

10-17803/10-17878

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**BIG LAGOON RANCHERIA, a Federally
Recognized Indian Tribe,**

Plaintiff and Appellee/Cross-
Appellant,

v.

STATE OF CALIFORNIA,

Defendant and
Appellant/Cross-Appellee.

On Appeal from the United States District Court
for the Northern District of California

No. CV 09-1471 CW (JCS)

Hon. Claudia Wilken, District Judge

**APPELLANT/CROSS-APPELLEE STATE OF
CALIFORNIA'S EXCERPTS OF RECORD,
VOLUME II**

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TABLE OF CONTENTS/INDEX
VOLUME II

DESCRIPTION	DISTRICT COURT DOCKET SHEET	EXCERPT RECORD NOS.
<p>Defendant State of California's Amended Opposition to Plaintiff Big Lagoon's Rancheria's Motion for Summary Judgment; Notice of Cross-Motion and Cross-Motion for Summary Judgment; and Memorandum of Points and Authorities in Support Thereof. July 1, 2010</p>	<p style="text-align: center;">93 and 93-1</p>	<p style="text-align: center;">ER-051-082</p>
<p>Declaration of Randall A. Pinal in Support of Defendant State of California's Opposition to Plaintiff Big Lagoon Rancheria's motion for Summary Judgment and Cross-Motion for Summary Judgment, Exs. C, pp. 1 & 67 only, Exs. D through Z, Exs. AA, pp. 1-3, 22, Exs. BB through FF. Ex. GG, pp. 1-2, 13, Exs. HH through II,</p>	<p style="text-align: center;">88-31, and Exhibits</p>	<p style="text-align: center;">ER-083-295</p>

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 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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13 **BIG LAGOON RANCHERIA, a Federally**
 14 **Recognized Indian Tribe,**

15 Plaintiff,

16 v.

17 **STATE OF CALIFORNIA,**

18 Defendant.

CV 09-1471 CW (JCS)

DEFENDANT STATE OF CALIFORNIA'S AMENDED OPPOSITION TO PLAINTIFF BIG LAGOON RANCHERIA'S MOTION FOR SUMMARY JUDGMENT; NOTICE OF CROSS-MOTION AND CROSS-MOTION FOR SUMMARY JUDGMENT; AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

Fed. R. Civ. P. 56

Date: August 12, 2010
 Time: 2 p.m.
 Dept: 2, Fourth Floor

1301 Clay Street
 Oakland, CA 94612

Judge: The Honorable Claudia Wilken
 Trial Date: Not set
 Action Filed: 4/3/2009

TABLE OF CONTENTS

	Page
1	
2	
3	1
4	1
5	1
6	2
7	2
8	3
9	4
10	6
11	7
12	7
13	7
14	10
15	10
16	11
17	12
18	13
19	13
20	13
21	14
22	14
23	18
24	18
25	18
26	18
27	18
28	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

(continued)

	Page
D. It Is Not In The Public Interest For the State To Negotiate For a Casino On Land That Would Significantly Damage Adjacent State Lands	19
IV. Big Lagoon’s Summary Judgment Motion Should Be Denied Or Continued To Allow The State To Discover Information Essential To Its Opposition	19
A. The Court May Deny Or Continue A Motion For Summary Judgment To Allow The Non-Moving Party To Complete Discovery	20
B. Good Cause Exists For the Court To Deny Or Continue the Tribe’s Summary Judgment Motion.....	20
1. The State’s Efforts to Obtain the Evidence.....	20
2. Evidence Obtained to Date.....	21
3. Evidence the State Expects to Receive	22
4. Outstanding Evidence Will Defeat the Tribe’s Summiary Judgment Motion	23
a. There May be a Material Question Whether Current Tribal Members Descend From James Lagoon Charley and Family	23
b. There May be a Material Question Whether the United States Lawfully Considers Big Lagoon a Federally Recognized Tribe.....	24
c. The State May Need to File a Third Party Complaint Against the United States	25
Conclusion	26

TABLE OF AUTHORITIES

	<u>Page</u>
CASES	
<i>Anderson v. Liberty Lobby, Inc.</i> 477 U.S. 242 (1986).....	7, 20
<i>Arizona Public Service Co. v. E.P.A.</i> 211 F.3d 1280 (D.C. Cir. 2000).....	13
<i>Artichoke Joe's Cal. Grand Casino v. Norton</i> 353 F.3d 712 (9th Cir. 2003).....	3
<i>Artichoke Joe's v. Norton</i> , 216 F. Supp. 2d 1084, 1	12
<i>Cabazon Band of Mission Indians v. Wilson</i> 37 F.3d 430 (9th Cir. 1994).....	12
<i>Carcieri v. Salazar</i> 129 S. Ct. 1058 (2009).....	passim
<i>Celotex Corp. v. Catrett</i> 477 U.S. 317 (1986).....	7
<i>Garrett v. City & County of San Francisco</i> 818 F.2d 1515 (9th Cir. 1987).....	20
<i>Guidiville Band of Pomo Indians v. NGV Gaming, Ltd.</i> 531 F.3d 767 (9th Cir. 2008).....	25
<i>In re Indian Gaming Related Cases</i> 331 F.3d 1094 (9th Cir. 2003).....	3, 8, 9
<i>Matsushita Elec. Indus. Co. v. Zenith Radio Corp.</i> 475 U.S. 574 (1986).....	7
<i>Morton v. Mancari</i> 417 U.S. 535 (1974).....	24
<i>Rincon Band of Luiseno Mission Indians v. Schwarzenegger</i> 602 F.3d 1019 (9th Cir. 2010).....	1, 8, 9, 11
<i>United States v. Sandoval</i> 231 U.S. 28 (1913).....	24
<i>Van Mechelen v. Portland Area Director, Bureau of Indian Affairs</i> 35 IBIA 122 (2000).....	18

TABLE OF AUTHORITIES
(continued)

		<u>Page</u>
1		
2		
3	<i>Voggenthaler v. Maryland Square, LLC</i>	
4	No. 08-cv-01618-RCG-GWF, 2010 WL 1553417 (D. Nev. Apr. 14, 2010).....	25
5	<i>Wedbush, Noble, Cooke, Inc. v. S.E.C.</i>	
6	714 F.2d 923 (9th Cir. 1983).....	8
7	STATUTES	
8	18 U.S.C.	
9	§§ 1166-1168	1
10	25 U.S.C.	
11	§ 465.....	2, 14
12	§ 479.....	2, 14, 18
13	§§ 2701-2721	1
14	§ 2702.....	2, 3
15	§ 2702(1).....	12
16	§ 2702(2).....	12
17	§§ 2704-2709	12
18	§ 2710(d)(1)(C).....	2, 3
19	§ 2710(d)(4)	8
20	§ 2710(d)(7)(B)(iii).....	3, 18
21	§ 2710(d)(7)(B)(iii)(I).....	13
22	§ 2710(d)(7)(B)(iii), (iv).....	10
23	§ 2719.....	19
24	CONSTITUTIONAL PROVISIONS	
25	Cal. Const. Article IV	
26	§ 19(f).....	4, 8
27	COURT RULES	
28	Federal Rule of Civil Procedure	
	Rule 56.....	1, 7
	Rule 56(f).....	20, 25
	OTHER AUTHORITIES	
	California Rancheria Termination Act.....	23
	Hoopa Yurok Settlement Act.....	24
	Quiet Title Act	25

1 **NOTICE OF MOTION AND MOTION**

2 TO PLAINTIFF BIG LAGOON RANCHERIA AND ITS ATTORNEYS OF RECORD:

3 PLEASE TAKE NOTICE that on August 12, 2010, at 2 p.m., or as soon thereafter as the
4 matter may be heard in Courtroom 2 of the above-captioned Court, located at 1301 Clay Street,
5 Oakland, California, Defendant State of California (State) will move the Court for summary
6 judgment, pursuant to Federal Rule of Civil Procedure 56 on grounds that there is no genuine
7 issue of material fact and that the State is entitled to judgment as a matter of law because it has
8 negotiated in good faith toward the formation of a compact with Plaintiff Big Lagoon Rancheria
9 (Big Lagoon or Tribe) that governs class III gaming activities as required by the Indian Gaming
10 Regulatory Act (IGRA), 18 U.S.C. §§ 1166-1168, 25 U.S.C. §§ 2701-2721. This motion is based
11 on this notice of motion, the following memorandum of points and authorities, the accompanying
12 declarations and request for judicial notice, all pleadings and papers on file in this action, and
13 other matters as may be presented at the hearing.

14 **MEMORANDUM OF POINTS AND AUTHORITIES**

15 **INTRODUCTION**

16 After a failed previous agreement, Big Lagoon and the State have not reached agreement on
17 a new class III gaming compact. The Tribe asserts the State has not negotiated in good faith, and
18 sued to compel the State to do so. The Court should grant the State's cross-motion for summary
19 judgment and deny the Tribe's summary judgment motion because the State is entitled to request
20 revenue sharing from the Tribe as consideration for the benefit of the exclusive right to operate
21 class III gaming. While the Ninth Circuit recently found revenue sharing terms similar to those
22 proposed here constituted a prohibited tax when the State negotiated for a compact amendment,
23 the negotiation here is different because the Tribe has no compact and, therefore, has not provided
24 the State any consideration for exclusivity. In any event, the State is entitled to receive revenue to
25 cover its "costs of dealing with the fallout of gaming." *Rincon Band of Luiseno Mission Indians*
26 *v. Schwarzenegger*, 602 F.3d 1019, 1035 (9th Cir. 2010) (*Rincon*).

27 Also, this Court has found that the State may negotiate for environmental and land use
28 conditions. The State offered valuable consideration for proposed concessions in the form of the

1 number of gaming devices, and there is no evidence to suggest that any entity other than the Tribe
2 would be its gaming operation's primary beneficiary, consistent with IGRA's purpose.

3 Moreover, it is against the public interest to locate a class III gaming facility on land that
4 the United States unlawfully acquired in trust for the Tribe that otherwise would be ineligible for
5 gaming, and that would result in damage to adjacent State lands. The United States holds in fee a
6 nine-acre parcel designated as the Tribe's rancheria. The Tribe wants its casino on an adjacent
7 eleven-acre parcel acquired in trust for the Tribe in 1994 pursuant to 25 U.S.C. § 465 of the
8 Indian Reorganization Act (IRA). Last year the Supreme Court held that the Secretary of the
9 Interior (Secretary) lacks authority to acquire trust land for a tribe pursuant to the IRA unless it
10 was a recognized tribe under federal jurisdiction in 1934. *Carcieri v. Salazar*, 129 S. Ct. 1058,
11 1060-61, 1064-65, 1068 (2009) (*Carcieri*). Historical documents indicate Big Lagoon was not a
12 recognized tribe under federal jurisdiction in 1934, and no current members resided and descend
13 from a recognized sovereign residing on the rancheria in 1934. *See* 25 U.S.C. § 479. Thus, the
14 1994 acquisition was unlawful and it would be against the public interest to allow the Tribe to
15 conduct gaming on land that otherwise would be ineligible for gaming under IGRA. *Id.* § 2719.

16 Alternatively, the Court should deny the Tribe's motion to allow the State to complete
17 discovery. The State is actively trying to resolve a discovery dispute with the United States. The
18 evidence obtained by the State so far indicates there is no lineal connection between the original
19 rancheria residents and current members, making the Tribe ineligible for the 1994 trust
20 acquisition, and also raising a material question whether the United States lawfully considers the
21 Tribe federally recognized.

22 BACKGROUND

23 I. IGRA

24 IGRA provides that Indian tribes may conduct certain gaming activities only if authorized
25 by a valid compact between the tribe and the state where the gaming activities take place. 25
26 U.S.C. §§ 2702, 2710(d)(1)(C). To obtain a compact,

27 Any Indian tribe having jurisdiction over the Indian lands upon which a class III
28 gaming activity is being conducted, or is to be conducted, shall request the State in
which such lands are located to enter into negotiations for the purpose of entering into
a Tribal-State compact governing the conduct of gaming activities. Upon receiving

1 such a request, the State shall negotiate with the Indian tribe in good faith to enter
2 into such a compact.

3 *Id.* § 2710(d)(3)(A). IGRA also specifies various provisions that a gaming compact may include.

4 *Id.* § 2710(d)(3)(C).

5 To demonstrate bad faith, a tribe must show that no tribal-state compact has been entered
6 into and that the state failed to respond in good faith to the tribe's request to negotiate. *Id.* §
7 2710(d)(7)(B)(ii). The burden then shifts to the state to prove that it negotiated in good faith. *Id.*
8 In determining good faith, courts "may take into account the public interest, public safety,
9 criminality, financial integrity, and adverse economic impacts on existing gaming activities," and
10 "shall consider any demand by the State for direct taxation of the Indian tribe or of any Indian
11 lands as evidence that the State has not negotiated in good faith." *Id.* § 2710(d)(7)(B)(iii)(I)-(II).

12 If a court finds the state failed to negotiate in good faith, it orders the parties to conclude a
13 compact within sixty days. *Id.* § 2710(d)(7)(B)(iii). If no compact is entered into within that
14 time, the parties then each submit to a mediator a proposed compact that represents their last best
15 offer. *Id.* § 2710(d)(7)(B)(iv). The mediator chooses the compact that "best comports with the
16 terms of [IGRA] and any other applicable Federal law and with the findings and order of the
17 court." *Id.* If the state does not consent to the compact selected by the mediator, the Secretary
18 will prescribe procedures for conducting class III gaming. *Id.* § 2710(d)(7)(B)(vii).

19 II. FACTUAL BACKGROUND

20 The Tribe claims it has been attempting to negotiate a compact for fifteen years. (Pl.'s Mot.
21 Sum. J. (Mot.) 1:21-24.) But the State was under no obligation to negotiate a compact with Big
22 Lagoon for slot machines or banked or percentage card games before March 2000, when the
23 voters ratified Proposition 1A to authorize the Governor to negotiate class III gaming compacts
24 with Indian tribes. *Artichoke Joe's Cal. Grand Casino v. Norton*, 353 F.3d 712, 716-18 (9th Cir.
25 2003); *In re Indian Gaming Related Cases*, 331 F.3d 1094, 1098-1103 (9th Cir. 2003) (*Coyote*
26 *Valley II*). Also, as the Court knows, in August 2005 the parties agreed on terms of a class III
27 gaming compact that would have permitted Big Lagoon to build a casino in Barstow, California
28 (Barstow Compact). (Doc. 21 at 4; Engstrom Decl. Supp. Pl.'s Mot. Sum. J. (Engstrom Decl.)

1 Ex. 1A.) Legislative ratification is required for a compact to take effect, Cal. Const. art. IV, §
 2 19(f), and the Legislature failed to ratify the Barstow Compact (Doc. 21 at 4-5). The parties
 3 commenced new negotiations in September 2007, and stipulated to dismissal of the previous
 4 action without prejudice. (Doc. 21 at 5; Engstrom Decl. Ex. 2.) Thus, the negotiations at issue
 5 span September 2007 to April 2009—not fifteen years.

6 **A. 2007 to 2009 Negotiations**

7 Negotiations commenced on October 5, 2007. The Tribe proposed a casino with 250 to 600
 8 gaming devices, to be located beneath a five-story, seventy-room hotel on the eleven acres.
 9 (Pinal Decl. Supp. Def.'s Opp'n Pl.'s Mot. Sum. J. & Def.'s Cross-motion Sum. J. (Pinal Decl.)
 10 Ex. A.) The parties met again on October 25, 2007. (Engstrom Decl. Ex. 3A.) Thereafter, the
 11 State provided the Tribe with an initial draft compact with open provisions for casino location.
 12 (*Id.*) The State was interested in exploring alternative sites. (*Id.*) The State proposed the Tribe
 13 contribute a portion of its net win to the State,¹ in an amount to be determined, and that if it
 14 authorized anyone other than a tribe to operate class III gaming devices within the Tribe's "core
 15 geographic market," the Tribe could terminate the compact or forego revenue sharing
 16 contributions except for regulatory costs if it operated a minimum number of gaming devices.
 17 (*Id.* §§ 4.3, 4.5) The Tribe previously agreed to these terms in the Barstow Compact. (*Id.* Ex.
 18 1A, Barstow Compact §§ 4.3.3, 4.4.)

19 The next meeting occurred on December 10, 2007. (Engstrom Decl. Ex. 4.) On January
 20 31, 2008, the State proposed three location options that "stem[med] from the State's vital interest
 21 in preserving and protecting, for present and future generations, environmentally significant State
 22 resources located adjacent to the rancheria." (*Id.*) The options included:

23 (1) **The Highway Site**, located adjacent to Highway 101 within five miles of the
 24 rancheria. The Tribe could operate up to 500 gaming devices and a 100-room hotel, with
 25 geographic exclusivity. The Tribe would pay the State 14% to 25% of its net win and an
 undetermined fee into the Revenue Sharing Trust Fund (RSTF). The land would be
 transferred to federal trust for the Tribe. In return, the Tribe would convey to the State
 sixteen acres of Tribal-owned fee land and limit development on its rancheria and trust

26
 27 ¹ The revenue sharing provision stated: "The Tribe shall remit to such agency, trust, fund,
 28 or entity, as the State Director of Finance, pursuant to law, from time to time, shall specify to the
 Tribe in writing, the payments referenced in subdivision (a) in quarterly payments." (Draft
 Compact § 4.3(b)(1).)

