

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STAND UP FOR CALIFORNIA!, et al.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF INTERIOR,
et al.,

Defendants,

and

WILTON RANCHERIA, CALIFORNIA,

Intervenor-Defendant.

Case No. 1:17-cv-00058-RDM

**WILTON RANCHERIA, CALIFORNIA'S ANSWER TO PLAINTIFFS'
AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Intervenor-Defendant Wilton Rancheria, California (Intervenor or the Tribe) hereby submits its Answer to the Amended Complaint for Declaratory and Injunctive Relief (Complaint) of Stand Up for California!, et al. (Plaintiffs). All factual allegations not expressly admitted below are denied. All factual allegations in the Complaint's headings are also denied.

I. NATURE OF ACTION

1. To the extent a response is necessary to the first sentence of Paragraph 1, Intervenor admits that Plaintiffs seek declaratory and injunctive relief and that Plaintiffs are challenging a January 19, 2017 Record of Decision (ROD) approving an application to have land in the City of Elk Grove, California (Elk Grove Site) acquired in trust for the Tribe. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the second and fifth sentences of Paragraph 1. The third and sixth sentences of Paragraph 1 purport to represent the contents of Federal Register notices, an environmental

impact statement (EIS), and an announcement by the Bureau of Indian Affairs (BIA), which speak for themselves and provide the best evidence of their contents; to the extent the summary provided by the third and sixth sentences is incomplete or otherwise inaccurate, Intervenor denies the allegations therein. Intervenor denies the allegations in the fourth sentence of Paragraph 1.

2. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the first, second, and third sentences of Paragraph 2. To the extent a response is necessary to the fourth sentence of Paragraph 2, Intervenor admits that Plaintiffs filed a motion for a temporary restraining order in this Court on January 11, 2017, seeking an order enjoining Defendants from immediately acquiring title pursuant to 25 C.F.R. § 151.12.

3. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the first sentence of Paragraph 3. To the extent a response is necessary to the second and third sentences and footnote 1 of Paragraph 3, Intervenor admits that the Court denied Plaintiffs' motion, that the grant deed set forth in Exhibit 1 was signed by the Tribe on January 17, 2017, and that the Record on Decision issued on January 19, 2017. The fourth sentence of Paragraph 3 purports to represent the contents of the decision approving the Tribe's application, which speaks for itself and provides the best evidence of its contents; to the extent the representation in the fourth sentence is incomplete or otherwise inaccurate, Intervenor denies the allegations therein.

4. Intervenor admits that BIA officials formally recorded acceptance of title in trust to the Elk Grove Site on February 10, 2017 and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 4.

5. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the first, second, and fifth sentences of Paragraph 5. The third and sixth sentences of Paragraph 5 purport to represent the contents of an order of the Interior Board of Indian Appeals and a statement by Michael Black, which speak for themselves and provide the best evidence of their contents; to the extent the representation in the third and sixth sentences is incomplete or otherwise inaccurate, Intervenor denies the allegations therein. Intervenor denies the allegations in the fourth sentence as they relate to the Tribe and denies knowledge or information sufficient to form a belief as to the truth of the allegations as they relate to the BIA.

6. Paragraph 6 and footnotes 2 and 3 contain allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 6 and footnotes 2 and 3.

7. Intervenor admits that Plaintiffs seek declarations as described in the first and second sentences of Paragraph 7, and, to the extent a response is necessary to footnote 4 of Paragraph 7, Intervenor admits the allegations set forth in footnote 4. Intervenor denies the allegations set forth in the third sentence of Paragraph 7.

II. THE PARTIES

8. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 8.

9. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 9.

10. Intervenor admits the allegations set forth in the first sentence of Paragraph 10. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the second sentence of Paragraph 10.

11. Intervenor admits the allegations set forth in Paragraph 11.

12. Intervenor admits that the BIA is a federal agency within Interior and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 12.

13. Intervenor admits that Mr. Black has been sued in his official capacity only and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 13.

14. Intervenor admits the allegations set forth in Paragraph 14.

15. Intervenor admits the allegations set forth in Paragraph 15.

III. JURISDICTION AND VENUE

16. Paragraph 16 contains allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 16.

17. Paragraph 17 contains allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor admits that an agency of the United States and one of its officers in his official capacity are Defendants and otherwise denies the allegations set forth in Paragraph 17.

18. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 18.

19. Intervenor admits that it is the Department's position that there has been a final agency action that is reviewable by this Court and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 19.

IV. STATUTORY FRAMEWORK

20. Paragraph 20 contains allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 20.

21. Paragraph 21 contains allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 21.

22. Paragraph 22 contains allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the first sentence of Paragraph 22 and denies the remainder of the allegations set forth in Paragraph 22.

