



## **INTRODUCTION**

The allegations in the first sentence of Plaintiff's introduction include Plaintiff's characterization of its lawsuit and legal conclusions, to which no response is required. Defendants admit sending a letter to Plaintiff dated April 26, 2019, but deny that that letter denied Plaintiff's request for an Indian lands opinion ("ILO"), and deny any violation of law. Defendants aver that they sent a letter to Plaintiff dated February 7, 2019, which constitutes the Department of the Interior's final agency action concerning whether a 128-acre parcel of land located in the City of Vallejo, California (the "Parcel") is eligible for gaming as restored land under the Indian Gaming Regulatory Act, 18 U.S.C. §§ 2701, 2719 ("IGRA"), and 25 C.F.R. Part 292. Defendants deny the remaining allegations in the second sentence of Plaintiff's introduction.

## **JURISDICTION AND VENUE**

1. The allegations in Paragraph 1 consist of legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations.
2. Defendants admit the allegations in Paragraph 2.

## **PARTIES**

3. Defendants admit the allegation in Paragraph 3 that Plaintiff is a federally recognized Indian tribe. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 3 and, on that basis, deny the allegations.
4. Defendants admit the allegations in Paragraph 4.
5. Defendants admit the allegations in Paragraph 5.
6. Defendants admit the allegations in Paragraph 6.
7. Defendants admit that Defendant Principal Deputy Tahsuda is the Principal Deputy to the Assistant Secretary – Indian Affairs and that he is sued in his official capacity. The remainder of

Paragraph 7 consists of legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations.

### **GENERAL ALLEGATIONS**

8. Defendants admit the allegations in the first sentence of Paragraph 8 that the United States entered into the Treaty of Camp Lu-pi-yu-ma at Clear Lake, California in 1851.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in the first sentence of Paragraph 8 and, on that basis, deny the allegations.

The second sentence of Paragraph 8 characterizes the Treaty of Camp Lu-pi-yu-ma, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this sentence are inconsistent with the Treaty of Camp Lu-pi-yu-ma, they are denied.

9. Defendants admit the allegations in Paragraph 9.

10. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and, on that basis, deny the allegations.

11. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and, on that basis, deny the allegations.

12. Defendants admit that in 1911, the United States acquired the Sugar Bowl Rancheria for the Tribe. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this Paragraph and, on that basis, deny the allegations.

13. Defendants admit the allegations in the first sentence of Paragraph 13 that Congress enacted the “California Rancheria Termination Act” in 1958. The second sentence of Paragraph 13 characterizes the Act, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in the second sentence of Paragraph 13 are inconsistent with the Act,

they are denied. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this Paragraph and, on that basis, deny the allegations.

14. Defendants admit the allegations in the first sentence of Paragraph 14. Defendants deny that the effective date of the reinstatement of Plaintiff's status as a federally recognized tribe was September 5, 1991, but admit the remaining allegations in the second sentence of Paragraph 14. The allegations in the third sentence of Paragraph 14 are vague and ambiguous and therefore denied.

15. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and, on that basis, deny the allegations.

#### ***The IRA***

16. The allegations in Paragraph 16 characterize the Indian Reorganization Act, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with the Act, they are denied.

17. The allegations in Paragraph 17 characterize the Indian Reorganization Act, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with the Act, they are denied.

#### ***IGRA and Implementing Regulations***

18. The allegations in Paragraph 18 characterize the Indian Gaming Regulatory Act, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with the Act, they are denied.

19. The allegations in Paragraph 19 characterize the Indian Gaming Regulatory Act, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with the Act, they are denied.

20. The allegations in Paragraph 20 characterize the Indian Gaming Regulatory Act, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with the Act, they are denied.

21. The allegations in Paragraph 21 characterize the Indian Gaming Regulatory Act, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with the Act, they are denied.

22. Defendants deny the allegations in Paragraph 22.

23. The allegations in Paragraph 23 characterize 25 C.F.R. Part 292, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with 25 C.F.R. Part 292, they are denied.

24. The allegations in Paragraph 24 characterize 25 C.F.R. Part 292, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with 25 C.F.R. Part 292, they are denied.

25. The allegations in Paragraph 25 characterize 25 C.F.R. Part 292, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with 25 C.F.R. Part 292, they are denied.

26. The allegations in Paragraph 26 consist of legal conclusions, to which no response is required, and characterize 25 C.F.R. Part 292, which speaks for itself and is the best evidence of its contents. To the extent a response to Plaintiff's legal conclusions is required, Defendants deny the allegations. To the extent that the allegations in this Paragraph are inconsistent with 25 C.F.R. Part 292, they are denied. Defendants deny the remainder of this Paragraph.

***The Tribe's request for an ILO***

27. Defendants admit the allegations in the first sentence of Paragraph 27. The remainder of Paragraph 27 characterizes Plaintiff's request for an ILO, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with the ILO request, they are denied.