1 lands the same as in the Barstow Compact. Before including the proposal in the compact,
2 the State would obtain support letters from necessary third parties. If any contingency
failed, the Tribe could conduct gaming on the second option. (*Id.*)

3 (2) The **Five Acre/Rancheria Site**, where a casino with up to 250 gaming devices
4 would be located on the nine acres, a 50-room hotel would be located on the eleven acres,
and supporting facilities (e.g., parking and wastewater treatment) would be located nearby
5 on five-acres of Tribal-owned fee land. The State proposed conditions designed to
address the project's very specific off-rancheria environmental impacts. (*See id.* App. A.)
6 The Tribe would receive geographic exclusivity and pay the same fees as the Highway
Site, with RSTF provisions left open. If any specified contingency failed, the Tribe could
conduct gaming on the third option. (Engstrom Decl. Ex. 4.)

7 (3) The **Rancheria Site**, where a casino with up to 175 gaming devices would be
8 located on the nine acres, a 50-room hotel would be located on the eleven acres, with
parking and supporting facilities split between the parcels. This option required specific
9 development conditions designed to mitigate impacts to the off-rancheria environment,
and the Tribe would receive geographic exclusivity and pay the same revenue sharing,
10 with RSTF provisions left open. (*Id.*)

11 On February 20, 2008, the Tribe provided the State proposed compact language, proposing
12 the project be located on the rancheria, but not defining whether that included the eleven acres.
13 (Engstrom Decl. Ex. 5, Draft Compact § 2.22.) RSTF contributions and the number of gaming
14 devices were left open, and the Tribe eliminated all provisions for revenue sharing or geographic
15 exclusivity. (*Id.* §§ 4.1, 4.3, 4.5, 5.2.) The Tribe proposed that evaluating environmental impacts
16 under the National Environmental Policy Act would be sufficient, and it agreed to enter into
17 intergovernmental mitigation agreements but modified the proposed terms. (*Id.* §§ 11.1, 11.7-9.)

18 The next negotiations occurred on February 25, 2008, and March 21, 2008; the Tribe
19 rejected each proposed site except the eleven acres. (Engstrom Decl. Ex. 6.) Claiming the State's
20 proposed gaming device and hotel limitations would not allow it to compete, and that it had
21 always planned for a casino on the eleven acres, the Tribe proposed a casino on the eleven acres
22 with at least 350 gaming devices, a lodge with at least 120 rooms and related amenities, and
23 parking at unspecified locations on twenty acres of "trust land." (*Id.*)

24 The State responded on May 2, 2008, in advance of the parties' next meeting scheduled for
25 May 5, 2008. (Engstrom Decl. Ex. 7.) New opportunities for alternative sites had arisen and,
26 despite having been advised, "for the first time, that the Chairman is not interested in possible
27 alternative sites," the State offered to explore the new options if the Tribe was interested. (*Id.*)
28 Respecting the Tribe's desire for a project on its rancheria, and due to the site's "environmentally

1 sensitive nature,” the State proposed a casino on the nine acres with up to 99 gaming devices, a
2 50-room hotel on the eleven acres, 50-mile geographic exclusivity, and revenue sharing from
3 10% to 25% of the Tribe’s net win. (*Id.*) The Tribe would continue to receive \$1.1 million in
4 annual RSTF distributions provided it did not use the money for gaming-related activities. (*Id.*)
5 The Tribe offered no new information about the nine acres to suggest the State’s proposed
6 development conditions were improper, and the State continued to consider them necessary. (*Id.*)
7 In August 2008, the Tribe proposed project mitigation measures. (Pinal Decl. Ex. B.)

8 **B. Last Proposals**

9 On October 6, 2008, the Tribe indicated it did not need geographic exclusivity and would
10 not share revenue with the State. (Engstrom Decl. Ex. 8.) Without any supporting information,
11 the Tribe claimed the State’s proposed revenue share would “necessarily consume a substantial
12 share” of its profit. (*Id.*) The Tribe *had been* willing to consider revenue sharing but withdrew
13 the offer because it now considered it a tax. (*Id.*) The Tribe proposed that it receive the 1999
14 Compact terms, allowing it to operate up to 350 gaming devices without any fees and participate
15 in the license pool created by the 1999 Compact, or some other mechanism to operate more than
16 350 gaming devices if licenses were unavailable; that payments for between 350 and 2000
17 gaming devices go to the RSTF; that the project be located on the rancheria; that the Tribe be
18 allowed to build a hotel with up to 100 rooms with room to expand; and that the Tribe’s proposed
19 mitigation measures be considered sufficient. (*Id.*) The Tribe indicated it would file suit if there
20 was no agreement by November 7, 2008. (*Id.*)

21 On October 31, 2008, the State responded that the 1999 Compact terms have, in this
22 instance, always been unacceptable to the State. (Engstrom Decl. Ex. 9.) In return for a class III
23 gaming monopoly, the State requested general fund revenue sharing of 15% of net win on a
24 maximum 349 gaming devices, consistent with consideration requested of other tribes, and to
25 which the Tribe had previously agreed in the Barstow Compact and the Secretary had expressly
26 approved in other compacts. (*Id.*) The Tribe’s refusal to provide any revenue sharing other than
27 RSTF contributions under the 1999 Compact terms amounted to no revenue sharing at all because
28 the Tribe would operate fewer than 350 gaming devices (1999 Compact tribes operating 700

1 gaming devices or less contribute nothing to the RSTF), and RSTF contributions alone were not
2 full consideration for class III exclusivity because the money goes solely to Non-compact Tribes.
3 (*Id.*) The Tribe could continue to receive its RSTF distribution if it operated no more than 349
4 gaming devices and did not use the RSTF money for gaming-related costs, and it could request a
5 compact amendment if it wanted to operate more devices. (*Id.*)

6 The Tribe gave the State no financial data demonstrating the proposed revenue sharing was
7 unaffordable. (*Id.*) Although the Tribe had recently asked the State to consider alternative sites
8 near Eureka and Trinidad, the State agreed to the rancheria as long as it included “constraints on
9 development inherent in placing an intense urban project adjacent to” environmentally sensitive
10 State lands. (*Id.*) The Tribe had asked the State to agree to mitigation measures without
11 presenting an actual project for analysis, but the State agreed to incorporate the Tribe’s proposed
12 measures that could be determined immediately, with the need for additional measures to be
13 demonstrated through an environmental review process for the specific project. (*Id.*) The State
14 urged the Tribe to continue to negotiate. (*Id.*)

15 LEGAL STANDARD

16 Summary judgment is properly granted when no genuine and disputed issues of material
17 fact remain, and when, viewing the evidence most favorably to the non-moving party, the movant
18 is clearly entitled to prevail as a matter of law. Fed. R. Civ. P. 56; *Celotex Corp. v. Catrett*, 477
19 U.S. 317, 322-23 (1986). The moving party bears the burden of showing that there is no material
20 factual dispute. Therefore, the court must regard as true the opposing party’s evidence, if
21 supported by affidavits or other evidentiary material. *Celotex*, 477 U.S. at 324. The court must
22 draw all reasonable inferences in favor of the party against whom summary judgment is sought.
23 *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986). Material facts that
24 would preclude entry of summary judgment are those that, under applicable substantive law, may
25 affect the outcome of the case. The substantive law will identify the material facts. *Anderson v.*
26 *Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986).

27 ARGUMENT

28 I. THE STATE NEGOTIATED IN GOOD FAITH FOR REVENUE SHARING

1 Big Lagoon relies heavily on *Rincon* for the proposition that a request for general fund
2 revenue sharing is *per se* failure to negotiate in good faith under IGRA. (Mot. 13-20.) In *Rincon*,
3 the Ninth Circuit held that the State failed to negotiate an amendment to a 1999 Compact in good
4 faith because it viewed the State's request for general fund revenue sharing as an attempt to tax
5 the tribe in violation of 25 U.S.C. § 2710(d)(4). 602 F.3d at 1029-42. The court denied the
6 State's petition for rehearing but stayed issuance of the mandate until September 13, 2010, to
7 allow the State to file a petition for writ of certiorari. (Def.'s Req. Jud. Not. (Def.'s RJN) Ex. A.)
8 The State recognizes that, for the moment, *Rincon* is controlling, *see Wedbush, Noble, Cooke, Inc.*
9 *v. S.E.C.*, 714 F.2d 923, 924 (9th Cir. 1983); however, the State requests this Court to stay further
10 proceedings in this case until the Supreme Court decides the State's forthcoming writ petition in
11 *Rincon* (Pinal Decl. ¶ 2), or until the Ninth Circuit's stay is dissolved. Indeed, it would make
12 little practical or equitable sense if Big Lagoon were allowed to take advantage of a decision in
13 *Rincon* when the Rincon Tribe cannot even do so. The *Rincon* decision is flawed for reasons
14 discussed in the State's briefs on appeal, and the well-reasoned dissenting opinion in that case.
15 (Def.'s RJN Exs. B-C.) *Rincon*, 602 F.3d at 1042-73 (Bybee, J., dissenting). For reasons set
16 forth therein and incorporated here by reference,² the State is entitled to summary judgment here.

17 Even if the decision stands in *Rincon*, it is not dispositive here. First, it is distinguishable
18 because it involved an amendment to an existing compact where the tribe was already sharing
19 revenue in exchange for exclusive rights to conduct class III gaming in the most populous state in
20 the country. 602 F.3d at 1024; *see Coyote Valley II*, 331 F.3d at 1114-15. Proposition 1A
21 amended the state constitution to afford federally recognized tribes the exclusive right to
22 negotiate with the Governor for limited class III gaming compacts, subject to legislative
23 ratification. Cal. Const. art. IV, § 19(f). The court in *Rincon* held that putting Proposition 1A on
24 the table in 1999 was an "exceptionally valuable and bargained for" concession at the time but,
25

26 ² The State's position in *Rincon* that it had negotiated in good faith was based, in part, on
27 its genuine belief that general fund revenue sharing was authorized because the Secretary and
28 other tribes had accepted compacts with such terms. *Rincon*, 602 F.3d at 1041. Here the State
requests judicial notice of compacts entered into by federally recognized tribes, which include
general fund revenue sharing and have been approved by the Secretary. (Def.'s RJN Exs. D-U.)

1 that “[b]y contrast, in the current legal landscape, ‘exclusivity’ is not a new consideration the
2 State can offer in negotiations because the tribe already fully enjoys that right as a matter of state
3 constitutional law.” 602 F.3d at 1036-37. But the court carefully noted:

4 While we do not hold that no future revenue sharing is permissible, it is clear that
5 the State cannot use exclusivity as new consideration for new types of revenue
6 sharing since it and the collective tribes already struck a bargain in 1999, wherein the
7 tribes were exempted from the prohibition on gaming in exchange for their
8 contributions to the RSTF and SDF.
9 *Id.* at 1037.

10 Thus, *Rincon* confirms that some form of revenue sharing is permissible. *Rincon*’s holding
11 that “the benefits conferred by Proposition 1A have already been used as consideration for the
12 establishment of the RSTF and SDF in the 1999 Compact,” *id.*, even if upheld, does not apply
13 here because Big Lagoon, unlike the 1999 Compact tribe in *Rincon*, has not previously provided
14 *anything* in exchange for the valuable economic benefit of Proposition 1A exclusivity. While
15 “[i]t is elementary law that giving a party something to which he already has an absolute right is
16 not consideration to support that party’s contractual promise,” *id.*, the constitution gives Big
17 Lagoon the exclusive right to *negotiate* for a compact. The Tribe has provided no consideration,
18 so it is not in the same position as the Rincon Tribe and does not have the same “absolute right”
19 that the court found existed for 1999 Compact tribes. Thus, the State can request revenue sharing
20 as consideration for initial exclusivity.

21 Second, although *Rincon* held that a request for general fund revenue sharing was a tax in
22 that case, *Rincon* and *Coyote Valley II* confirm that the State is entitled to some form of revenue
23 sharing. *Rincon*, 602 F.3d at 1033-37; *Coyote Valley II*, 331 F.3d at 1111-15. Thus, even if
24 *Rincon* is affirmed, the parties here may still negotiate to determine what form and amount of
25 revenue sharing is appropriate, which must be more than the Tribe’s proposal only to make RSTF
26 contributions, which in this case would mean that the Tribe would pay nothing to the State for the
27 exclusive right to game in the most populous state in the country. Moreover, it would be difficult
28 to find the State failed to negotiate in good faith by requesting the same revenue sharing terms to
29 which Big Lagoon previously agreed in the Barstow Compact. (Engstrom Decl. Ex. 1A, Barstow
30 Compact § 4.3.3(b); *see also id.* 3 (acknowledging contribution was “fair”).)

31 Third, even if this Court orders the parties to conclude a compact within sixty days, or if the

1 parties ultimately submit to mediation, the parties and the mediator must have guidance from this
2 Court as to compact parameters that best comport with IGRA and any other applicable federal
3 law. *See* 25 U.S.C. § 2710(d)(7)(B)(iii)-(iv). As discussed *post*, several dispositive questions
4 remain, which this Court must answer before ordering the parties to mediation.

5 **II. THE STATE NEGOTIATED IN GOOD FAITH FOR ENVIRONMENTAL MITIGATION**

6 The Tribe argues that IGRA does not authorize the State to “impose” environmental
7 regulations on the Tribe. (Mot. 20:27-28.) The Tribe mischaracterizes the record. In any event,
8 the State is entitled to summary judgment for the following reasons.

9 **A. This Court Has Found That the State May Negotiate Environmental Issues**

10 Three times this Court has rejected the same argument the Tribe makes here and found that
11 the State may negotiate for provisions regarding environmental and land use issues as part of the
12 compacting process. On March 18, 2002, the Court found that “environmental and land use
13 issues are subjects that may be ‘directly related to the operation of gaming activities’ under §
14 2710(d)(3)(C)(vii)[,]” and that “[e]nvironmental and land use laws can also be considered
15 ‘standards for the operation of [gaming] activity and maintenance of the gaming facility’ under §
16 2710(d)(3)(C)(vi).” (Pl.’s Req. Jud. Not. (Pl.’s RJN) Ex. 2 at 15:3-9.) At the time, the Court
17 found the State’s continued insistence on Tribal execution of a side agreement requiring
18 compliance with State environmental laws and regulations “would constitute bad faith,” but the
19 Court denied summary judgment and set parameters for future negotiations:

20 The State may in good faith ask the Tribe to make particular concessions that it did
21 not require of other tribes, due to Big Lagoon’s proximity to the coastline or other
22 environmental concerns unique to Big Lagoon. The State could demonstrate the good
23 faith of its bargaining position by offering the Tribe concessions in return for the
24 Tribe’s compliance with requests with which other tribes were not asked to comply.
25 However, the State may not in good faith insist upon a blanket provision in a tribal-
26 State compact with Big Lagoon which requires future compliance with all State
27 environmental and land use laws, or provides the State with unilateral authority to
28 grant or withhold its approval of the gaming facility after the Compact is signed, as it
proposed in the side letter agreement.

(*Id.* 19:4-16; *see also id.* 20:4-8 (finding March 22, 2000 Order “provided the State with a
reasonable basis for its belief that it could negotiate environmental and land use issues with the
Tribe in good faith”).) Again on March 17, 2004, the Court noted that it had “previously held that

1 the State could negotiate in good faith regarding the on-site alternative by offering the Tribe
2 specific concessions in return for requests that the Tribe comply with environmental regulations.”
3 (Def.’s RJN Ex. V 7:17-20 (*citing* Mar. 18, 2002 Order 18).)

4 Further, contrary to the Tribe’s unsupported assertion (Mot. 20:13-17), in the last
5 negotiations the State did not insist or ask the Tribe to obtain State or local agency permits or
6 approval before building its project. Instead, *the Tribe* proposed specific project mitigation
7 measures in August 2008 that the State modified and incorporated into its last proposal. (Pinal
8 Decl. Ex. B; Engstrom Decl. Ex. 9A.) The measures were as tailored as the State could conceive,
9 given the limited information the Tribe provided regarding its intended facility design. To the
10 extent any of the State’s proposed mitigation measures are *based on* state environmental and land
11 use law, this Court has found that to be a permissible starting point. (Pl.’s RJN Ex. 2 at 15:7-9.)

12 **B. Rincon is Inapposite Because it Did Not Discuss Environmental Issues**

13 The Tribe contends that because the court in *Rincon* held that a general fund fee to operate
14 slot machines was not directly related to gaming activities, neither is environmental regulation of
15 a gaming facility directly related and, thus, the State may not request environmental conditions.
16 (Mot. 21:14-28.) But *Rincon* is inapposite because the issue was whether the State could request
17 general fund revenue sharing, not whether it could negotiate for environmental conditions. The
18 court’s passing reference to environmental issues in the context of discussing IGRA’s legislative
19 history generally is dicta. *See Rincon*, 602 F.3d at 1029 n.10, 1040. Indeed, this Court previously
20 rejected Big Lagoon’s argument that IGRA’s legislative history suggests the State cannot
21 negotiate for environmental mitigation. (Pl.’s RJN Ex. 2 at 16 n.5.) Nothing in *Rincon* requires
22 this Court to modify its analysis or resulting conclusion.

23 **C. The State Offered Valuable Consideration for Environmental Concessions**

24 The Tribe claims the State requested environmental conditions without offering meaningful
25 consideration. (Mot. 20:16-17.) The State would allow the Tribe to operate up to 349 gaming
26 devices and continue to receive \$1.1 million in annual RSTF distributions as long as it did not
27 operate more than 349 devices and did not use RSTF money to pay gaming-related costs.
28 (Engstrom Decl. Ex. 9.) The Tribe did not respond to the proposal, which had improved from the

1 State's previous offer, and instead filed suit. That Big Lagoon abandoned the negotiation process
2 without exploring the possibility of different terms does not mean the State failed to negotiate in
3 good faith. (See Pl.'s RJN Ex. 4 at 12 (citing *Coyote Valley II*, 331 F.3d at 1110) (denying
4 Tribe's summary judgment motion in part because State "actively negotiated" in good faith).)

