

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

STATE OF TEXAS,
Plaintiff,

v.

YSLETA DEL SUR PUEBLO, the TRIBAL
COUNCIL, and the TRIBAL GOVERNOR
CARLOS HISA or his SUCCESSOR,
Defendants.

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No. 3:99-CV-00320-KC

JOINT ADVISORY IN RESPONSE TO COURT'S ORDER

On February 24, 2017, the Court ordered the Plaintiff Texas to “confer in good faith with Defendants and submit written notice to this Court certifying the specific reason that no agreement to resolve this matter can be reached—if, in fact, no agreement can be reached,” by March 3, 2017. ECF No. 623. On March 1, counsel for the Parties conferred by telephone, and agreed as follows, as evidenced by the signatures of counsel at the bottom of this filing:

1. Texas will seek leave to file an amended complaint supplementing its operative complaint and Third Amended Contempt Motion, ECF No. 613. The Pueblo will not oppose Texas’s motion for leave to amend.

2. The Pueblo continues to oppose any and all of Texas’s request(s) that the Court hold the Pueblo in contempt. Because Texas believes that the Pueblo is in contempt, no global resolution of this matter is presently possible.

3. If leave to amend is granted, Texas will amend by adding a new, alternative claim for injunctive relief. Namely, should the Court determine that the Injunction¹ currently on file in

¹ In its May 27, 2016 Order on Defendants’ Motion to Vacate, ECF No. 608, the Court, in amending the injunction, described the then operative “Injunction” against the Pueblo as the Order Granting Summary Judgment and Injunction (“Original Injunction”), ECF No. 115, the Order Modifying September 27, 2001, Injunction (“2002 Order”), ECF No. 165, and the Memorandum Opinion and Order Granting Motion for Contempt (“2009 Order”), ECF No. 281.

this cause does not foreclose to the Tribe's *present* gaming activity, Texas's amended complaint will seek a new injunction that does foreclose such activity.

4. Texas intends to file its motion for leave, with its proposed amended complaint attached as an exhibit, by Friday, March 10, 2017.

5. The Parties agree that Texas may conduct a videotaped inspection of the Speaking Rock Entertainment Center at a date and time mutually agreeable to the Parties pursuant to Federal Rule of Civil Procedure 34 and in accordance with any discovery order entered by the Court or pursuant to any discovery plan agreed upon by the Parties.

6. Texas will not seek any expedited relief in this cause. Instead, the Parties will present their evidence and argument at a hearing and/or trial scheduled on a date mutually agreeable to the Parties, or as soon thereafter as the Court can reasonably accommodate.

7. The Parties will confer and submit proposed dates to govern this cause going forward, pursuant to Federal Rule of Civil Procedure 26(f). The Parties have already begun discussions to this end, and anticipate submitting a report under Rule 26(f) for the Court's consideration by Friday, March 10, 2017.

Respectfully submitted.

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CERTIFICATE OF SERVICE

I hereby certify that on this the 3rd day of March, 2017, a true and correct copy of the foregoing was filed electronically with the Court, causing service upon all counsel of record.

/s/Anne Marie Mackin
ANNE MARIE MACKIN
Assistant Attorney General