23. Paragraph 23 contains allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 23.

24. Paragraph 24 contains allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 24.

25. Paragraph 25 contains allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 25.

V. STATEMENT OF FACTS

26. Intervenor admits that the Department purchased land to establish the Wilton Rancheria and otherwise denies the allegations set forth in Paragraph 26.

27. Intervenor admits that the Rancheria voted to organize under Section 16 of the Indian Reorganization Act and that the Tribe's governing documents were approved in 1936 and otherwise denies the allegations set forth in Paragraph 27.

28. Intervenor admits that Congress enacted Public Law 85-671 (Aug. 18, 1958), and otherwise denies the allegations set forth in Paragraph 28.

29. Intervenor admits that the assets of the Wilton Rancheria were distributed to specifically named Indians listed in a distribution plan approved by the Commissioner of Indian Affairs and that on September 22, 1964, the Secretary published a notice of termination of federal supervision over the Indians living on the Rancheria.¹ Intervenor otherwise denies the allegations set forth in Paragraph 29.

30. Intervenor admits that on May 21, 2007, the Tribe sued the United States to be restored to federal recognition and that in 2009, the United States stipulated that termination of the Wilton Rancheria was not lawfully executed and restored the Tribe's federal recognition. The remainder of the allegations set forth in Paragraph 30 purport to represent the contents of a complaint and judgment, which speak for themselves and provide the best evidence of their contents.

31. As to the first sentence of Paragraph 31, Intervenor admits that on December 4, 2013, the BIA issued a Notice of Intent to Prepare an EIS. The second sentence of Paragraph 31 purports to represent the contents of a Federal Register notice, which speaks for itself and provides the best evidence of its contents; to the extent the summary provided in this sentence is incomplete or otherwise inaccurate, Intervenor denies the allegations therein.

¹ The paper copy of the Federal Register from September 22, 1964 contains this notice.

32. Intervenor admits that the BIA held a public scoping meeting in Galt on December 19, 2013 and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 32.

33. Intervenor admits that in February 2014, the BIA issued an EIS Scoping Report and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 33.

34. Intervenor admits the allegations set forth in Paragraph 34.

35. Intervenor admits that on June 9, 2016, the Tribe held a public meeting in Elk Grove and otherwise denies the allegations set forth in Paragraph 35.

36. Intervenor denies the allegations set forth in Paragraph 36.

37. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 37.

38. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the first sentence of Paragraph 38. Intervenor admits that on December 14, 2016, the BIA published a notice of the final EIS, and that on December 16, 2016, the Environmental Protection Agency issued a Notice of Availability of the final EIS in the Federal Register. To the extent allegations in the second sentence of Paragraph 38 purport to represent the contents of a notice published by the BIA, the notice speaks for itself and provides the best evidence of its contents; to the extent the summary provided in this sentence is incomplete or otherwise inaccurate, Intervenor denies the allegations therein.

39. The first sentence of Paragraph 39 purports to represent the contents of a notice of availability for the final EIS, which speaks for itself and provides the best evidence of its contents; to the extent the summary provided in this sentence is incomplete or otherwise

inaccurate, Intervenor denies the allegations therein. As to the second sentence of Paragraph 39, Intervenor admits that Defendants did not prepare a supplemental EIS and denies the remainder of the allegations.

40. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 40.

41. Intervenor admits the allegations set forth in Paragraph 41.

42. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 42.

43. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 43.

44. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 44.

45. Intervenor admits that on January 19, 2017, a ROD was signed that approved the Tribe's trust application and otherwise denies the allegations set forth in Paragraph 45.

46. Paragraph 46 contains allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor admits that Lawrence Roberts issued the ROD on January 19, 2017 and otherwise denies the allegations set forth in Paragraph 46.

47. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 47.

48. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 48.

49. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 49.

50. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 50.

51. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 51.

52. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 52.

53. Intervenor denies the allegations set forth in Paragraph 53 and footnote 5.

54. Intervenor admits that the Sacramento County Recorder recorded Defendants' Acceptance of Conveyance on February 10, 2017 and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 54.

55. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 55.

56. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 56.

57. The first sentence of Paragraph 57 contains allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor denies the allegations set forth therein. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the second sentence of Paragraph 57.

58. Paragraph 58 purports to represent the contents of a Pre-Docketing Notice and Order for Briefing on Jurisdiction, which speaks for itself and provides the best evidence of its contents; to the extent the summary provided by this Paragraph is incomplete or otherwise inaccurate, Intervenor denies the allegations therein.

59. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 59.

60. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 60.

61. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 61.