5 Although the Tribe still desires the 1999 Compact terms,³ the State long ago rejected that
6 proposal because history had shown that compact included inadequate environmental protections.
7 (Def.'s RJN Ex. V 2:17-18.) Indeed, the State need not offer the same terms as the 1999
8 Compact. See *Artichoke Joe's v. Norton*, 216 F. Supp. 2d 1084, 1101 (E.D. Cal. 2002).

9 The Tribe also suggests the State's "calculated reluctance to offer the Tribe a profitable
10 number of gaming devices for casino projects on the Tribe's own Rancheria" demonstrates bad
11 faith. (Mot. 23:3-9.) But the State is not required to offer compact terms that ensure a profitable
12 gaming operation. IGRA's purposes include ensuring that tribes are the primary beneficiaries of
13 gaming and protecting gaming as a means of generating tribal revenue. 25 U.S.C. § 2702(1)-(2);
14 see *Cabazon Band of Mission Indians v. Wilson*, 37 F.3d 430, 433 (9th Cir. 1994). There is no
15 evidence that the State's position would preclude the Tribe from being its gaming operation's
16 primary beneficiary. (See Engstrom Decl. Exs. 8-9.)

17 **D. Federal Regulations Envision Use of Compact Provisions as Mechanisms to**
18 **Protect the Environment and Public Health and Safety**

19 The National Indian Gaming Commission (NIGC), created by IGRA and charged with its
20 enforcement, 25 U.S.C. §§ 2704-2709, promulgated regulations requiring the construction and
21 maintenance of tribal gaming facilities and gaming operations be "conducted in a manner which
22 adequately protects the environment and the public health and safety." 25 C.F.R. § 502.22
23 (2008); see also *id.* § 599.5; 73 Fed. Reg. 6019, 6023 (Feb. 1, 2008). (Def.'s RJN Exs. W-Y.) A
24 tribe must enforce "laws, resolutions, codes, policies, standards or procedures applicable to each
25 gaming place, facility or location that protect the environment and the public health and safety,
26 including standards under a tribal-state compact or Secretarial procedures." *Id.* (emphasis

27 ³ In fact, the Tribe wants more than is available to the 1999 Compact tribes, insisting that
28 it be able to operate over 350 gaming devices even if licenses are unavailable in the pool created
by that compact, an option unavailable to the 1999 Compact tribes. (Engstrom Decl. Ex. 8.)

1 added). Statutory interpretation by an agency charged with implementing it will be upheld unless
2 unreasonable. *Arizona Public Service Co. v. E.P.A.*, 211 F.3d 1280, 1287 (D.C. Cir. 2000). Here,
3 the NIGC's construction of IGRA is reasonable and consistent with this Court's rulings, as it
4 envisions the use of tribal-state compacts to include environmental protection standards.

5 **E. The Tribe Earlier Agreed to More Restrictive Environmental Conditions**

6 In the Barstow Compact, the Tribe "agreed to forego gaming and other adverse
7 development on its environmentally sensitive land at its rancheria," and to mitigate environmental
8 impacts to land surrounding the proposed casino site in Barstow, which would have been the
9 Tribe's trust land. (Engstrom Decl. Ex. 1A, Settlement Agmt. 5-6, Barstow Compact 2 & §§ 4.3,
10 11.) The Tribe's attorney testified before the Legislature that the terms "were freely negotiated at
11 arm's length" and did not infringe on Tribal sovereignty. (Pinal Decl. Ex. C at 81.) The Tribe's
12 Chairman testified that the Barstow Compact would benefit California's greater interests "in
13 terms of the environmental concerns." (*Id.* 85; *see also* Pl.'s RJN Ex. 6 at 3:7-9 (acknowledging
14 the Barstow Compact "substantially serves a clear public policy and provides environmental . . .
15 benefits to the State").) If environmental conditions were appropriate for the Tribe's rancheria
16 and Barstow parcel when the Tribe planned to build a facility in Barstow, then they are equally
17 appropriate, if not more so, for a project on the Tribe's environmentally sensitive rancheria and
18 trust land. Accordingly, the State negotiated in good faith on environmental and land use issues.

19 **III. IT IS AGAINST THE PUBLIC INTEREST TO PUT A CASINO ON LAND UNLAWFULLY**
20 **ACQUIRED IN TRUST FOR BIG LAGOON THAT OTHERWISE WOULD NOT BE**
21 **GAMING-ELIGIBLE, AND THAT WOULD DAMAGE SURROUNDING STATE LANDS**

22 The public interest is one of many factors that IGRA allows the Court to consider in
23 determining whether the State negotiated in good faith. 25 U.S.C. § 2710(d)(7)(B)(iii)(I). Here,
24 the State negotiated in good faith because it is not in the public interest to put a casino on land
25 that, under the *Carcieri* decision, the United States unlawfully acquired in trust for Big Lagoon,
26 and where the Tribe insists on siting a casino and all related development without adequate
27 mitigation of environmental impacts to adjacent State lands. Thus, the State is entitled to
28 summary judgment and the Tribe's summary judgment motion should be denied.

A. The United States May Only Acquire Land in Trust Under the IRA for
Recognized Tribes That Were Under Federal Jurisdiction in 1934

1 In 1994, pursuant to the IRA, the Secretary acquired in trust for Big Lagoon the eleven-acre
2 parcel where the Tribe insists on locating its gaming facility. (Pinal Decl. Ex. D.) The IRA,
3 enacted in 1934, authorized the Secretary to acquire land in trust "for the purpose of providing
4 land for Indians," 25 U.S.C. § 465, and defined "Indian" to

5 include all persons of Indian descent who are members of any recognized Indian tribe
6 now under federal jurisdiction, and all persons who are descendants of such members
7 who were, on June 1, 1934, residing within the present boundaries of any Indian
8 reservation, and shall further include all persons of one-half or more Indian blood.

9 *Id.* § 479. Last year the Supreme Court held that because the term "now under federal
10 jurisdiction" in § 479 unambiguously refers to those tribes that were under federal jurisdiction
11 when Congress enacted the statute, the Secretary has authority to take land in trust only for
12 recognized tribes that were under federal jurisdiction when the IRA was enacted in June 1934.
13 *Carciari*, 129 S. Ct. at 1060-61, 1064-65, 1068.

14 **B. Big Lagoon Was Not a Recognized Tribe Under Federal Jurisdiction in
15 1934 And, Therefore, Was Not a Proper Trust Beneficiary in 1994**

16 **1. James Charley and Family Were Not a Recognized Indian Tribe
17 Under Federal Jurisdiction in 1934**

18 On July 10, 1918, F. G. Ladd and his wife conveyed to the United States a 9.24-acre parcel
19 on the shore of Big Lagoon. (Pinal Decl. Ex. E.) The general warranty deed conveyed the parcel
20 subject only to a railroad right of way and without any other restriction. (*Id.*) The deed did not
21 convey the premises in trust for any person or group, and contained no language imposing any
22 limitation on alienation, or any recitals indicating any intent with respect to anticipated use, from
23 which trust intent might be inferred. Similarly, internal correspondence confirms the United
24 States had no intent to receive the land for the benefit of any particular Indian or tribe.

25 In 1917, James Charley sought assistance from the Indian Office concerning his fear that he
26 would be evicted from the land where he was living. (Pinal Decl. Ex. F.) Finding eviction would
27 be calamitous for James Charley (also known as Lagoon Charley) and his family, federal officials
28 contacted the landowners, the Ladds, about selling the property. (*Id.* Ex. G.) Indian Services
Inspector John J. Terrell advised the Ladds that "Congress has during the past few years made

1 small appropriations⁴] to purchase land for village homes for the landless Indians of California”
2 and that “[t]he small appropriations and the large number of landless Indians have precluded the
3 purchase of only small tracts and the paying of excessive prices.” (*Id.* Ex. H (n. added).) Mr.
4 Ladd eventually stated that he was willing to sell a portion of the land for James Charley’s use,
5 and by January 1918 discussions focused on the size and price of the parcel. (*Id.* Exs. I-M.)

6 The Commissioner’s Office made clear to Terrell that

7 With regard to purchasing ten acres for one family alone, it may be said that the
8 purpose of the appropriation from which the payment would be made is to buy tracts
9 of limited areas on which to locate small bands, with the idea ultimately to divide the
10 land pro rata and give evidence of title to the occupants in the form of patents. This
11 Office does not believe that it would be good policy to attempt to pick out individual
12 families and purchase them a homesite, as seems to be contemplated in the case of
13 Jim Charlie⁵. . . .

14 Will you kindly explain the situation to Jim Charlie and family and have them
15 clearly appreciate the fact that title to the tract will be in the United States and that
16 thereafter should it become necessary to use a part of the purchased lands in caring
17 for other Indians, that they will be expected to make no objection. With such an
18 understanding of the status of the land given the Indians, this Office would have no
19 objection to your closing out the proposed purchase of the ten acres, if you think it is
20 a good proposition.

21 (Pinal Decl. Ex. O (n. added).) Terrell responded that James Charley and his wife understood that
22 title would remain in the United States and that other landless and homeless Indians could be
23 permitted to live there. (*Id.* Ex. P.) Terrell doubted that “the few other Indians of Charlie’s
24 tribe⁶] that are landless, if any, will desire to make a permanent home on any portion of the 10
25 acres named in Mr. Ladd’s proposition,” and added that two of “Charlie’s” brothers, George and
26 Frank, already had homes nearby. (*Id.*) Given James Charley’s clear understanding of the United
27 States’ reservation of rights, the Indian Office instructed Terrell to make the purchase. (*Id.* Ex.
28 Q.). In June 1918, Terrell advised Mr. Ladd’s lawyers that the purchase was approved and
instructed them, among other things, that “[t]he deed should convey to the ‘United States of
America.’” (*Id.* Ex. R.)

⁴ See, e.g., Act of Jun. 21, 1906, 34 Stat. 325, 333; Act of Apr. 30, 1908, 35 Stat. 76; Act
of Aug. 1, 1914, 38 Stat. 582, 589.

⁵ See also Pinal Decl. Ex. N (“It is somewhat questionable as to the propriety of buying
individual families a home, although I believe we have done so in one or two instances. The
appropriation namely was obtained to buy tracts on which small bands could be located.”).

⁶ James and Lottie Charley were Yurok Indians. (See argument IV(B)(2), *post.*)

1 An opinion of the Solicitor of the Interior Department suggests that even if the United
 2 States had indicated intent to limit the use of rancheria lands for the benefit of specific persons or
 3 groups, these circumstances would not render rancherias trust lands for the benefit of any tribe,
 4 person or group:

5 The "background" data submitted to and published by the Senate Committee
 6 occasionally states that the title to particular rancheria land is "in the name of the
 7 United States Government in trust for the Indians of California" (See Auburn, Big
 8 Sandy, etc.); or that the lands "are held in trust by the United States Government for
 9 the Indians of California" (Blue Lake); or that it is "trust land" (Cache Creek). (See
 10 Report No. 1974, 85th Cong., 2d Sess.) These references do not connote a trust in
 11 which the United States holds merely a legal title, with equitable ownership
 12 elsewhere, as in the case of Indian lands generally; the intention was to indicate that
 13 the land, although acquired in fee, was purchased for a specific purpose. This is
 14 shown both by congressional and administrative action. For instance, the Secretary
 15 generally ordered the purchase of a particular California tract "for the use of the band
 16 of Indians referred to" in the special agent's report (see file, Ruffey's Band). A
 17 special form of "proposal for sale of lands" was employed which states that "
 18 hereby propose to sell to the United States, for the use and occupancy of the
 19 Indians (but without restrictions in deed) the following described lands: . . ." (See
 20 Paskenta.) (Underlining added for emphasis) The Government's voucher authorizing
 21 payment generally contains the language "to the purchase of land in ,
 22 said tract to be used for the benefit of the band of homeless Indians . . ." (See
 23 Mark West.) The deeds issued to the United States contain no restriction, and are in
 24 the form of absolute conveyances.
 25 (Pinal Decl. Ex. S at 5-6 (underscore and parenthesis in original.)

26 The Ladds conveyed the nine acres to the United States in the same circumstances
 27 described by the Solicitor's opinion, that is, received by the government without restriction,
 28 having been granted by an absolute conveyance, and not held in trust for a particular tribe, person
 or group. With respect to such absolute conveyances, the Solicitor's opinion states:

29 It has been decided, administratively, that these lands are not allottable, even to the
 30 members of the band for whom acquired, and that they could not be sold without
 31 legislation, even if the purpose was to acquire land more suitable for the same band
 32 (see Ruffey's Band, File 74408/07/311). They could be used for any landless
 33 California Indians, and not merely for the specific band for whom purchased, since
 34 neither the deed conveying the property to the United States nor the act appropriating
 the purchase money contained "any limitation or provision as to what Indians should
 be settled thereon." (See Marshal and Sebastopol File 310, Part 21, letter Comm.,
 July 6, 1937.)
 (Id. 6.)

35 This functional description of unrestricted conveyances characterizes the Ladds'
 36 conveyance, where the government's ability to situate homeless Indians there was made explicit
 37 by antecedent internal correspondence. Although the immediate cause of the purchase was to
 38 protect the Charley family from feared eviction, and the land would be occupied by the Charley

1 family, it was also clear that the government intended the land “could be used for any landless
2 California Indians” that the government might choose. Indeed, as the government’s documents
3 confirm, it would have been anomalous for the United States to purchase a home solely for a
4 family when the Appropriations Acts were intended for the purchase of tracts on which “small
5 bands,” not small families, could be located. (See Pinal Decl. Exs. L-N.) The BIA later
6 confirmed this intent in 1968 when it explained that the “Big Lagoon Rancheria was purchased in
7 1918 for landless California Indians and was not set aside for any specific tribe, band or group of
8 Indians.” (*Id.* Ex. T.)

9 Shortly after the government purchased the nine acres, “Lagoon Charlie died, and his
10 widow and children moved to Trinidad, about ten miles distant, where they resided” as of
11 September 21, 1921. (*Id.* Ex. U.) His widow and her four children continued to live in Trinidad
12 in summer 1929. (Brandt Decl. Supp. Def.’s Opp’n to Pl.’s Mot. Sum. J. & Def.’s Cross-motion
13 Sum. J. (Brandt Decl.) Ex.A.) Preliminary documents do not show anyone living on the parcel
14 until James and Lottie Charley’s son Robert lived there from 1942 to 1946. (Pinal Decl. Ex. V.)

15 In 1947, the Indian Service published a report, “Ten Years of Tribal Government Under
16 I.R.A.” (IRA Report), reviewing the IRA’s impact on tribal self-government. (Pinal Decl. Ex.W.)
17 The report includes a list of “Indian Tribes, Bands and Communities Which Voted to Accept or
18 Reject the Terms of the Indian Reorganization Act, the Dates When Elections Were Held, and the
19 Votes Cast.” (*Id.* Table A.) As detailed above, staff from the Hoopa Valley Indian Agency
20 arranged for the United States to purchase the nine acres, yet the Tribe’s name does not appear on
21 the list of Indians within the Hoopa Valley Agency’s jurisdiction that voted to accept or reject the
22 IRA. (*Id.*) Nor does Big Lagoon’s name appear on a June 1935 letter from Indian Agency staff
23 to the Commissioner detailing IRA election results for “all California jurisdictions.” (*Id.* Ex. X.)
24 The Deputy Assistant Secretary recently stated that he believed the IRA Report is “not the only or
25 finally determinative source,” but he considers it a “helpful . . . starting point” for BIA staff to
26 determine, after *Carciari*, whether a tribe was a recognized tribe under federal jurisdiction in
27
28

1 1934.⁷ (*Id.* Ex. Y.) Reading the IRA Report in the context of the historical documents detailed
 2 above, there is credible and undisputed evidence that Big Lagoon was not a recognized tribe
 3 under federal jurisdiction in 1934.

4 **2. Historical Documents Indicate The Tribe's Members Are Not**
 5 **Descended From James Charley and Family**

6 Even if the James Charley family constituted a recognized tribe under federal jurisdiction in
 7 1934, to be eligible for an IRA trust acquisition Big Lagoon's current members must also descend
 8 from that family. *See* 25 U.S.C. § 479. The BIA has interpreted § 479 to mean the descendant
 9 "was, on June 1, 1934, physically residing on a federally recognized Indian reservation." 25
 10 C.F.R. § 151.2(c); *Van Mechelen v. Portland Area Director, Bureau of Indian Affairs*, 35 IBIA
 11 122 (2000). (Def.'s RJN Exs. Z-AA.) Here, the historical documents show that neither James
 12 Charley nor anyone from his family or any current Tribal members lived on the nine acres in June
 13 1934. (*See* argument IV(B)(2), *post.*) Moreover, "Big Lagoon admits that no current member of
 14 the Tribe is known to be related to Jim 'Lagoon' Charley other than by marriage."⁸ (Pinal Decl.
 15 Ex. Z.) "Descent" is defined as "hereditary succession." Black's Law Dictionary (Abridged 6th
 16 Ed. 1991) 306. A "line of descent" is "[t]he order or series of persons who have descended one
 17 from the other or all from a *common ancestor*, considered as placed in a line of succession in the
 18 order of their birth, the line showing the connection of all the *blood-relatives*." *Id.* at 307
 19 (emphasis added). Big Lagoon's admission demonstrates the current members do not descend
 20 from the James Charley family because they do not share a common ancestor or blood-relative.
 21 Therefore, the Tribe is not an eligible beneficiary of land acquisitions under the IRA.

