activities that go beyond or are inconsistent with the terms of Enterprise's Notice.
8 The plaintiffs therefore move this Court to amend its order to provide that Enterprise must give at
9 least 60 days' notice prior to commencing any activity at the Proposed Site that goes beyond the
10 scope of or is inconsistent with the terms of Enterprise's June 15, 2015 Notice of Construction
11 Activity, including any construction activity outside of the outlines of the road to the noticed
12 Class II facility and the parking lot as depicted on the map attached to Enterprise's Notice, any
13 water, sewer or other utility hookups, and any construction of permanent fixtures, structures, or
14 infrastructure.

15 Enterprise and Federal Defendants do not oppose the proposed modification of the Court's
16 January 13, 2013 and March 4, 2013 orders, but do not agree with Plaintiffs' characterizations in
17 this motion. A proposed order is filed herewith.

18
19 Dated: July 2, 2015

20 Respectfully submitted,

21 **PERKINS COIE LLP**

22 /s/ Joshua A. Reiten

23 JOSHUA A. REITEN

24 Attorneys for Plaintiffs Citizens for a Better
25 Way, Stand Up For California!, Grass Valley
26 Neighbors, William F. Connelly, James M.
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CERTIFICATE OF SERVICE

I hereby certify that on July 2, 2015 I electronically filed the foregoing PLAINTIFFS' UNOPPOSED MOTION TO AMEND THE STIPULATION AND ORDER GOVERNING FURTHER PROCEEDINGS with the Clerk of the Court using the CM/ECF system which will send notification of such to counsel of record.

/s/ Joshua A. Reiten
JOSHUA A. REITEN