28. The allegations in Paragraph 28 characterize Plaintiff's request for an ILO, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with the ILO request, they are denied.

29. Defendants admit the allegations in the first and third sentences of Paragraph 29. The second sentence of Paragraph 29 characterizes Plaintiff's application to place the Parcel into trust, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in the second sentence of this Paragraph are inconsistent with Plaintiff's application, they are denied.

30. Defendants admit the allegations in first sentence of Paragraph 30. The remainder of Paragraph 30 characterizes Plaintiff's May 3, 2018 submission, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in the remainder of this Paragraph are inconsistent with Plaintiff's May 3, 2018 submission, they are denied.

31. The allegations in Paragraph 31 characterize Plaintiff's May 3, 2018 submission, which speaks for itself and is the best evidence of its contents. To the extent that the allegations of this Paragraph are inconsistent with Plaintiff's May 3, 2018 submission, they are denied.

32. Defendants deny the allegations in Paragraph 32.

***The Decision***

33. Defendants admit the allegations in Paragraph 33.

34. The allegations in Paragraph 34 characterize the February 7, 2019 letter (“February letter”), which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with the February letter, they are denied.

35. The allegations in Paragraph 35 characterize the February letter, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with the February letter, they are denied.

36. The allegations in Paragraph 36 characterize the February letter, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with the February letter, they are denied.

37. The allegations in Paragraph 37 characterize the February letter, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with the February letter, they are denied.

38. Defendants admit the allegations in the first sentence of Paragraph 38 that the Tribe’s Chairman sent a letter addressed to Assistant Secretary – Indian Affairs Sweeney dated February 28, 2019. The remaining allegations in the first sentence of Paragraph 38 characterize the February 28, 2019 letter, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with the February 28, 2019 letter, they are denied. Defendants admit the allegations in the second sentence of Paragraph 38 that the Tribe’s counsel sent a letter dated March 14, 2019. The remaining allegations in the second sentence of Paragraph 38 characterize the March 14, 2019 letter, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with the March 14, 2019 letter, they are denied.

39. The allegations in Paragraph 39 characterize Plaintiff's March 14, 2019 letter, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with Plaintiff's March 14, 2019 letter, they are denied.

40. Defendants admit that Assistant Secretary – Indian Affairs Sweeney mailed a letter to Plaintiff by first class mail on April 26, 2019. Defendants lack knowledge or information sufficient to form a belief as to the date that Plaintiff received this letter and, on that basis, deny the allegations. The remaining allegations in Paragraph 40 characterize the April 26, 2019 letter, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with the April 26, 2019 letter, they are denied.

41. The first, second, and third sentences of Paragraph 41 characterize the April 26, 2019 letter, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in these sentences are inconsistent with the April 26, 2019 letter, they are denied. The allegations in the fourth sentence of Paragraph 41 consist of legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations.

### **FIRST CLAIM FOR RELIEF**

#### ***(Ultra vires action by Defendant Tahsuda)***

42. The allegations in Paragraph 42 characterize the Indian Gaming Regulatory Act, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with the Act, they are denied.

43. The allegations in Paragraph 43 characterize the cited Departmental Manual and the Federal Register, which speak for themselves and are the best evidence of their contents. To the extent that the allegations in this Paragraph are inconsistent with the cited Departmental Manual and the Federal Register, they are denied.



44. The allegations in Paragraph 44 consist of legal conclusions, to which no response is required, and characterize the cited Departmental Manual, which speaks for itself and is the best evidence of its contents. To the extent a response is required to Plaintiff's legal conclusions, Defendants deny the allegations. To the extent that the allegations in this Paragraph are inconsistent with the cited Departmental Manual, they are denied.

45. The allegations in Paragraph 45 consist of legal conclusions, to which no response is required, and characterize the cited Departmental Manual, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with the cited Departmental Manual, they are denied.

46. Defendants admit the allegation in Paragraph 46 that the Office of the Assistant Secretary – Indian Affairs was not vacant in February 2019, but deny the remaining allegations in in this Paragraph.

47. Defendants deny the allegations in the first two sentences of Paragraph 47. The third sentence of Paragraph 47 characterizes the April 26, 2019 letter, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with the April 26, 2019 letter, they are denied.

48. Defendants deny the allegations in Paragraph 48.

## **SECOND CLAIM FOR RELIEF**

### **(Decision beyond Secretary's authority in IGRA)**

49. The allegations in the first sentence of Paragraph 49 characterize the Indian Gaming Regulatory Act, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in the first sentence of this Paragraph are inconsistent with the Act, they are denied. Defendants deny the allegations in the second sentence of Paragraph 49.

50. Defendants deny the allegations in Paragraph 50.

### **THIRD CLAIM FOR RELIEF**

#### **(Agency violation of its own regulations)**

51. The first sentence of Paragraph 51 characterizes the February letter and the April 26, 2019 letter, which speak for themselves and are the best evidence of their contents. To the extent that the allegations in this sentence are inconsistent with the February letter or the April 26, 2019 letter, they are denied. The remaining allegations in Paragraph 51 consist of legal conclusions, to which no response is required, and characterize 25 C.F.R. Part 292, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with 25 C.F.R. Part 292, they are denied.