22 **C. It is Not in the Public Interest for the State to Negotiate For a Casino on**
 23 **Land That the United States Unlawfully Acquired in Trust for Big Lagoon**

24 The Court may consider the public interest in determining whether the State negotiated in
 25 good faith. 25 U.S.C. § 2710(d)(7)(B)(iii). This "may include issues of a very general nature." S.

26 ⁷ The BIA is currently deciding Big Lagoon's status in 1934. (*See* Doc. 74.)

27 ⁸ The admission may be contrary to historical documents. If the unspecified marital
 28 relationship is between Robert Charles and Ada Waukell, the Tribe's admission raises a material
 factual dispute because Robert Charles' death certificate indicates he was never married. (Thorpe
 Decl. Supp. Def.'s Opp'n Pl.'s Mot. Sum. J. & Cross-motion Sum. J. (Thorpe Decl.) Ex. A.)

1 Rep. No. 100-446, at 14 (1988), *as reprinted in* 1988 U.S.C.C.A.N. 3071, 3084-85. This Court
2 has found the State's argument about the Tribe's status "arguably implicates the public interest."
3 (Doc. 74 at 5:2-3.) It is against the public interest to allow gaming on land that, under the
4 *Carcieri* decision, the United States unlawfully acquired in trust for the Tribe. That the Supreme
5 Court decided *Carcieri* after the trust acquisition occurred does not mean the public interest is not
6 implicated. Irrespective of the date of the *Carcieri* decision, the parcel is not "Indian lands"
7 eligible for gaming under IGRA. *See* 25 U.S.C. § 2719 (prohibiting gaming on land acquired in
8 trust after October 17, 1988, with limited exceptions). Although this Court has found that the
9 eleven acres is "Indian lands" under IGRA, that finding was based, in part, on an assumption that
10 the United States was authorized to acquire the land for Big Lagoon under the IRA. (*See* Pl.'s
11 RJN Ex. 2 at 20-23.) That the State raises the issue for the first time here is occasioned by the
12 recent *Carcieri* decision.

13 **D. It is Not in the Public Interest for the State to Negotiate For a Casino on**
14 **Land That Would Significantly Damage Adjacent State Lands**

15 The State has a vital interest in protecting environmentally sensitive State resources located
16 adjacent to the rancheria and trust land. (*See* Engstrom Decl. Ex. 4.) Respecting the Tribe's
17 desire to build the project on its trust land, balanced with the State's desire to protect its natural
18 resources, the State proposed that the Tribe site the casino on the nine acres, with the hotel on the
19 eleven acres, and parking and other supporting facilities allocated between the parcels. (*Id.* Ex.
20 9A.) But the Tribe refused and, other than exploring various alternative sites, has insisted that the
21 entire project be located on the eleven acres only. This doubling-up of a casino, hotel and
22 supporting infrastructure on a single parcel exacerbates the off-rancheria environmental impacts
23 beyond a level tolerable to the State. It would be against the public interest to negotiate for a
24 project under these circumstances, or to find that the State requested too much consideration from
25 the Tribe in seeking to protect valuable natural resources. Accordingly, the State is entitled to
26 summary judgment and the Tribe's summary judgment motion should be denied.

27 **IV. BIG LAGOON'S SUMMARY JUDGMENT MOTION SHOULD BE DENIED OR CONTINUED**
28 **TO ALLOW THE STATE TO DISCOVER INFORMATION ESSENTIAL TO ITS OPPOSITION**

1 The State has had difficulty obtaining documents in response to subpoenas issued to the
2 BIA and the Assistant Secretary of Indian Affairs to ascertain the Tribe's status in 1934, and the
3 connection between James Charley and the individuals listed on the Big Lagoon Rancheria Asset
4 Distribution Plan. The documents are necessary to the State's defense because even if James
5 Charley and his family were a recognized tribe under federal jurisdiction in 1934, the Tribe that
6 acquired a beneficial interest in the eleven acres must descend from the James Charley family to
7 be eligible for an IRA acquisition. If the Court finds the Tribe's admission that its members are
8 not related to James Charley insufficient to grant the State summary judgment, additional
9 discovery is needed to prove the lack of any lineal connection. The United States' partial
10 document production raised for the first time the question whether it lawfully recognized the
11 Tribe. If Big Lagoon is not lawfully recognized, it would not meet IGRA's jurisdictional
12 prerequisite for compact negotiations, or pursuing this action. Because the State and United
13 States are actively trying to resolve their discovery dispute, the Tribe's summary judgment
14 motion should be denied, or continued, to allow the State to complete discovery.

15 **A. The Court May Deny or Continue a Motion for Summary Judgment to**
16 **Allow the Non-moving Party to Complete Discovery**

17 Federal Rule of Civil Procedure 56(f) allows a court to deny or continue a summary
18 judgment motion to allow an opposing party to complete discovery. Rule 56(f) requires
19 discovery "where the non-moving party has not had the opportunity to discover information that
20 is essential to its opposition." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. at 250 n.5; *Garrett v.*
21 *City & County of San Francisco*, 818 F.2d 1515, 1518-19 (9th Cir. 1987) ("summary judgment
22 should not be granted while opposing party timely seeks discovery of potentially favorable
23 information").

24 **B. Good Cause Exists for the Court to Deny or Continue the Tribe's**
25 **Summary Judgment Motion**

26 **1. The State's Efforts to Obtain the Evidence**

27 On August 19, 2009, the Court set the fact discovery completion date as January 29, 2010,
28 which the parties stipulated to continue to February 26, 2010. (Docs. 30, 35.) On December 18
and 21, 2009, the State issued identical subpoenas duces tecum to the BIA Pacific Regional
Office, the BIA Northern California Agency and the Assistant Secretary of Indian Affairs. (Pinal

1 Decl. Ex. KK.) Responses were due by January 8, 2010, but the United States did not respond
2 until much later. (*Id.* & Ex. LL.) The Court continued to May 31, 2010, the discovery cutoff date
3 for the subpoenaed documents. (Doc. 60.) The State's effort to obtain the documents since then
4 is detailed in the Pinal Declaration at paragraphs 44 through 52 and Exhibits MM through WW.
5 The State has diligently attempted to obtain the documents; however, the United States' failure to
6 timely comply with the subpoenas has thwarted the State's ability to complete discovery earlier.

7 2. Evidence Obtained to Date

8 In addition to the discussion in argument III(B), *ante*, the State has obtained information
9 concerning the relationship between the rancheria's original and subsequent occupants.⁹ James
10 Lagoon Charlie's wife, Lottie, was a full-blood Yurok Indian. (Brandt Decl. Ex. A.) Their son,
11 Robert Charlie, also known as Robert Charles, is identified as a full-blood Yurok Indian. (*Id.*
12 Exs. A & M; Thorpe Decl. Ex. A.)¹⁰ Robert Charles apparently lived on the Big Lagoon parcel
13 from 1942 to 1946. (Pinal Decl. Ex. V.) He lived with Ada Waukell, a full-blood Indian of the
14 Lower Klamath Tribe. (Brandt Decl. Exs. B, J, K.) Ida Waukell was Ada Waukell's sister.
15 (Brandt Decl. Ex. C.) Ida and Ada were daughters of Harry and Nettie Waukell, who were full-
16 blood Klamath Indians. (*Id.* Exs. J-L, N at sheet 3, lines 1-2.) The Yurok Tribe was historically
17 known as the Klamath River Indians. (Pinal Decl. Ex. AA at 1.) In adulthood, Ida Waukell
18 identified herself as "4/4 Yurok." (Brandt Decl. Ex. C.) Ida Waukell and Thomas Williams had a
19 son named Thomas Williams. (*Id.*; Thorpe Decl. Ex. B.) The elder Thomas Williams was non-
20 Indian, as evidenced by Ida Waukell's formal identification of her son Thomas as being one-half
21 Indian blood, and the younger Thomas being identified on his birth certificate as one-half
22 Klamath Indian. (Brandt Decl. Ex. C; Thorpe Decl. Exs. I-J.) All further references to Thomas
23 Williams are to the younger Thomas Williams.

24
25
26 ⁹ Attached hereto as Exhibit A is a chart summarizing the relationship between the James
Charley family and the distributees and dependents listed in Big Lagoon's Distribution Plan.

27 ¹⁰ At some point, James Charley's wife began to spell her married name, and the surnames
of her sons by James, as Charlie rather than Charley. (*See, e.g.*, Brandt Decl. Ex. A.) Later, she
28 and her sons had apparently again modified the surname, this time to Charles. (*See id.* Ex. M.)

1 Thomas Williams may have been married to Lila Green, the daughter of a one-half blood
2 Yurok, George Green, and his wife Laura, a one-half blood Chimariko Indian. (Pinal Decl. Ex.
3 V; Brandt Decl. Ex. D.) In February 1949, Thomas Williams—the nephew of Ada Waukell, who
4 lived with Robert Charles—is reported to have expressed an interest in acquiring the nine-acre
5 parcel that had lain vacant for some time. (Pinal Decl. Ex. V.) Thomas Williams, however, did
6 more than simply inquire about the property—he moved himself onto it, having first managed to
7 obtain permission from BIA to camp there. (*Id.*) Eventually Thomas Williams started building a
8 house there. In 1951, BIA staff discovered this unauthorized activity, calling it a “trespass,” and
9 left a note for Williams to stop construction at once. (*Id.* Ex. BB.) In another memorandum
10 documenting Thomas Williams’ trespass, staff was advised by “Mrs. Thomas Green Williams, an
11 unallotted and unassigned Yurok Indian,” that

12 she called many times at the Hoopa Office trying to get an assignment on one of the
13 rancherias and was never able to get a satisfactory answer, only that such a program
14 was not ready at the time. She was finally given permission to camp on Big Lagoon,
15 so they built a cabin in order to lock up their belongings when they were away.
16 (*Id.* Ex. CC.)

17 Thomas Williams and Lila Green had a daughter, Beverly Williams. (Thorpe Decl. Ex. J.)
18 Following a brief marriage that produced three sons—Franklin, Dale and Peter Lara (Pinal Decl.
19 Ex. DD; Thorpe Decl. Exs. F-H.)—Beverly Williams married Theodore R. Moorehead, aka
20 Theodore R. M. Moorehead, aka Ted Moorehead,¹¹ born to Theodore and Isabel Moorehead of
21 Crescent City in Del Norte County.¹² (Brandt Decl. Exs. E-F.) The elder Theodore Moorehead
22 was one-half Indian blood of the Smith River Band, and Isabel Moorehead was three-quarters
23 Indian blood of the Tolowa and Smith River Band. (*Id.* Exs. E-H.) Theodore R. Moorehead and
24 Beverly Williams were reported to be living on the nine acres in 1967. (Pinal Decl. Ex. EE.)
25 Their children are Roger, Virgil and Holly Moorehead. (Thorpe Decl. Exs. C-E.)

26 3. Evidence the State Expects to Receive

27 The United States has yet to produce documents explaining why Congress included a

28 ¹¹ The surname “Moorehead” sometimes appears in official and other records with the
variant spelling “Morehead.”

¹² Theodore and Isabel Moorehead lived in Crescent City in 1929, were living in Blue
Lake, in Humboldt County, as late as 1949, and in Smith River in 1969. (Brandt Decl. Exs. E-G.)

1 provision in the Hoopa Yurok Settlement Act, 25 U.S.C. § 1300i-10(b), giving Big Lagoon the
2 option to vote to merge with the Yurok Tribe. (Pinal Decl. Exs. UU, VV, ¶ 50.) The documents
3 will help explain the relationship between Big Lagoon and the United States, and Big Lagoon and
4 the Yurok Tribe, particularly in light of evidence suggesting James Charley and family were
5 Yurok, and that Congress specifically corrected an early draft of the Act to ensure that Big
6 Lagoon was identified as a rancheria instead of a tribe in recognition that there is a difference
7 between the two. (*Id.* ¶ 50.) See S.Rep. 100-564, at 38 (Sep. 30, 1988). Also unresolved is
8 BIA's claim that information about various individuals identified in the 1968 California Judgment
9 Enrollment is protected by the Privacy Act. (*Id.* ¶ 51.) Without that information, which is
10 exclusively within the BIA's possession, the State cannot complete its research. (*Id.*) Also, on
11 June 25, 2010, the State received from the Assistant Secretary several document "excerpts,"
12 which otherwise are non-responsive without more information to explain their context. (*Id.* ¶ 49.)
13 More importantly, the Assistant Secretary has not produced responsive documents explaining
14 how Big Lagoon came to be identified as a federally recognized tribe. (*Id.*)

15 **4. Outstanding Evidence Will Defeat the Tribe's Summary Judgment**
16 **Motion**

17 **a. There May be a Material Question Whether Current Tribal**
18 **Members Descend From James Lagoon Charley and Family**

18 If the Court finds the State's evidence insufficient, at this point, to support summary
19 judgment for the State, then additional discovery is necessary to ascertain the genealogical
20 connection, if any, between current Tribal members and the James Charley family. Thomas
21 Williams, Lila Green Williams, Theodore R. Moorehead, Beverly Williams Moorehead and their
22 children are the distributees identified on the Big Lagoon Rancheria Asset Distribution Plan
23 prepared by the BIA (Pinal Decl. Ex. FF) to terminate the Tribe pursuant to the California
24 Rancheria Termination Act, Pub. L. No. 85-671, 72 Stat. 619 (1958) (as amended by Pub. L. No.
25 88-419, 78 Stat. 390 (1964)). The Distribution Plan provides the primary basis for Tribal
26 membership. (Pinal Decl. Ex. GG at art. III, § 1.) If the distributees are not descended from the
27 James Charley family, then presumably neither is any current member.

28 The current historical documents indicate the relevant individuals were descended from

1 Yurok, Lower Klamath (presently known as Yurok), Chimariko, Smith River and Tolowa
 2 Indians,¹³ instead of a unique, recognized Indian tribe resident on the nine acres in 1934. But a
 3 more complete genealogical picture will be informed by the records that the BIA has prevented
 4 the State from researching. In addition, documents the United States has yet to provide that
 5 pertain to the Hoopa Yurok Settlement Act will help explain the historic relationships between
 6 the United States and Big Lagoon, and the Yurok Tribe and Big Lagoon. If this additional
 7 evidence affirmatively demonstrates that Tribal members do not descend from the James Charley
 8 family, then the Tribe is not a lawful beneficiary of IRA trust acquisitions, the Secretary should
 9 not have accepted the eleven acres in trust in 1994, and it would be against the public interest for
 10 the State to negotiate to put a casino on land acquired in trust unlawfully that otherwise would not
 11 be eligible Indian lands under IGRA.

12 **b. There May be a Material Question Whether the United States**
 13 **Lawfully Considers Big Lagoon a Federally Recognized Tribe**

14 The State learned for the first time through documents produced by the United States that
 15 there is a material question concerning the Tribe's status. "Federal regulation of Indian tribes . . .
 16 is governance of once-sovereign political communities; it is not to be viewed as legislation of a
 17 'racial' group consisting of 'Indians'" *Morton v. Mancari*, 417 U.S. 535, 553 n.24 (1974).
 18 Moreover, Congress cannot create a tribe. *United States v. Sandoval*, 231 U.S. 28, 43 (1913).
 19 BIA documents show that no entity existed on the nine acres that the government could have
 20 recognized as a sovereign political community that pre-dated non-Indian settlement.

21 Moreover, when Congress enacted the Rancheria Termination Act it did not identify the
 22 Tribe as among the rancherias to be terminated. Pub. L. No. 85-671, § 1. Nor did the BIA
 23 consider the Tribe among the rancherias to be terminated by an amendment to the Act, Pub. L.
 24 No. 88-419. (Pinal Decl. Ex. HH.) It is unclear how the Tribe was subject to the Act but the BIA

25 ¹³ Legislative history for the Hoopa Yurok Settlement Act indicates Smith River and
 26 Tolowa Indians are not historically of Yurok origin. S.Rep. 100-564, at 29 (Sept. 30, 1988).
 27 Therefore, historical documents obtained to date show the Moorehead ancestors, who descended
 28 from Smith River and Tolowa Indians, did not contribute Yurok Indian blood to the genealogical
 makeup of the individuals identified on the Rancheria Asset Distribution Plan, further distancing
 those individuals genetically from James and Lottie Charley, who were Yurok Indians.

1 conditionally approved the Distribution Plan in January 1968.¹⁴ In June 1968, however, the BIA
2 confirmed that the “Big Lagoon Rancheria was purchased in 1918 for landless California Indians
3 and was not set aside for any specific tribe, band or group of Indians. The residents have not
4 formally organized and there if no official membership roll.” (Pinal Decl. Ex. T.) Thus, even
5 after the BIA approved the Distribution Plan, it had not considered Big Lagoon to be an organized
6 political sovereign. Yet Big Lagoon appeared on the first list of “Indian Tribal Entities That Have
7 a Government-to-government Relationship With the United States,” published in the Federal
8 Register on February 6, 1979. 44 Fed. Reg. 7235 (Feb. 6, 1979). The State’s defense turns on
9 understanding how the BIA went from not recognizing any political entity for the Tribe in 1968
10 to placing the Tribe on the BIA’s first list of recognized tribes in 1979.

