

NOTICE OF CLAIM
AGAINST THE COUNTY OF MENDOCINO
(Government Code Section 910 et seq.)

COUNTY OF MENDOCINO
BOARD OF SUPERVISORS

2017 MAR 1 PM 3 25

EXECUTIVE OFFICE

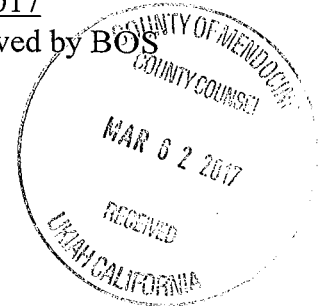
PER. _____
COUNTY OF CALIFORNIA

By Mail

To:
Mendocino County Board of Supervisors
Attn: Clerk of the Board
501 Low Gap Road, Room 1010
Ukiah, CA 95482

March 1, 2017

Date Received by BOS



1. Claimants' Names and contact information is as follows:

Hopland Band of Pomo Indians ("Tribe")
3000 Shanel Road
Hopland, CA 95449

2. Claimant's Mailing Address: All notices or other communications with regard to this claim should be sent to counsel for the Claimant Tribe as follows: [REDACTED]

3. Dates of Loss: September 2, 2016.

Time of Loss: At approximately 10:00 A.M., during pendency of the execution of a search warrant originally dated September 2, 2016. The search and seizure operations conducted by the County, its officers, agents, and employees took place throughout the daytime hours of September 2, 2016.

4. Location of Loss: The buildings and property located within the Hopland Indian Reservation, upon land owned by the United States in trust for the Tribe, including the buildings, homes, Tribal Office, located in Mendocino County, south of Ukiah, east of U.S. 101 and north of State Highway 175, and including the Tribal Office at 3000 Shanel Road, Hopland, CA.

5. Description of Incident Which Caused You to Make this Claim: Execution of search warrant identified as Case Number 16-013, Superior Court of California, County of Mendocino, dated September 2, 2016, at 8:42 A.M., which resulted in a raid and seizure operations carried out by Mendocino County officials, agents, and employees on September 2, 2016.¹ The warrant was issued for the premises at [REDACTED]

¹ *Santa Rosa Band of Indians v. Kings County*, 532 F.2d 655, 663 (1975) (Pub. L. 280, 67 Stat. 588, as amended, 18 U.S.C. § 1162, 28 U.S.C. § 1360 ("P.L. 280") did not, and Congress has never, authorized the application of county land use and other local ordinances to Indian lands); *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987) (explaining that Congress created in P.L. 280 a distinction between state laws that are "criminal" or

██████████ However, the Mendocino County Sheriff's Office described the location of the raid as being at a garden "accessed off of Pratt Ranch Road in Hopland, CA." Actually, the address where the raid occurred was ██████████, which was in fact different from the address on the issued warrant.

6. What Specific Injury, Damages or Other Losses Did You Incur? Unlawful seizure and/or destruction of entire, nearly-mature crop of approximately 847 medicinal-grade cannabis plants growing on the Reservation property; damage to agricultural infrastructure and materials; cost of labor and materials to grow the plants (and as otherwise explained in paragraph 8, below).

These injuries meet the definition of "injury." Government Code § 810.8 (defining injury as "death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to his person, reputation, character, feelings or estate, of such nature that it would be actionable if inflicted by a private person."); Government Code § 911.2 (regarding submission of "[a] claim relating to a cause of action for death or for injury to person or to personal property or growing crops"); and other violation of legal rights including the following: Injunctive Relief under P.L. 280 to enjoin County and its officials, agents, and employees from further actions exceeding the limits of P.L. 280; Declaratory Relief that the Sheriff's actions detailed herein were unlawful; Injury and/or damage to persons or property warranting recovery under the Government Claims Act.

Government Code Sections 810 et seq.; Unreasonable search and seizure in violation of the Fourth Amendments to the United States Constitution. 42 U.S.C. 1983; Violation of Claimants' due process rights as guaranteed by the Fourteenth Amendment to the United States Constitution, 42 U.S.C. 1983; Unreasonable search and seizure in violation of California Constitution, Art. 1, Sec. 13; Violation of Claimants' due process in violation of California Constitution, Art. 1, Sec. 7; Violation of Ca. Civil Code § 52.1; Conversion under California law; Claim and delivery under California law; Trespass under California law; Petition for an order for restitution for the removed, confiscated, and/or destroyed property identified in this Claim from Mendocino County, or its officials, agents, or employees as bailee, *Minsky/Holt* rule; Attorney fees and costs.

Claimant Tribe has suffered "injury" within the Government Code definition because Claimant and Therafields, Inc. have entered into a Medical Marijuana Management Consulting Agreement, whereby Claimant operates a medical marijuana cultivation, distribution and sales project on Tribal property, completely in accordance with California law regarding medical marijuana.

prohibitory in nature because the conduct is generally prohibited state-wide (which laws may be enforced on Indian lands), and state laws that are "civil" or regulatory in nature because they regulate certain conduct (which laws may not be enforced on Indian lands)); *City of Garden Grove v. Superior Court* (Cal. Ct. App. 2007) 157 Cal. App. 4th 355, 380 (enforcing federal law is not within the Sheriff's statutory authorization); e.g., *City of Riverside v. Inland Empire Patients Health & Wellness Center, Inc.* (Cal. 2013) 56 Cal. 4th 729, 737 (explaining that California state law has made "collective[] or cooperative[]...cultiva[tion]" of medical marijuana exempt from prosecution or abatement under criminal laws).

Claimant had and has an ownership interest in the 847 medical marijuana plants that were destroyed by the Sheriff and/or other County officials.

7. What amount of money are you seeking to recover?

☒ The amount claimed is more than \$2,000. Enter the amount claimed here:

The amount claimed is in excess of \$10,000, as it involves a damages amount subject to proof of damages at trial that includes, without limitation, damages associated with property removed/confiscated/destroyed including, but not limited to: the cost of the plants; costs associated with damage to the agricultural infrastructure and materials; labor costs associated with the seized plants; expectation damages related to the medical-grade cannabis to be derived from the plants; and receipts and paperwork related to the operation.

Pursuant to Government Code § 910(f), because the claim is for an amount exceeding \$10,000, the amount sought is not to be specified herein. Additionally, the amount of money and damages to be recovered on this claim exceed \$25,000 and, therefore, this will not be a limited civil case.

A Mendocino County Sheriff's Office C.O.M.M.E.T. receipt regarding the property damaged and/or confiscated was not provided. All other receipts related to the marijuana operation were confiscated during the raid and have not been returned.

8. What are the Name(s) of the County Employee(s) Whom You Allege Caused Your Injury, Damage or Loss, If Known? Mendocino County, Mendocino County Board of Supervisors, Mendocino County District Attorney David Eyster, Mendocino County Sheriff Thomas Allman, all other agents, officers, and employees of Mendocino County who were present at and/or performed work related to the September 2, 2016 raid and seizure.

I/WE, the undersigned, declare under penalty of perjury that I/WE have read the foregoing claim for damages and know the contents thereof; that the same is true of my/our knowledge and belief, save and except to those matters wherein stated on information and belief, and as to them, I/WE believe to be true.

Hopland Band of Pomo Indians
Claimant Printed Name
As a duly authorized Representative of The Tribe


Claimant Signature

March 1, 2017
Date