62. Paragraph 62 purports to represent the contents of an Order Dismissing Administrative Appeal, which speaks for itself and provides the best evidence of its contents; to the extent the summary provided by this Paragraph is incomplete or otherwise inaccurate, Intervenor denies the allegations therein.

63. Intervenor denies the allegations set forth in Paragraph 63.

Count I

64. With respect to Paragraph 64, Intervenor repeats and realleges its responses to Paragraphs 1 through 63 as if fully set forth herein.

65. Paragraph 65 contains allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 65.

66. Paragraph 66 contains allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 66.

67. Paragraph 67 contains allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 67.

68. Intervenor denies the allegations set forth in Paragraph 68.

69. Intervenor denies the allegations set forth in Paragraph 69.

70. Intervenor denies the allegations set forth in Paragraph 70.

71. Intervenor denies the allegations set forth in Paragraph 71.

72. Paragraph 72 contains allegations of law to which Intervenor need not respond.

To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 72.

73. Intervenor denies the allegations set forth in Paragraph 73.

Count II

74. With respect to Paragraph 74, Intervenor repeats and realleges its responses to Paragraphs 1 through 73 as if fully set forth herein.

75. Paragraph 75 contains allegations of law to which Intervenor need not respond.

To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 75.

76. Paragraph 76 contains allegations of law to which Intervenor need not respond.

To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 76.

77. Paragraph 77 contains allegations of law to which Intervenor need not respond.

To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 77.

78. Paragraph 78 contains allegations of law to which Intervenor need not respond.

To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 78.

79. Paragraph 79 contains allegations of law to which Intervenor need not respond.

To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 79.

80. Intervenor denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the second and third sentences of Paragraph 80 and denies the allegations set forth in the first sentence of Paragraph 80.

81. Intervenor denies the allegations set forth in Paragraph 81.

82. Intervenor denies the allegations set forth in Paragraph 82.

83. Intervenor denies the allegations set forth in Paragraph 83.

Count III

84. With respect to Paragraph 84, Intervenor repeats and realleges its responses to Paragraphs 1 through 83 as if fully set forth herein.

85. Paragraph 85 contains allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 85.

86. Paragraph 86 contains allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 86.

87. Intervenor denies the allegations set forth in Paragraph 87.

88. Paragraph 88 contains allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 88.

89. Intervenor denies the allegations set forth in Paragraph 89.

90. Intervenor denies the allegations set forth in Paragraph 90.

91. Intervenor denies the allegations set forth in Paragraph 91.

Count IV

92. With respect to Paragraph 92, Intervenor repeats and realleges its responses to Paragraphs 1 through 91 as if fully set forth herein.

93. Paragraph 93 contains allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 93.

94. Paragraph 94 contains allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 94.

95. Intervenor denies the allegations set forth in Paragraph 95.

96. Paragraph 96 contains allegations of law to which Intervenor need not respond. To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 96.

97. Intervenor denies the allegations set forth in Paragraph 97.

98. Intervenor denies the allegations set forth in Paragraph 98.

99. Paragraph 99 contains allegations of law to which Intervenor need not respond.

To the extent a response is necessary, Intervenor denies the allegations set forth in Paragraph 99.

100. Intervenor denies the allegations set forth in Paragraph 100.

101. Intervenor denies the allegations set forth in Paragraph 101.

Count V

102. With respect to Paragraph 102, Intervenor repeats and realleges its responses to Paragraphs 1 through 101 as if fully set forth herein.

103. Intervenor denies the allegations set forth in Paragraph 103.

104. Intervenor denies the allegations set forth in Paragraph 104.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Plaintiffs' claims are barred, in whole or in part, because Plaintiffs lack standing to pursue their claims.

Second Affirmative Defense

The Complaint fails to state a claim upon which relief can be granted.

Third Affirmative Defense

Plaintiffs' claims fail in whole or in part to the extent Plaintiffs raise any issues or claims not presented below.

Fourth Affirmative Defense

Plaintiffs' claims fail in whole or in part to the extent Plaintiffs present any issue, contention, or claim contrary to a position taken below.

Additional Affirmative Defenses Reserved

Intervenor reserves the right to assert against Plaintiffs any and all additional affirmative defenses or causes of action that become available or apparent based on the administrative record, and thus reserves the right to amend this Answer to assert such additional defenses.

WHEREFORE, Intervenor respectfully requests that this Court enter judgment in favor of Defendants and Intervenor-Defendant, dismiss the Complaint with prejudice, grant the Tribe its costs of suit, and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted this 29th day of September, 2017.

WILTON RANCHERIA, CALIFORNIA

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CERTIFICATE OF SERVICE

I certify that on September 29, 2017, the foregoing answer was filed via the Court's CM/ECF system and served upon ECF-registered counsel for all parties to this proceeding.

/s/ Neal K. Katyal

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