11 If the Tribe is not lawfully recognized, then it would not be an eligible “Indian tribe” with
12 “Indian lands,” as those terms are defined by IGRA, and would not meet IGRA’s jurisdictional
13 requirement to request compact negotiations or to pursue this action. See 25 U.S.C. §§ 2703(5),
14 2710(d)(3)(A); *Guidiville Band of Pomo Indians v. NGV Gaming, Ltd.*, 531 F.3d 767, 778 (9th
15 Cir. 2008) (state need not negotiate with tribe lacking “Indian lands”; tribe must have “Indian
16 lands” to sue under IGRA). The evidence presented, and the documents the State expects to
17 receive, show a material question exists that must be resolved before this action can proceed.

18 **c. The State May Need to File a Third Party Complaint Against
19 the United States**

20 The State was not on notice that the BIA may have unlawfully placed the Tribe on the list
21 of federally recognized tribes until after discovery commenced in this action. It remains to be
22 determined whether the State must join the United States to this action to challenge that action.
23 The need to further investigate the legitimacy of a third party complaint is proper grounds for
24 extending discovery pursuant to Rule 56(f). *Voggenthaler v. Maryland Square, LLC*, No. 08-CV-
25 01618, 2010 WL 1553417, at *4-*5, *10-*11 (D. Nev. Apr. 14, 2010).

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28 ¹⁴ The residents later revoked their request to be terminated. (Pinal Decl. Ex. II.)

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CONCLUSION

For the foregoing reasons, the State respectfully requests the Court to grant the State's cross-motion for summary judgment and deny the Tribe's motion for summary judgment.

Dated: July 15, 2010

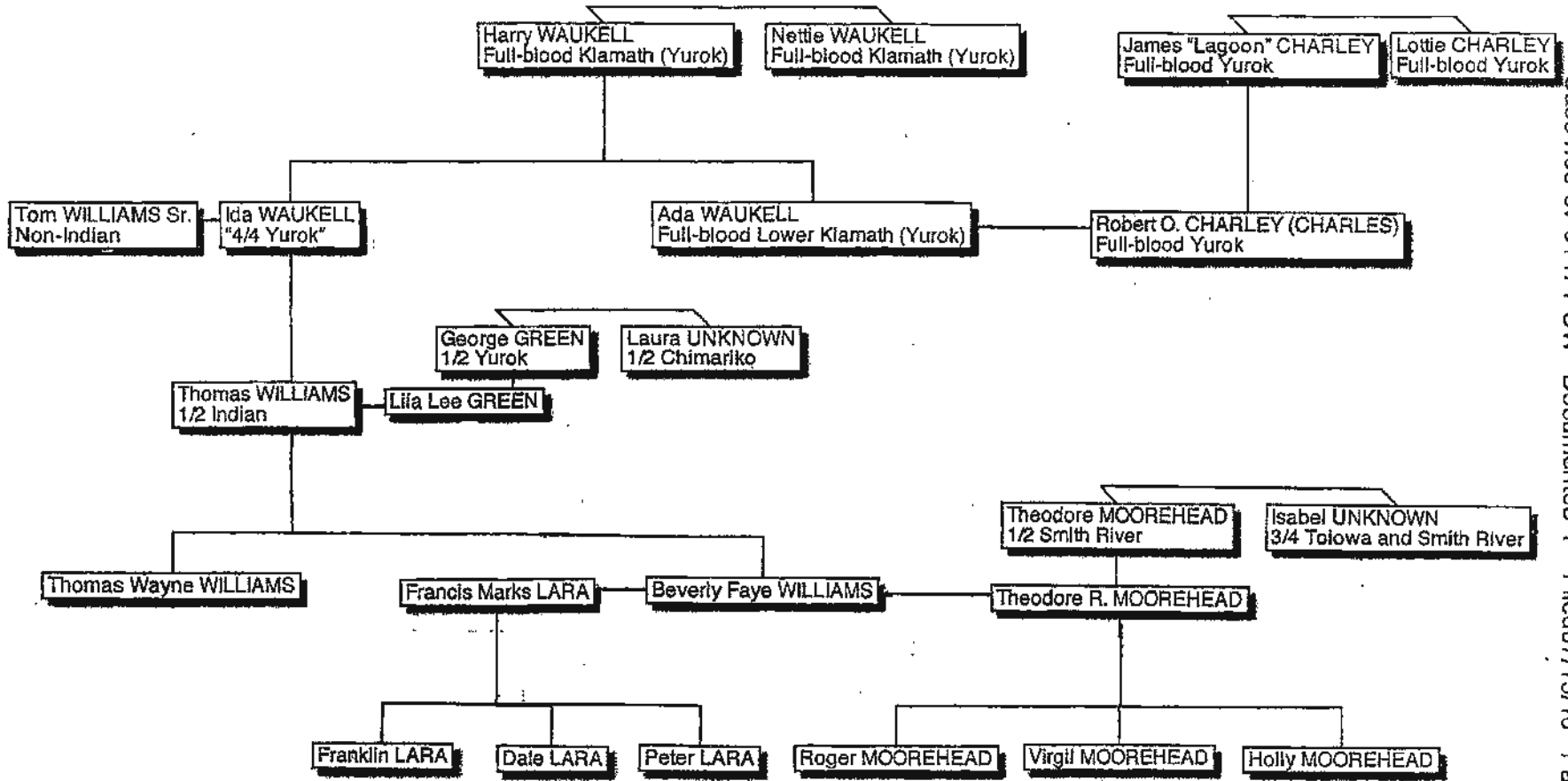
Respectfully Submitted,

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s/Randall A. Pinal
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James Lagoon Charley and Distributees and Dependent Members
Listed in Big Lagoon Rancheria Asset Distribution Plan



Case4:09-cv-01471-CW Document93-1 Filed07/15/10 Page1 of 1

ER-082

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9
 10 IN THE UNITED STATES DISTRICT COURT
 11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 12 OAKLAND DIVISION
 13

14 **BIG LAGOON RANCHERIA, a Federally**
 15 **Recognized Indian Tribe,**

16 Plaintiff,

17 v.

18 **STATE OF CALIFORNIA,**

19 Defendant.

CV 09-1471 CW (JCS)

**DECLARATION OF RANDALL A.
 PINAL IN SUPPORT OF DEFENDANT
 STATE OF CALIFORNIA'S
 OPPOSITION TO PLAINTIFF BIG
 LAGOON RANCHERIA'S MOTION
 FOR SUMMARY JUDGMENT AND
 CROSS-MOTION FOR SUMMARY
 JUDGMENT**

Date: August 12, 2010
 Time: 2 p.m.
 Courtroom: 2, Fourth Floor

1301 Clay Street
 Oakland, CA 94612

Judge The Honorable Claudia Wilken
 Trial Date: Not set
 Action Filed: April 3, 2009

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 25
 26 I, Randall A. Pinal, declare as follows:

27 1. I am an attorney at law duly admitted to practice before this Court and the courts of
 28 the State of California. I am a Deputy Attorney General employed by the California Attorney

1 General's Office, and I represent Defendant State of California (State) in the above-captioned
2 matter. I make this declaration of my own personal knowledge, and, if called as a witness, I
3 could and would testify competently thereto.

4 2. I have represented Defendants Governor Arnold Schwarzenegger and the State in
5 *Rincon Band of Luiseno Mission Indians v. Schwarzenegger*, United States Court of Appeal,
6 Ninth Circuit, Nos. 08-55809 and 08-55914, and Southern District of California, No. 04-CV-1151
7 WMc. Andrea Hoch, Governor Schwarzenegger's Legal Affairs Secretary, has advised me that
8 the Governor has requested the Attorney General's Office to prepare and file a petition for writ of
9 certiorari to the Supreme Court challenging the Ninth Circuit's opinion in *Rincon Band of*
10 *Luiseno Mission Indian v. Schwarzenegger*, 602 F.3d 1019 (9th Cir. 2010), and Secretary Hoch
11 requested that the petition be filed on or before September 13, 2010.

12 3. Attached hereto as **Exhibit A** is a true and correct copy of e-mail correspondence
13 between Peter Kaufman and Peter Engstrom, dated October 16, 2007, which I obtained from the
14 Governor's Office in December 2009 for the State's response to Plaintiff Big Lagoon Rancheria's
15 (Big Lagoon) request for production of documents in this case.

16 4. Attached hereto as **Exhibit B** is a true and correct copy of an e-mail from Jerome
17 Levine to Sylvia Cates, dated August 8, 2008, which I obtained from the Governor's Office in
18 December 2009 for the State's response to Big Lagoon's request for production of documents in
19 this case.

20 5. Attached hereto as **Exhibit C** is a true and correct copy of a transcript for an
21 Informational Hearing of the Senate Governmental Organization Committee, "Tribal-State
22 Compact Between the State of California and the Big Lagoon Rancheria," dated March 28, 2006,
23 which I obtained from the Senate's website,
24 http://www.sen.ca.gov/htbin/testbin/seninfo_dated?sen.committee.standing.go.transcripts, last
25 visited June 30, 2010.

26 6. Attached hereto as **Exhibit D** is a true and correct copy of a Grant Deed, Humboldt
27 County, California, recorded July 20, 1994, which I received from the Bureau of Indian Affairs
28

1 (BIA) Pacific Regional Office on or about March 3, 2010, in response to a subpoena duces
2 tecum issued by the State.

3 7. Attached hereto as **Exhibit E** is a true and correct copy of an Indenture and Warranty
4 Deed, dated July 10, 1918, which I received from the BIA Pacific Regional Office on or about
5 March 3, 2010, in response to a subpoena duces tecum issued by the State.

6 8. Attached hereto as **Exhibit F** is a true and correct copy of a letter from James Charley
7 to "Sir," dated April 3, 1917, which I received from the BIA Pacific Regional Office on or about
8 March 3, 2010, in response to a subpoena duces tecum issued by the State.

9 9. Attached hereto as **Exhibit G** is a true and correct copy of a letter from J. B.
10 Mortsolf, Superintendent, Hoopa Valley Indian Agency and School, Department of the Interior,
11 to Commissioner of Indian Affairs, dated May 17, 1917, which I received from the BIA Pacific
12 Regional Office on or about March 3, 2010, in response to a subpoena duces tecum issued by the
13 State.

14 10. Attached hereto as **Exhibit H** is a true and correct copy of a letter from John J.
15 Terrell, Inspector, Indian Service, to F. G. & E. S. Ladd, dated July 14, 1917, which I received
16 from the BIA Pacific Regional Office on or about March 3, 2010, in response to a subpoena
17 duces tecum issued by the State.

18 11. Attached hereto as **Exhibit I** is a true and correct copy of a letter from F. G. Ladd to
19 J. J. Terrell, dated November 11, 1917, which I received from the BIA Pacific Regional Office on
20 or about March 3, 2010, in response to a subpoena duces tecum issued by the State.

21 12. Attached hereto as **Exhibit J** is a true and correct copy of a letter from John J. Terrell,
22 Inspector, Indian Service, to F. G. Ladd, dated January 10, 1918, which I received from the BIA
23 Pacific Regional Office on or about March 3, 2010, in response to a subpoena duces tecum
24 issued by the State.

25 13. Attached hereto as **Exhibit K** is a true and correct copy of a letter from John J.
26 Terrell, Inspector, Indian Service, to Commissioner Indian Affairs, dated January 10, 1918, which
27 I received from the BIA Pacific Regional Office on or about March 3, 2010, in response to a
28 subpoena duces tecum issued by the State.

1 14. Attached hereto as **Exhibit L** is a true and correct copy of a letter from C.F. Hauke,
2 Chief Clerk, to John J. Terrell, Inspector, dated February 28, 1918, which I received from the BIA
3 Pacific Regional Office on or about March 3, 2010, in response to a subpoena duces tecum
4 issued by the State.

5 15. Attached hereto as **Exhibit M** is a true and correct copy of a letter from John J.
6 Terrell, Inspector, to Commissioner of Indian Affairs, dated March 23, 1918, which I received
7 from the BIA Pacific Regional Office on or about March 3, 2010, in response to a subpoena
8 duces tecum issued by the State.

9 16. Attached hereto as **Exhibit N** is a true and correct copy of a handwritten note,
10 undated, which I received from the BIA Pacific Regional Office on or about March 3, 2010, in
11 response to a subpoena duces tecum issued by the State.

12 17. Attached hereto as **Exhibit O** is a true and correct copy of a letter from E. B. Meritt,
13 Assistant Commissioner, to John J. Terrell, Inspector, dated April 20, 1918, which I received
14 from the BIA Pacific Regional Office on or about March 3, 2010, in response to a subpoena
15 duces tecum issued by the State.

16 18. Attached hereto as **Exhibit P** is a true and correct copy of a letter from John J.
17 Terrell, Inspector, Indian Service, to Commissioner Indian Affairs, dated May 19, 1918, which I
18 received from the BIA Pacific Regional Office on or about March 3, 2010, in response to a
19 subpoena duces tecum issued by the State.

20 19. Attached hereto as **Exhibit Q** is a true and correct copy of a letter from J. H. Dortch
21 to John J. Terrell, Inspector, dated June 14, 1918, which I received from the BIA Pacific Regional
22 Office on or about March 3, 2010, in response to a subpoena duces tecum issued by the State.

23 20. Attached hereto as **Exhibit R** is a true and correct copy of a letter from John J. Terrell
24 to F. G. Ladd c/o Mahan & Mahan, dated June 19, 1918, which I received from the BIA Pacific
25 Regional Office on or about March 3, 2010, in response to a subpoena duces tecum issued by the
26 State.

27 21. Attached hereto as **Exhibit S** is a true and correct copy of a memorandum from
28 Solicitor to Commissioner of Indian Affairs, Solicitor's Opinion, D-60-1157-9, dated August 1,

1 1960, which is available online at http://thorpe.ou.edu/sol_opinions/p1876-1900.htm, & 1960
2 DOIA LEXIS 190.

3 22. Attached hereto as **Exhibit T** is a true and correct copy of a letter from Acting Area
4 Director, Bureau of Indian Affairs, to Commissioner of Indian Affairs, dated June 5, 1968, which
5 I received from the Department of the Interior, Assistant Secretary of Indian Affairs (Assistant
6 Secretary), on May 25, 2010, in response to a subpoena duces tecum issued by the State.

7 23. Attached hereto as **Exhibit U** is a true and correct copy of a letter from J. B. Mortsoff,
8 Superintendent, Hoopa Valley Agency, to Commissioner of Indian Affairs, dated September 20,
9 1921, which I received from the Assistant Secretary on May 25, 2010, in response to a subpoena
10 duces tecum issued by the State.

11 24. Attached hereto as **Exhibit V** is a true and correct copy of "General notes from files,"
12 undated, which I received from the BIA Pacific Regional Office on or about March 3, 2010, in
13 response to a subpoena duces tecum issued by the State.

14 25. Attached hereto as **Exhibit W** is a true and correct copy of a report entitled, "Ten
15 Years of Tribal Government Under I.R.A.," by Theodore H. Haas, Chief Counsel, United States
16 Indian Service, dated 1947, which I received from the Assistant Secretary on June 25, 2010, in
17 response to a subpoena duces tecum issued by the State.

18 26. Attached hereto as **Exhibit X** is a true and correct copy of a letter from Roy Nash,
19 Field Representative, to Commissioner of Indian Affairs, dated June 25, 1935, which is
20 maintained in the Attorney General's files in the normal course of business and which was
21 reproduced at the National Archives—Pacific Region (San Francisco) in San Bruno, California.

22 27. Attached hereto as **Exhibit Y** is a true and correct copy of a memorandum from
23 George T. Skihine, Deputy Assistant Secretary, Department of the Interior, to Regional Directors,
24 dated March 12, 2009, which is maintained in the Attorney General's files in the normal course of
25 business.

26 28. Attached hereto as **Exhibit Z** is a true and correct copy of Big Lagoon's Response to
27 the State's First Set of Requests for Admissions, dated January 19, 2010.

28

1 29. Attached hereto as **Exhibit AA** is a true and correct copy of the Constitution of the
2 Yurok Tribe, dated October 22, 1993, which I obtained from the Yurok Tribe's website,
3 <http://www.yuroktribe.org/government/councilsupport/councilsupport.htm>, last viewed June 30,
4 2010.

5 30 Attached hereto as **Exhibit BB** is a true and correct copy of a memorandum from H.
6 Dushane to Area Director, Sacramento Area Office, dated September 23, 1954, which I received
7 from the BIA Pacific Regional Office on or about March 3, 2010, in response to a subpoena
8 duces tecum issued by the State.

9 31. Attached hereto as **Exhibit CC** is a true and correct copy of a memorandum from H.
10 Dushane to Area Director, Sacramento Area Office, dated January 29, 1955, which I received
11 from the BIA Pacific Regional Office on or about March 3, 2010, in response to a subpoena
12 duces tecum issued by the State.

13 32. Attached hereto as **Exhibit DD** is a true and correct copy of a memorandum from
14 Andrew W. Latham, Area Field Representative, to Area Director, Sacramento Area Office, dated
15 June 30, 1967, which I received from the BIA Pacific Regional Office on or about March 3, 2010,
16 in response to a subpoena duces tecum issued by the State.

17 33. Attached hereto as **Exhibit EE** is a true and correct copy of a memorandum from
18 Superintendent, Northern California Agency, to James Bordenkircher, Regional Solicitor's
19 Office, dated March 29, 1983, which is maintained in the Attorney General's files in the normal
20 course of business and which the State's attorneys received from Big Lagoon.

21 34. Attached hereto as **Exhibit FF** is a true and correct copy of the Big Lagoon
22 Rancheria Asset Distribution Plan, dated January 3, 1968, which I received from Big Lagoon in
23 January 2010 in response to the State's request for production of documents.