52. The first sentence of Paragraph 52 characterizes the February letter and the April 26, 2019 letter, which speak for themselves and are the best evidence of their contents. To the extent that the allegations in this Paragraph are inconsistent with the February letter or the April 26, 2019 letter, they are denied. The remaining allegations in Paragraph 52 consist of legal conclusions, to which no response is required, and characterize 25 C.F.R. Part 292 and the Federal Register, which speak for themselves and are the best evidence of their contents. To the extent that the allegations in this Paragraph are inconsistent with 25 C.F.R. Part 292 or the Federal Register, they are denied.

53. The first sentence of Paragraph 53 characterizes the February letter and the April 26, 2019 letter, which speak for themselves and are the best evidence of their contents. To the extent that the allegations in this Paragraph are inconsistent with the February letter or the April 26, 2019 letter, they are denied. The remaining allegations in Paragraph 53 consist of legal conclusions, to which no response is required, and characterize 25 C.F.R. Part 292 and the

Federal Register, which speak for themselves and are the best evidence of their contents. To the extent that the allegations in this Paragraph are inconsistent with 25 C.F.R. Part 292 or the Federal Register, they are denied.

54. The allegations in Paragraph 54 consist of legal conclusions, to which no response is required, and characterize the February letter, the April 26, 2019 letter, and the referenced Departmental Manual, which speaks for themselves and are the best evidence of their contents. To the extent a response is required to Plaintiff's legal conclusions, Defendants deny the allegations. To the extent that the allegations in this Paragraph are inconsistent with the February letter, the April 26, 2019 letter, or the referenced Departmental Manual, they are denied.

55. The first sentence in Paragraph 55 consists of legal conclusions, to which no response is required. Defendants deny the allegations in the second sentence of Paragraph 55.

#### **FOURTH CLAIM FOR RELIEF**

##### **(Failure to consider relevant data)**

56. The allegations in Paragraph 56 characterize the February letter and the April 26, 2019 letter, which speak for themselves and are the best evidence of their contents. To the extent that the allegations in this Paragraph are inconsistent with the February letter or the April 26, 2019 letter, they are denied.

57. Defendants deny the allegations in Paragraph 57.

58. Defendants deny the allegations in Paragraph 58.

59. Defendants deny the allegations in Paragraph 59.

### **FIFTH CLAIM FOR RELIEF**

#### **(Violation of privileges and immunities clauses of the IRA)**

60. The allegations in Paragraph 60 characterize the Indian Reorganization Act, which speaks for itself and is the best evidence of its contents. To the extent that the allegations in this Paragraph are inconsistent with that Act, they are denied.

61. The allegations in Paragraph 61 characterize the February letter and the April 26, 2019 letter, which speak for themselves and are the best evidence of their contents. To the extent that the allegations in this Paragraph are inconsistent with the February letter or the April 26, 2019 letter, they are denied.

62. Defendants deny the allegations in Paragraph 62.

### **PRAYER FOR RELIEF**

The remaining Paragraphs of Plaintiff's Complaint, beginning with the word "WHEREFORE," consist of a prayer for relief, to which no response is required. To the extent the allegations are deemed factual, they are denied. Defendants deny that Plaintiff is entitled to the requested relief or any relief whatsoever.

### **DEFENSES**

1. The Court lacks jurisdiction over some of all of Plaintiff's claims.
2. Plaintiff failed to state a claim upon which relief can be granted
3. Some or all of Plaintiff's claims are time-barred.

Wherefore, Defendants request that this Court dismiss Plaintiff's Complaint with prejudice, enter judgment in favor of Defendants, and grant such other relief as it deems appropriate and necessary.

Respectfully submitted this 5<sup>th</sup> day of August, 2019.

LAWRENCE VANDYKE  
Deputy Assistant Attorney General  
United States Department of Justice  
Environment & Natural Resources Division

/s/ Claudia Antonacci Hadjigeorgiou  
CLAUDIA ANTONACCI HADJIGEORGIOU  
Trial Attorney  
United States Department of Justice  
Environment & Natural Resources Division  
Natural Resources Section  
150 M Street, NE  
Washington, D.C. 20002  
202-305-0434  
[Claudia.hadjigeorgiou@usdoj.gov](mailto:Claudia.hadjigeorgiou@usdoj.gov)

OF COUNSEL  
John-Michael Partesotti  
Attorney-Advisory  
United States Department of the Interior  
Office of the Solicitor  
Division of Indian Affairs

**CERTIFICATE OF SERVICE**

I hereby certify that on August 5, 2019, a copy of the foregoing was filed through the Court's CM/ECF management system and electronically served on counsel of record.

/s/ *Claudia Antonacci Hadjigeorgiou*

Claudia Antonacci Hadjigeorgiou