24 35. Attached hereto as **Exhibit GG** is a true and correct copy of Big Lagoon's
25 Constitution, dated May 14, 1986, which I received from the BIA Pacific Regional Office on or
26 about April 16, 2010, in response to a subpoena duces tecum issued by the State.

27 36. Attached hereto as **Exhibit HH** is a true and correct copy of a memorandum from
28 BIA Rancheria Review Committee to Acting Deputy Commissioner, dated May 20, 1977, which

1 I received from the Assistant Secretary on June 25, 2010, in response to a subpoena duces tecum
2 issued by the State.

3 37. Attached hereto as **Exhibit II** is a true and correct copy of a letter from Theodore R.
4 Moorehead and Thomas Williams to "Sirs," undated, which I received from the BIA Pacific
5 Regional Office on or about March 3, 2010, in response to a subpoena duces tecum issued by the
6 State.

7 38. Attached hereto as **Exhibit JJ** is a true and correct copy of a publication entitled,
8 "American Indians and Their Federal Relationship," dated March 1972, which I received from the
9 Assistant Secretary on June 25, 2010, in response to a subpoena duces tecum issued by the State.

10 39. Attached hereto as **Exhibit KK** is a true and correct copy of my declaration in
11 support of the State's motion to continue the fact discovery completion date in this case, filed
12 February 26, 2010.

13 40. Attached hereto as **Exhibit LL** is a true and correct copy of my declaration in support
14 of the State's motion to continue the fact discovery completion date in this case, filed March 10,
15 2010.

16 41. Attached hereto as **Exhibit MM** is a true and correct copy of a letter from Dale
17 Risling, BIA Acting Regional Director, to Randall A. Pinal, dated March 3, 2010.

18 42. Attached hereto as **Exhibit NN** is a true and correct copy of a letter from Karen D.
19 Koch, Assistant Regional Solicitor, to Randall A. Pinal, dated April 7, 2010.

20 43. Attached hereto as **Exhibit OO** is a true and correct copy of a letter from Carmen
21 Facio, BIA Acting Regional Director, to Randall A. Pinal, dated April 16, 2010.

22 44. Attached hereto as **Exhibit PP** is a true and correct copy of a letter from Edith R.
23 Blackwell, Associate Solicitor, to Randall A. Pinal, undated, which I received on April 30, 2010.
24 The documents referenced in Ms. Blackwell's letter were not included. I received a copy of the
25 documents by facsimile from James Porter, Attorney-Advisor, Solicitor's Office, on May 25,
26 2010.

27 45. On May 27, 2010, I responded to the March 3, 2010, letter from Dale Risling, the
28 April 7, 2010 letter Karen D. Koch, the April 16, 2010 letter from Carmen Facio, and the letter I

1 received from Edith R. Blackwell on April 30, 2010. Attached hereto as **Exhibit QQ, Exhibit**
2 **RR, Exhibit SS and Exhibit TT**, respectively, are true and correct copies of my May 27, 2010
3 responses.

4 46. Attached hereto as **Exhibit UU** is a true and correct copy of an e-mail from Randall
5 A. Pinal to James Porter, Attorney-Advisor for the Assistant Secretary, Wyneva Johnson,
6 Assistant United States Attorney, representing the Assistant Secretary, Karen Koch, Associate
7 Regional Solicitor, representing the BIA Pacific Regional Office and Northern California
8 Agency, and Juan Walker, Special Assistant United States Attorney representing the BIA Pacific
9 Regional Office and Northern California Agency, dated June 25, 2010.

10 47. Attached hereto as **Exhibit VV** is a true and correct copy of a letter from Karen D.
11 Koch, Associate Regional Solicitor, to Randall A. Pinal, dated June 24, 1010.

12 48. Attached hereto as **Exhibit WW** is a true and correct copy of an e-mail from James
13 Porter, Attorney-Advisor for the Assistant Secretary, to Randall A. Pinal, dated June 25, 2010,
14 which included documents responsive to the subpoena duces tecum that was issued by the State.

15 49. The documents I received from the Assistant Secretary on June 25, 2010, were
16 incomplete and non-responsive. Several documents were merely "excerpts," which cannot be
17 evaluated without more information to explain their context. More importantly, the Assistant
18 Secretary has not produced documents, which the State subpoenaed, explaining how Big Lagoon
19 came to be identified as a federally recognized tribe. The Assistant Secretary produced several
20 documents showing the end result, such as the list of federally recognized tribes published in the
21 Federal Register, but no documents explaining how or why it is so identified.

22 50. The State expects to receive documents from the BIA Pacific Regional Office and
23 Northern California Agency pertaining to a provision in the Hoopa Yurok Settlement Act, 25
24 U.S.C. § 1300i-10(b), wherein Congress gave Big Lagoon the option to vote to merge with the
25 Yurok Tribe. That information will help explain the relationship between Big Lagoon and the
26 United States, and Big Lagoon and the Yurok Tribe, particularly in light of evidence obtained to
27 date that suggests James Charley and his family were Yurok, and that Congress specifically
28 corrected an early draft of the Act to ensure that Big Lagoon was identified as a rancheria instead

1 of a tribe in recognition that there is a difference between the two. See S.Rep. 100-564, at 38
2 (Sep. 30, 1988).

3 51. Also the BIA Pacific Regional Office is in possession of an index that pertains to the
4 1968 California Judgment Enrollment, and identifies where specific file folders for certain
5 individuals can be located within public records that are maintained by the National Archives in
6 San Bruno. The documents are no longer in the BIA's possession; it merely has the index that
7 will help the State locate files at National Archives. Yet BIA refuses to produce documents that
8 merely identify the file folder where certain individuals' applications to be included on the 1968
9 California Judgment Enrollment can be located, citing the Privacy Act. National Archives staff
10 advises that they are not in possession of the index and they will assert Privacy Act protection, if
11 necessary. Without the index information, which is exclusively within the BIA's possession, the
12 State cannot complete its genealogical research.

13 52. If the meeting between the State and BIA Pacific Regional Director, BIA Northern
14 California Agency and the Assistant Secretary that will occur after July 2, 2009, does not resolve
15 the dispute, or assure resolution by the end of July 2009, the State will take action to enforce the
16 subpoenas.

17 I declare under penalty of perjury of the laws of the United States of America that the
18 foregoing is true and correct, and that this declaration was executed on July 1, 2010, in San
19 Diego, California.

20 s/Randall A. Pinal
21 RANDALL A. PINAL

22 SA2009309375
23 70297172.doc
24
25
26
27
28

Exhibit C

**Informational Hearing of the
SENATE GOVERNMENTAL ORGANIZATION COMMITTEE**

***"Tribal-State Compact Between the
State of California and the Big Lagoon Rancheria"***

**March 28, 2006
State Capitol
Sacramento, California**

SENATOR DEAN FLOREZ: I'd like to get started. I want to thank the committee members and those in the audience for attending this afternoon—or, better yet, this evening. We have a pretty full agenda, and I think it reflects the importance of this particular compact and its ramifications to the State's gaming landscape.

I do have a number of questions that I would like to get on the record, and so, I would ask the sergeants to have plenty of tapes because we want to make sure we have a running transcript of this particular hearing.

For the members that are here, I'd like to lay out how we're going to proceed. We're going to start off with the "Legal Panel" featuring Mr. Kolkey, the Governor's lead negotiator for State gaming compacts, and Mr. Kaufman from the Attorney General's Office. Then we're going to have the "Tribal Panel" featuring Mr. Moorehead, tribal chairperson of Big Lagoon Rancheria, and other interested parties. That will be followed by elected officials from Barstow, and then we'll have the "State Agency Panel" consisting of representatives from the Department of Parks, Coastal Commission, and Fish and Game. We'll also hear from the "Environmental Panel" and representatives from the environmental community. And then we'll end with "Public Comments."

Now, as I said at the beginning of this hearing, I do have a number of questions, and I think hopefully through some of the questions that I'll ask, they will answer many of the members' questions as well. I would like the opportunity to go through these questions to get them on the record. And any panelist that

MR. MOOREHEAD: We won't get into why the exceptions are made for those individuals that came up here, okay? We won't get into that.

SENATOR FLOREZ: Oh, you're welcome to get into it.

MR. MOOREHEAD: Well, I'm tribal chairperson to Big Lagoon Rancheria. I've been tribal chairperson twenty-two years. We started this process ten years ago with the Wilson Administration. We thought we were going to get into negotiations with the Pala agreement. Some gaming tribes and Mr. Maderas held us out. We negotiated with the Davis Administration for. . . . well, we filed the lawsuit a month or two after the '99 compacts because, yeah, we were offered the '99 compact with some side-letter agreements that none of the tribes in the nation would agree to in terms of giving the State jurisdiction or the county jurisdiction over our sovereign land.

We have twenty acres. Under federal law, that allows us to construct and operate a casino. Based on the side-letter agreement proposed to us by Governor Davis, we felt it necessary to file a bad faith lawsuit. After quite a bit of negotiations, quite a bit of things going on, we ended up getting to the end with the Davis Administration, where there was a deadlock in terms of their perception and our perception and what could happen at the Rancheria. We started negotiations immediately after Mr. Kolkey was appointed as State negotiator. They came in with a fresh look in terms of trying to resolve a longstanding issue that benefited not only us, but benefited the State of California, benefited the community of Barstow, and we decided to move with that, and that's how we got here.

SENATOR FLOREZ: Great. Is that your opening comment?

MR. MOOREHEAD: Yes.

SENATOR FLOREZ: Great. How big is your tribe, and how many members do you have?

MR. MOOREHEAD: I have 18 members. We're part of—ancestrally—part of the Yuroks, which is the largest tribe in California. Ancestrally, there were five Yurok villages around Big Lagoon. The other two lagoons are within ten miles that are now State parks and not tribal lands. There were Yurok villages on both of them. There's 18 of us.

SENATOR FLOREZ: Okay. So, there are 18 members of your tribe.

Exhibit D

Humboldt County, California
Carolyn Cnich, Recorder
Recorded by Humboldt Land Title Company
Rec Fee 16.00
Non-Conform 12.00
Clerk: KS Total: 28.00
Jul 20, 1994 at 10:00

HUMBOLDT LAND TITLE COMPANY

MAIL TAX STATEMENTS TO
AND WHEN RECORDED MAIL TO

Name: United States of America
Address: Trust for Big Lagoon Rancheria
City & State: P.O. Box 494879
Redding, Ca 96049-4879

SPACE AB

DOCUMENTARY TRANSFER TAX \$ Exempt COMPUTED ON FULL VALUE OF PROPERTY CONVEYED, OR COMPUTED ON FULL VALUE LESS LIENS AND ENCUMBRANCES REMAINING AT TIME OF SALE.



HUMBOLDT LAND TITLE COMPANY
SIGNATURE OF DECLARANT OR AGENT DETERMINING TAX. FIRM NAME

Grant Deed

A.P. NO. 517-131-18¹⁵

ORDER NO. 71700 MP THIS FORM FURNISHED BY HUMBOLDT LAND TITLE COMPANY

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
BIG LAGOON RANCHERIA, A Federally Recognized Indian Rancheria

hereby GRANT(S) to

UNITED STATES OF AMERICA, in Trust for Big Lagoon Rancheria, a Federally
Recognized Indian Rancheria

the following described property in the Unincorporated
County of Humboldt, State of California:

See Description attached hereto and made a part hereof.

Title to the above described property is conveyed subject to any valid existing
easements for public roads, highways, public utilities, pipelines, railroads and any
other valid easements or rights-of-way now on record.

The ACCEPTANCE OF CONVEYANCE by the United States of America is to be attached hereto
as "Exhibit B" and recorded with this deed.

This Conveyance is made under the authority of the Act of January 12, 1983
(P.L. 97-459; 96 Stat. 2515; 25 USC 2202)

Dated December 29, 1989

BIG LAGOON RANCHERIA

STATE OF CALIFORNIA }
COUNTY OF HUMBOLDT } SS.

By: Virgil Moorehead
Virgil Moorehead, Chairman

On January 11, 1990 before me, the undersigned,
a Notary Public in and for said County and State, personally
appeared VIRGIL MOOREHEAD

FOR NOTARY SEAL OR STAMP

_____, personally known
to me or proved to me on the basis of satisfactory evidence
to be the person whose name is subscribed to the
within instrument and acknowledged that he executed
the same.



Susan M. Galliani
Susan M. Galliani, Notary

Samuel L. Stansbury
Samuel L. Stansbury, Realty Specialist

Land Description Certified as to Accuracy.

DESCRIPTION

Lot 2 of Section 13, in Township 9 North, Range 1 West of Humboldt Meridian, as shown by the official plat of the Government Survey of said Township.

EXCEPTING THEREFROM that portion thereof, described as follows:

BEGINNING at a point on the South line of said Lot 2, distant 10 chains Easterly thereon from the Southwest corner of said Lot 2; running
thence Northerly 14.50 chains on a line parallel with the West line of said Lot 2, to the waters of Big Lagoon;
thence in a Southeasterly direction, along the shore of the Big Lagoon, to the line between Lots 1 and 2 of said Section 13;
thence West along the South line of said Lot 2, 9.24 chains more or less, to the point of beginning.

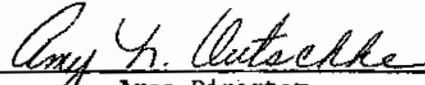
"EXHIBIT A" to the Grant Deed for the Big Lagoon Rancheria

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
SACRAMENTO AREA OFFICE

ACCEPTANCE OF CONVEYANCE

The undersigned, as the authorized representative of the Secretary of the Interior, Department of the Interior, Bureau of Indian Affairs, hereby accepts that grant of real property described in that Grant Deed dated December 29, 1989 from the BIG LAGOON RANCHERIA to the UNITED STATES OF AMERICA IN TRUST for the BIG LAGOON RANCHERIA. Said grant is accepted by the United States of America pursuant to the authority of the Indian Land Consolidation Act of January 12, 1983 (96 Stat. 2517; 25 U.S.C. §2202).

Date: JUN 29 1994



Acting Area Director
209 DM 8, Secretary's Order 3150
and 3177, and 10 BIAM Bulletin 13,
as amended.

(All-Purpose Acknowledgment to be Attached Hereto.)

Exhibit "B" to Grant Deed

ER-098

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5807

State of California

County of Sacramento

On 6/29/94 before me, Bobbie Jo Alford, Notary Public
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Amy L. Dutschke
NAME(S) OF SIGNER(S)

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Bobbie Jo Alford
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
 - CORPORATE OFFICER
- TITLE(S) _____
- PARTNER(S) LIMITED
 - GENERAL
 - ATTORNEY-IN-FACT
 - TRUSTEE(S)
 - GUARDIAN/CONSERVATOR
 - OTHER: _____

DESCRIPTION OF ATTACHED DOCUMENT

Acceptance of Conveyance
re. Big Lagoon Rancheria
TITLE OR TYPE OF DOCUMENT

1
NUMBER OF PAGES

6/29/94
DATE OF DOCUMENT

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)
Bureau of Indian Affairs

N/A
SIGNER(S) OTHER THAN NAMED ABOVE

Exhibit E

This Indenture, Made the tenth day of

July one thousand nine hundred and eighteen

Between E. G. Ladd, and Ella H. Ladd his wife of Coalinga, California,

the parties of the first part, and United States of America,

RECORDED
AUG 23 1918
70318

the party of the second part,

Witnesseth: That the parties of the first part, for and in consideration of the sum of

 Four Hundred Sixty-three Dollars.

 gold coin of the United States of America, to them in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, by these presents grant and convey unto the party of the second part, and assigns forever

A portion of Lot 2 of Section 13 in Township 9 North of Range 1 West of Humboldt Meridian, as shown on the official plat of the government survey of said Township, bounded and described as follows:

BEGINNING at a point on the South line of said Lot 2 distant 10 chains Easterly thereon from the Southwest corner of said Lot 2; running thence Northerly 14.50 chains on a line parallel with the West line of said Lot 2 to the waters of Big Lagoon; thence in a Southeasterly direction along the shore of the Big Lagoon to the line between Lots 1 and 2 of said Section 13; thence West along the South line of said Lot 2, 9.26 chains, more or less, to the point of beginning; containing an area of 9.26 acres, more or less. Subject to right of way for railroad as reserved in deed dated October 7, 1916, recorded in the Recorder's Office of Humboldt County, California in Book 135 of Deeds Page 268.

Together with all and singular the tenements, hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the rents, issues, and profits thereof.

To Have and to Hold, all and singular the above-mentioned and described premises, together with the appurtenances, unto the party of the second part, and to its ~~heirs~~ assigns forever. And the parties of the first part, and their heirs, the said premises in the quiet and peaceable possession of the party of the second part, ~~their~~ and assigns, against the parties of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same, shall and will WARRANT, and by these presents forever DEFEND.

In Witness Whereof, the parties of the first part have hereunto set their hands the day and year first above written.

Signed and Delivered in the Presence of

} E. G. Ladd
E. G. Ladd

STATE OF CALIFORNIA,)
COUNTY OF FRESNO,) SS.

On this tenth day of July in the year A. D. 1918,
before me W. J. Kilby a Notary Public in and for
said County, duly commissioned and sworn, personally appeared
F. G. Ladd and Ella H. Ladd ~~husband~~, his wife, personally
known to me to be the persons whose names are subscribed to the
within instrument, and acknowledged that they executed the same.

WITNESS my hand and official seal,

W. J. Kilby
Notary Public in and for the
County of Fresno, State of
California.

3149
Warranting Appd

F. G. LADD and wife,

70

United States of America

Dated 7/10/1918 19.

Filed for Record at the Request of

United States of America

November 7th 1918

at 55 min. past 10 o'clock A. M.,

and hereafter in Book 144

Deeds, page 175.

Humboldt County Records

County Records

91726

T. W. Richmond

Recorder

B. A. T. CO.

By E. L. Richmond Deputy Recorder.

Paid \$1.00

1 added

COMPART 215033

Exhibit F

COPY

4018

Trinidad Calif

April 3rd



Dear Sir

Just a few lines to you this afternoon to let you know that I am in trouble the one brought the place in Big Lagoon. I thought it was my home thats where I was race thire from little boy still thire yet I hear the one buy that place is going to drave me away from thire. I have my graves thire it was Indian ranch once, now all the Indian is died. I am onely one left. So let me know what you think about it.

from Yours truly

(Sgd.) James Charley

Answer Soon.

51786

Exhibit G

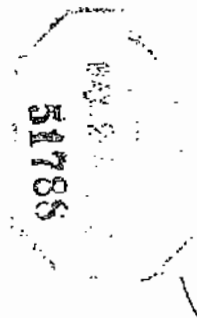
HOOPA VALLEY INDIAN AGENCY AND SCHOOL
DEPARTMENT OF THE INTERIOR
UNITED STATES INDIAN SCHOOL

L-Allots.
40142-17
P B M

J. B. MORTSOLF
SUPERINTENDENT

HOOPA, CAL.

May 17, 1917.



The Commissioner of Indian Affairs,
Washington, D. C.

Sir:

With reference to Office letter dated May 1, 1917, forwarding a copy of a letter from James Charley, under date of April 3rd, I beg to report as follows: A few days ago I visited the ranch of James Charley, or Lagoon Charley, as he is commonly known, which is about ten miles north of Trinidad and on the border of Big Lagoon, which is adjacent to the Pacific Ocean. Lagoon Charley has a little tract of land here, probably twenty acres, on which he and his people have lived for many years, in fact I think there is no doubt that he was born there, and perhaps his father before him. They have a house and barn and a well cultivated garden and pasture lot. Lagoon Charley makes considerable money during the summer season by rowing for tourists who visit Big Lagoon for fishing. He has a family consisting of a wife and a number of children, and it would be a calamity to them should they be ejected from what they have for so many years considered their home.

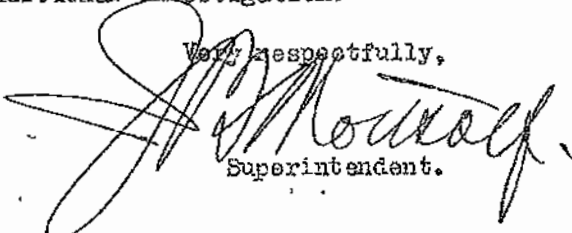
Ad

This land has all been patented to the Hammond Lumber Co., but this company has not interfered with the Indian's living there, and probably never would have done so. However, recently they have sold to W. E. and W. S. Todd of Coalinga, Calif. part of their land in 1915.

-2-

vicinity which included Lots 1 & 2, of Section 23, Township 9 N., Range 1 W., H. M. The manager of the Hammond Lumber Company thinks that Lagoon Charley's place is not on either one of these lots, but that it is on Lot 3 of the above named section. Like most of the land in this part of the country, there is a doubt as to where the lines and corners are, and to establish whether or not Lagoon Charley's home is on the land sold to the Ladd people a survey will be necessary. If the Indian still lives on lot 3, there will be nobody to disturb him from living there at present. I did not get to see Lagoon Charley personally, but talked to his wife, and she showed me where the boundaries of their land are presumed to be. I am to-day writing to the purchasers, who live at Coalinga, Calif., asking them for a statement of the case. In the meantime, Lagoon Charley will not be ejected until it is definitely decided-as to the ownership of the land, and I will make additional investigation.

Very respectfully,


Superintendent.

JMM/OS

Exhibit H

(Jim Charley and family-Indians)

Land-Allots.
49142-17
51788-17
P B H



In camps near Santa Rosa, Cal.
July 14, 1917.

Mess. F. G. & E. S. Ladd,
Colinga, California.

Dear Sirs:

Through the kind information of Mr. H. L. Walden of Eureka, California, associated with the Hammond Lumber Co., at that place, have been advised that you have recently become the owners through this Company of a tract of land near the Ocean and adjoining at the south what is known as Big Lagoon in Humboldt County, California, a portion of which is now occupied by an old full blood Indian and his family.

The purpose of this letter is to be advised if you will sell to the "United States of America" that portion of your land covered by this Indians home and his small improvements, possibly 3 or 4 acres cultivated land to include his cabin, small cheap barn and likely between 25 and 30 acres inclosed in his pasture; and if so, your least cash price?

This Indian informed me that he was born on this land and that his information is that his father was also born there. According to information I recently gathered it seems that the south end of this Big Lagoon has been the home of Indians as far back as history runs.

Our Congress has during the past few years made small appropriations to purchase land for village homes for the landless Indians of California. By far the greater number of purchases heretofore made have been small tracts for bands and remnant bands of Indians, usually on which their ancient villages were located. The small appropriations and the large number of landless Indians have precluded the purchase of only small tracts and the paying of excessive prices.

The small unhypothecated remaining of the last appropriation and yet remaining large number of landless Indians suggests that same has to be carefully used.

The desire of the Indian Office is to protect, if possible, this Indian family in their "little cabin home by the sea," and it is indulged by the Office that you will each be most considerate and generous in making this possible.

Inasmuch as the Office is desirous to close out the remaining unhypothecated money at earliest possible date beg ask that you kindly give this matter your early attention.

Address me at Sacramento, Calif., general delivery, as that place will be my quickest forwarding point, if not there when your answer reaches there.

Very respectfully,

FOR INFORMATION COMMISSIONER INDIAN AFFAIRS

Exhibit I

Coalinga Nov 3
Mr J J Terrell

RECEIVED
DEC 3 - 1891
10472

Dear Sir

Your letter of Nov 3 also the one you wrote in July at hand in reply will say that I went from here up to the big Lagoon and showed your agent of the Hoopa reservation how the Indian were located on my land I am also inclosing a map of same now as I do not want to lessen my acreage I told your agent or Superintendent Mr J B mortself that if he could purchase a 40 acre tract adjoining my land on the N.W. I would trade about 30 or 32 acres that Jim Charley & Family occupy for the same amount on the 40 ac

and pay cash for the difference
at the price of \$50. per acre.

These Indians are located on the
lagoon in such a way that it
leaves me a very small frontage
on the lagoon.

I have offered to sell all of my
land 145 ¹/₂ acres on the lagoon.

@ \$50. per acre. so if you wanted
all of it will sell ^{to you} providing I
hear from ^{you} before any one else takes
it at that price.

Respectfully

F. G. Ladd

Coalinga

Cal

S.O.C. Sta 4

145 ¹ / ₂
<hr/>
72 ⁵ / ₈
<hr/>
72 ⁵ / ₈
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72 ⁵ / ₈
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72 ⁵ / ₈
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72 ⁵ / ₈

30 ⁵ / ₈
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71 ⁵ / ₈

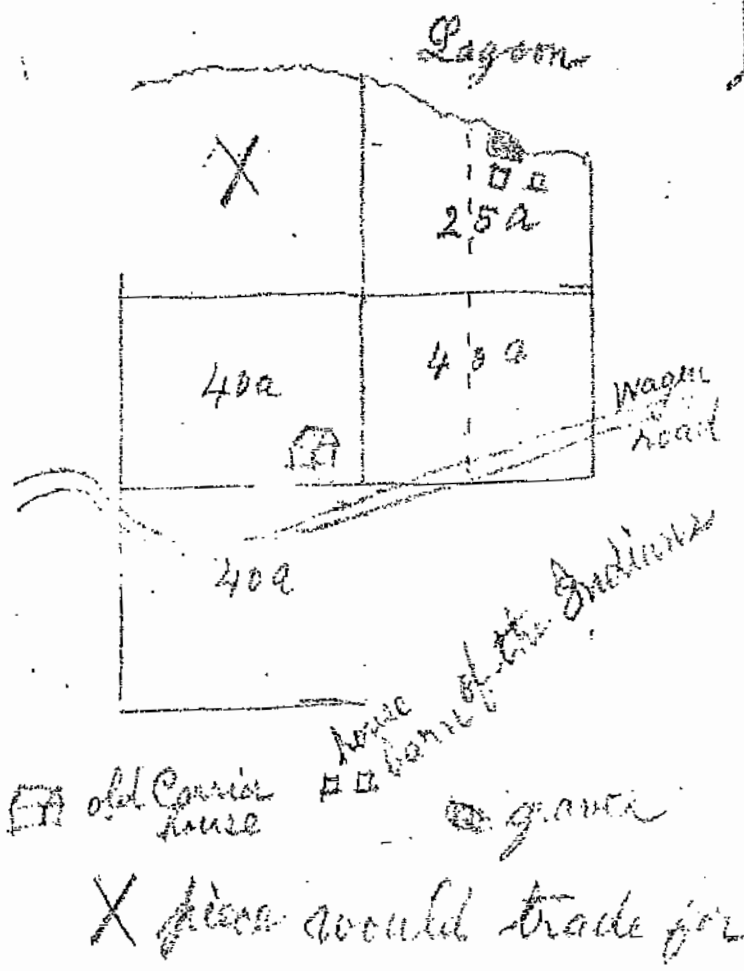


Exhibit J

For information Commissioner Indian Affairs

40142-17

San Carlos Agency,
San Carlos, Arizona
January 10th, 1918.

Mr. F. G. Ladd,
Coalinga, California, o/o S.O. Co. Station 4.

Dear Sir:-

Your favor of December 23rd, 1917, and accompanying sketch, addressed to me at Sacramento, has gone the rounds and on yesterday reached me here under forwarding orders from my Texas home.

OFFICE OF INDIAN AFFAIRS
RECEIVED
JAN 10 1918
4702

I note that you offer to sell to the Government for the permanent home of Jim Charley and family, the East half of Lot No. 2, as designated on said sketch, containing about ten acres to include the home, barn, spring and cultivated land of this Indian for fifty dollars per acre.

I regard your price per acre excessive of the real or actual value of this land. In my judgment forty dollars per acre for same would be every dollar that same is worth, at least its fair value. In as much as this Indian has a few live stock, quite a good sized family, and has enclosed in his pasture the greater portion, if not all of the East half of said Lot 2, which let you claim contains twenty-five and 50/100 Acres,

I have concluded that should you permit I will recommend the purchase of the entire Lot 2 at forty dollars per acre, which would aggregate approximately a thousand twenty dollars.

As heretofore suggested, by reason of the fact of the small appropriation and the large number of landless Indians, yet unprovided for, in California, even yet, a number of bands and remnant bands, it is doubtful that the Indian Office at Washington will deem it advisable to permit the expenditure of as much as a thousand twenty dollars for this one Indian. In this event I desire to know if you will permit me to recommend the purchase of the said ten acres, or possibly as much as twelve or fifteen acres,

adjoining to the West ^{of} this Indian's improved and cultivated land, at a price of forty dollars per acre.

Relative to that portion of your letter suggesting that you doubted that this Indian, Jim Charley, was born prior to October, 1879, would advise you that through reliable information it can be established that this Indian is now not less than fifty four years of age, possibly fifty six. That he was born on this land and almost identically where his house and improvements are now situated and that his parents lived there many years prior thereto, if in fact they were not born there or very near there.

Under recent orders from Washington I find myself here in temporary charge of this the San Carlos Arizona, Indian Reservation. I am unable just at this time to say when I may be returned to California to take up my activities in the former line of work where I left off.

It seems probably that I may be here for some time and therefore will ask that you write me at this place on receipt of this letter. I regret that I will not be able to meet you in Stockton on the 15th inst. as you kindly suggest nor will I likely be able to meet you at any time in the near future at Sacramento, as you have suggested, feel we could more satisfactorily talk over this matter. However, feel that we will be able to understand each other, if only through correspondence, and will be able at an early date to satisfactorily conclude the purchase of at least that portion of the land in question on which this Indian's home and improvements are situated.

Hoping to be favored with an early reply, I am,

Very respectfully,

JJT:GN

Inspector, Indian Service.

REFER IN REPLY TO THE FOLLOWING:

(Jim Carley & Family-Indians)

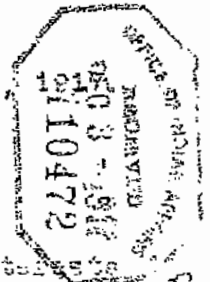
ADDRESS ONLY THE COMMISSIONER OF INDIAN AFFAIRS

Box 2-Allot.
48142-17
70430-17
J E E

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

WASHINGTON

Sacramento, Calif., Nov. 27



Commissioner Indian Affairs,
Washington, D. C.

Dear Sir:

Further advising the Office relative to interests of the above named Indians of Humboldt County, California, by original report to the Office of date July 14, 1917, deem it advisable to herewith inclose original letters in connection herewith, one from Mr. J. S. Mertsolf, Supt. of Hoopa, Calif., and the other from Mr. F. J. Ladd of Coalinga, California, alleged owner of the land on which this ancient village home is situated, retaining copies of each for my files.

It will be observed from these two letters, in particular the one from Mr. Ladd, that the ^{large} probability of protecting these Indians by the purchase of the land will be noted it will require over \$2,000.00 to secure Mr. Ladd's 145.31 acres at his price of \$50. per acre, and that he declines to subdivide.

The suggested purchase of adjoining land and enclosure I anticipate extremely doubtful of accomplishment, as accordingly notes Mr. Mertsolf; however, by even date herewith writing him suggesting that he might try and develop this suggested proposition.

My impression is that in the event Mr. Ward will sell he will demand a good round price and decline to sell for purposes desired in ^{his} entire holdings.

It is quite evident that these Indians cannot be protected anywhere near the \$2,000.00 limit.

Also I am suggesting to Mr. Mertsolf that he might in a very quiet way investigate as to the facts and the reliability of same relative to the claim by these Indians having been ^{born} born or very near the present location and continuously occupied ^{at} at the present time.

According to the statements of this Indian, Carley, there can be no doubt of this, for surely he can hardly be mistaken as to location of his birth and residence of his life, and if he is correct, such fact should, I assume, not be ⁱⁿ ^{the} ^{line} ^{of} ^{proof} ^{of} ^{proof} ^{of} ^{proof}.

Will ^{be} ^{able} ^{to} ^{advise} ^{the} ^{Office} ^{as} ^{soon} ^{as} ^I ^{hear} ^{from} ^{Mr.} ^{Mertsolf}.

Very respectfully,

[Handwritten signature]

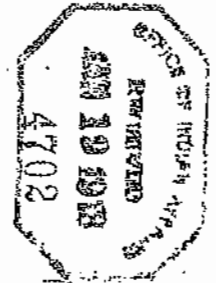
Exhibit K

45142-17

8-1142

DEPARTMENT OF THE INTERIOR

UNITED STATES INDIAN SERVICE
Lagoon Charley San Carlos Agency,
San Carlos, Arizona.
January 10th, 1918.



Commissioner Indian Affairs,
Washington, D. C.

Dear Sir:-

Herewith enclosed will be found letter dated December 23rd, 1917, from F. G. Ladd, and sketch map, relative to ~~the~~ purchase of a small tract of land on which the home of Jim Charley, more often known as Lagoon Charley, is situated.

This letter reached me here on the 9th inst. having gone under forwarding address the rounds from Sacramento to Austin.

As will be noted in Mr. Ladd's letter he makes the proposition to sell less than his entire holdings to the Government, particularly designating that portion of Lot No. 2, the East half thereof, on which the home, barn, spring and cultivated land of this Indian is situated, which he estimates will be about ten acres, at fifty dollars per Acres.

As will be noted in Mr. Ladd's letter he advises that said Lot 2 contains twenty five and 50/100 Acres.

By even date herewith, as will be observed by carbon copy of letter to Mr. Ladd, herewith enclosed, I make inquiry as to whether or not he will take forty dollars per acre and whether or not he would sell the entire acreage in said Lot 2 at that price per acre.

In as much as this Indian has quite a large family, the eldest boy nearly grown, as I remember, over seventeen years of age, some few live stock, if I remember, two horses and three milk cows, feel that the entire acreage in Lot No. 2 should be purchased as the home of this Indian.

If however the limited appropriation is deemed insufficient to purchase for one family at so great a cost, approximately a thousand twenty dollars, I would not hesitate to recommend the purchase of the said ten acres at forty dollars per acres, or in the event Mr. Ladd should decline to sell the said ten acres for less than fifty dollars per acre, I will accordingly recommend its purchase at that price.

I arrived here from my Texas home on the evening of January 4th, 1918, leaving Austin the afternoon of January 2nd, and found Mr. E. G. Wilson Supervisor, in charge, who since my arrival has been quite busy in inquiring into, adjusting and shaping up matters, in order that he may be able to make full and satisfactory report as to conditions here.

It is quite evident that he found on his arrival here, the business affairs of this office considerably behind and more or less complicated by reason thereof.

Mr. Wilson advises that he will likely be able to turn over and have his report ready for transmittal as soon as Mr. Martindale, Chief Clerk's bond is approved, which he anticipates will be within the next ten days or less time.

Since my arrival I have been quite busy in effort to become acquainted with conditions here generally, hearing requests and complaints of Indians and other matters in the interests of the Reservation.

I left my car, camp outfit and all my file papers at Fresno, California, anticipating a return there at the end of my recent leave of absence kindly given me.

I find that I will be greatly in need of my official papers left there, in particular if I am to remain here any considerable length of time, as in the further conduct of my correspondence in former line of activities I will be unable to recall any matters satisfactorily in detail without reference to such files and therefore by even date herewith am requesting that my file papers be forwarded to me here by express at the earliest

I would be pleased to be advised as to what further disposition, if any, at this time, I am to make as to the car, camp outfit, typewriter, etc. The understanding I had with the garage men, with whom I stored my outfit at Fresno, was that I was to pay storage charges for same, at the rate of \$4.50 per month.

In the event it should be deemed advisable I remain here any considerable length of time, in as much as the Superintendent's car here, an old 1912 Ford, has about served its day of usefulness, apparently being almost down and out, I indulge the hope you will authorize me to bring the car at Fresno here and if so you will kindly advise me just how this should be done.

Very respectfully,


Inspector, Indian Service

JJT: CW

and if I knew where to find
you would go to Sacramento
to talk over this matter ^{with you} I am sure
I could explain the matter much
better than writing and you would
understand it. Or if you should come
to Coling a Call up Sta 4 Standard Oil
and I will come there and see you

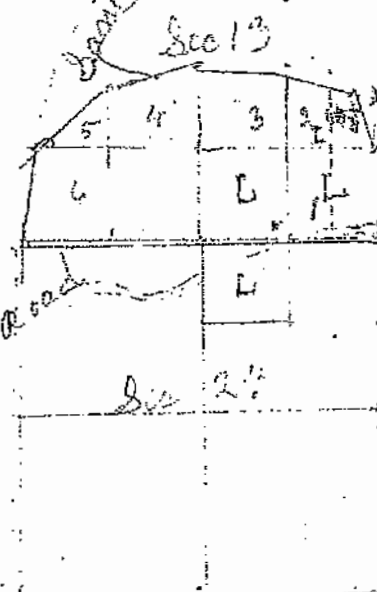
Respyours

F L Ladd

*Copy
relating
my files*

Section 13

High Road



Spring: 1000
 LOT 25.91
 " 1.39.22

 65.93



*The map is a copy of the original
 of the 12/18 to the [unclear] [unclear]
 [unclear] [unclear] [unclear] [unclear]
 [unclear] [unclear] [unclear] [unclear]
 The lot 2 contains 25.91 [unclear]
 [unclear] [unclear] [unclear] [unclear]
 [unclear] [unclear] [unclear] [unclear]
 I think the [unclear] will [unclear]
 [unclear] [unclear] [unclear] [unclear]
 a 550
 A*

Exhibit L

Land-Allotments.
40142-17
4702-18
McP

Mr. John J. Terrell, Inspector,
San Carlos, Arizona.

FEB 28 1918

My dear Mr. Terrell:

This refers to your letter of January 10, 1918, relative to the purchase of land for the use and occupancy of Jim Charley and family, Indians of Humboldt County, California. You inclose a communication from Mr. F. G. Ladd and copy of your reply of January 10, relative to the proposed transaction.

The purchase of twenty-five acres at a price of \$50 per acre for a single family is not deemed advisable. If there are two or three other families in the same locality who could be located on the tract if purchased, so that provision might be made for a band of Indians, the matter then, under such circumstances, would be given further consideration. If there is only one family who could be located on the F. G. Ladd tract, the purchase by the Government should be limited to about ten acres. It is assumed that the Charley family are not in a position to buy themselves the necessary land for a home. You should enlighten the Office on this phase of the case. You will be expected to visit and inspect this land personally and negotiations should not be entered into until you are thoroughly satisfied that the price is just and equitable and that the location is well adapted for Indian uses.

In every option of purchase one of the conditions should be that the seller shall furnish abstract showing good title in him, free of taxes, judgments and liens of every character.

Very truly yours,

Signed) C. F. Hawk

Chief Clerk.

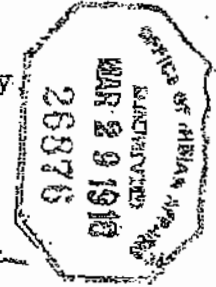
2-ERR-25

Exhibit M

7043C-17
OMM
4702-18
McP.

DEPARTMENT OF THE INTERIOR
UNITED STATES INDIAN SERVICE

San Carlos Indian Agency
San Carlos, Arizona.
March 23rd, 1918.



Commissioner of Indian Affairs,
Washington, D. C.

Dear Sir:-

Herewith inclosed will be found letter from F. G. Ladd, Coalinga, California, date March 13th, 1918, in connection with above reference, carbon letter in blank, proposition to sell the land in question for Mr. Ladd's Signature.

In this connection, in event the Office shall conclude that this Indian's rights are not protected and cannot be maintained under the fact of his squatter sovereignty as against the alleged title of Mr. Ladd, as has been held in the case of Ma-gee-see vs. Johnson, (30 L.D. 125), and in same connection, the case of the Northern Pacific Railway Company vs. Wisner (530 Fed. Rep. 591); I unhesitatingly recommend the purchase of the said ten acres of land, more or less, that this Indian and his family may be protected in their home.

The Office is referred to several prior letters in connection with this Indian and his family, wherein I have justified myself in recommending the purchase of the said ten acres of land, more or less, for the home of Jim Charlie and family.

Yours very truly,

John J. Farrell
INSPECTOR IN CHARGE.

JJT/EJW.

Mar 19 1918

Mr John J Terrell

Dear Sir:

OFFICE OF INDIAN AFFAIRS
RECEIVED
MAR 29 1918
25876

Your letter of *Mar 25 1918* received here on my arrival home today. In answer will say that I will sell the East 1/2 of Lot 2 on which is located Jim Charlis' improvement @ \$50. per acre which I think contains about 10 acres.

terms Cash or U.S. Liberty Bonds Bonds preferred
this offer is good for 60 days only

Respectfully
F & L add

RECEIVED
MAR 18 1918
INDIAN AGENCY
San Carlos, Ariz.

office

Exhibit N

It is somewhat questionable as to the propriety of buying individual families a home, although I believe we have done so in one or two instances.

The appropriation mainly was obtained to buy ~~the~~ tracts on which ~~the~~ small bands could be located.

FILED BY L. M. S.

Exhibit O

Land-Allotments.
40142-1917
26876-1918
MGP

W
A
J

APR 20 1918

Mr. John J. Terrell,

Inspector in Charge San Carlos School.

My dear Mr. Terrell:

This refers to the correspondence relative to the purchase of land from Mr. F. G. Ladd, of Coalinga, California, as a home for Jim (or Lagoon) Charlie, particular reference being made to your letter of March 23, 1918 (26876-18). You inclose a letter from Mr. Ladd, dated March 13, submitting an offer to sell to the United States for the occupancy of said Indian and his family, the 3/2 of Lot 2, Section 24 (township and range not shown), comprising about ten acres at \$50 per acre, offer good for sixty days only.

With regard to purchasing ten acres for one family alone, it may be said that the purpose of the appropriation from which the payment would be made is to buy tracts of limited areas on which to locate small bands, with the idea ultimately to divide the land pro rata and give evidence of title to the occupants in the form of patents. This Office does not believe that it would be good policy to attempt to pick out individual families and purchase them a homesite, as seems to be contemplated in the case of Jim Charlie. As you know, there have been many cases where small bands have been living on lands to which they have no title, and that in some instances evictions have occurred. It has been the intention to protect such people, but always with the clear understanding that this Office would be at liberty to move to the purchased tract any Indians who may care to make their homes thereon, regardless of the few Indians who might have lived there at the time of purchase.

Will you kindly explain the situation to Jim Charlie and family and have them clearly appreciate the fact that title to the tract will be in the United States

and that thereafter should it become necessary to use a part of the purchased lands in caring for other Indians, that they will be expected to make no objection. With such an understanding of the status of the land given the Indians, this Office would have no objection to your closing out the proposed purchase of the ten acres, if you think it is a good proposition.

Very truly yours,

(Signed) W. B. Meritt

Assistant Commissioner.

4-BMR-11

Exhibit P

MAY 25 1918
RECEIVED
COMM. INDIAN AFFAIRS

Land-Allots DEPARTMENT OF THE INTERIOR

40142-17

26876-18

UNITED STATES INDIAN SERVICE

M/ D

McP.

San Carlos Indian Agency,
San Carlos, Ariz., May 19, 1918.

Commissioner Indian Affairs,
Washington, D. C.

Dear Sir:

This is to refer to correspondence relative to efforts to purchase land on which the ancient village home of Jim (or Lagoon) Charlie and family, Indians, is situated, in particular your letter of April 20, 1918, above references.

Noting that portion of your said letter wherein it is suggested that the purpose of the appropriation from which the payment would be made is to buy tracts of land of limited areas on which to locate small bands of Indians: That the Office does not believe that it would be good policy to pick out individual families and purchase them a homesite: But that it has been the intention to protect such people as Lagoon Charlie and family, etc.

The Office is advised that on the two different occasions of my visits to the home of these Indians (Charlie, his wife and six quite interesting children, see my letter of July 14, 1917). I made it a point to cause both Charlie and his wife that, in the event of the purchase of any considerable acreage of land to embrace their home and improvements, the title would be in the Government and the privilege of other Indians of his tribe being landless and homeless, desiring to do so, would be permitted to establish their homes on some portion of the land purchased, not to encroach upon the home improvements erected and used by him.

The suggestion of the Office in this connection is fully understood by Charlie.

I doubt that the few other Indians of Charlie's tribe that are landless, if any, will desire to make a permanent home on any portion of the 10 acres named in Mr. Ladd's proposition. Charlie has two brothers, George and Frank, with families, each having homes, George on the Klamath and Frank 60 acres of good, nice cottage home, land mostly improved, situated only a few miles south on ocean front from Charlie's location.

I feel that this proposed purchase should be closed at the earliest possible date, inasmuch as Mr. Ladd, the seller, names a time limit to close the deal:

Very respectfully,

John J. Terrell
Inspector, Indian Service.
(Carbon copy furnished Mr. J. B. Kortsolf, Supt. Hoopa Valley, Calif.)

Also see Official letter of date June 8, 1917 referenced by 0142-17 & 01788017 R. J. M. J. Terrell

Exhibit Q

Land-Allotments

40142-17

44112-18

McP

JUN 14 1918

Mr. John J. Terrell,
Inspector in Charge,
San Carlos Agency.

My dear Mr. Terrell:

Receipt is acknowledged of your letter of May 19, 1918, relative to the proposed purchase of ten acres of land for Jim (Lagoon) Charlie, and such other Indians as may be located on said tract. It is noted that you express the opinion that the purchase should be closed at the earliest possible date.

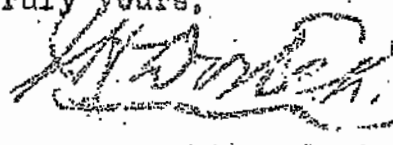
You are advised that it was the intention of the Office that you should close the option of purchase on the land offered by Mr. Ladd on the instructions given you in Office letter of April 20, 1918, subject however to the limitations mentioned therein, namely, that it should be clearly understood by Jim Charlie and the other Indians, that the Office and Department reserve the right to remove to the purchase tract any Indians who may care to make their homes thereon regardless of the wishes of the few Indians who live there at the time of the purchase, and in case you regard the proposed purchase as a good proposition.

With the above understanding you may close the option in case you have personally inspected the land, and regard it as a suitable home for the Indians, and the proposition is in every way a good one. As is customary in such cases, the purchaser must give good title and furnish at his own expense an abstract of title to accompany the deed.

Kindly give the matter your early attention.

Very truly yours,

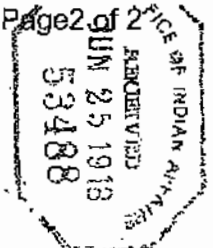
INITIALING COPY - FOR FILE



ER-136B

Exhibit R

Land-
Allotments
40142-17
44112-18
M&P.



San Carlos Indian Agency,
San Carlos, Arizona, June 19, 1918.

File

Mr. F. G. Ladd,
c/o, Mess. Mahan & Mahan, Attys.,
Eureka, California.

Gentlemen:

This refers to your favor of April 12, 1918, relative to the proposed purchase from Mr. F. G. Ladd of Coalinga, California, a small tract of land, 10 acres, more or less, by the Government desired as a permanent home for the landless Indians within the locality of the land, and in particular to embrace the improvements of Jim Carley and family, Indians, consisting of a spring near his house, his house and barn, cultivated land, small pasture and burial lot.

In this connection you are advised that I am just in receipt of a letter from the Washington Office, date June 14, 1918, informing me that my recommendation for this proposed purchase has been accepted.

You will therefore, at earliest possible date have prepared for Mr. Ladd an abstract of title covering this tract of land, which abstract should show good and perfect title in same to Mr. Ladd, free from all taxes due and payable to date of conveyance and free from all mortgages, liens, deeds of trust of any character whatsoever. Also have Mr. Ladd and wife, if a married man, if not, properly evidence the facts in this regard, executed a general warranty deed, the usual form in California.

When these instruments have been made and executed as above suggested, send them to me here, not recording the deed, which when passed upon by the Department of the Interior and the Indian Office and found to convey good and sufficient title as evidenced through said abstract, same will be returned to/for record in proper office and then returned to Washington for record there; after which, payment in full by U.S. Treasurer warrant will be mailed to Mr. Ladd or as he may direct.

The deed should convey to the "United States of America"

Kindly give this matter earliest possible attention, as the Office desires to hypothecate the balance of appropriation for the purchase of such lands at the earliest possible date.

Very respectfully,
[Signature]

NB: Also stated in foot note to H.S.M., be set out by metes and bounds.

That land conveyed must

For information Commission of Officers

Exhibit S

EXHIBIT "5"

**OPINION OF THE U.S. SOLICITOR THAT
RANCHERIAS OWNED IN FEDERAL FEE
AND OCCUPIED BY INDIANS OF NO
SPECIFIC TRIBAL IDENTITY ARE NOT
AND WERE NOT FEDERAL INDIAN
RESERVATIONS**

REPRODUCED BY THE NATIONAL ARCHIVES



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, 25, D. C.

D-66-1157-D

Memorandum

To: Commissioner of Indian Affairs AUG 1 1958

From: The Solicitor

Subject: Request for opinion on "Rancheria Act" of August 18, 1958
(72 Stat. 619)

Pursuant to your request, we have considered the questions which appear to prevent the insuring of title to the Rancheria tracts now being conveyed by the United States pursuant to the Act of August 18, 1958 (72 Stat. 619). We believe that this indecision results largely from lack of knowledge of the facts concerning these transactions, so we are setting them forth in detail.

As a result of Congressional action commencing about 1893, approximately 58 small tracts of land called "rancherias" were purchased in central California by the Secretary of the Interior, who permitted Indians living nearby, generally in groups, to occupy such tracts. This permissive use was referred to as an "assignment" to such Indians.

The Act of March 3, 1893, 27 Stat. 612, 626, appropriated \$10,000 for the acquisition of land at Jackson, California, for the support of the Digger Indians of Central California.

The first general act of this nature is as follows:

" * * * That the Secretary of the Interior be, and he is hereby, authorized to expend not to exceed one hundred thousand dollars to purchase for the use of the Indians in California now residing on reservations which do not contain land suitable for cultivation, and for Indians who are not now upon reservations in said State, suitable tracts or parcels of land, water, and water rights in said State of California, and have constructed the necessary ditches, flumes, and reservoirs for the purpose of irrigating said lands, and the irrigation of any lands now occupied by Indians in said State, and to construct suitable buildings upon said lands, and to fence the tracts of land so purchased, and fence, survey, and mark the boundaries of such Indian reservations in the State of California as the Secretary of the Interior may deem proper. One hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, for the purpose of carrying out the provisions of this Act." Act of June 21, 1906, 34 Stat. 325, 333; also the act of April 30, 1908, 35 Stat. 76.

From 1914 to 1929, and again in 1937, Congress made small appropriations, designating them substantially as follows: "for the purchase of lands for the homeless Indians in California, including improvements thereon, for the use and occupancy of said Indians . . . Said funds to be expended under such regulations and conditions as the Secretary of the Interior may prescribe." (See Act of August 2, 1914, 38 Stat. 582, 589; Act of August 9, 1937, 50 Stat. 564, 573, " . . . for the relief of homeless Indians of that state . . . ")

The "assignment" in the rancheria cases, occasionally referred to as "allotment," differs from the usual "assignment," which is the tribal action of allocating tribal land to individual members. The rancheria assignments are referred to as formal when in writing--informal when oral. They were in the nature of revocable permits, or, at the most, possessory estates, terminating upon abandonment of possession. Actual occupancy was occasionally required. Legal title and ownership interest remains in the United States (Comm. to Representative Lea, 4/4/36). The following assignment is typical:

"TO WHOM IT MAY CONCERN:

This is to certify that Mollie Wright, the widow of Jim Wright, is hereby given permission to use Lot No. 4 of the Pineliville Rancheria as shown by the plat of the said Rancheria by the files at this office. That this document does not give the said Mollie Wright any right of title, only that of occupancy, but that as long as she resides on the land and makes it her home her right of use and occupancy will not be questioned.

Superintendent of the Sacramento
Indian Agency, Having Jurisdiction
over the Pineliville Indian Rancheria

Dated at Sacramento, California, this 21st day
of February, 1927."

In connection with this permit, the Commissioner ruled that "right of possession by inheritance cannot be recognized." He also ruled that:

"2. Tracts relinquished or abandoned should be reassigned. In case of abandonment, absence for a period of two years is regarded as sufficient reason for re-assigning the land to another.

"3. The acquisition by individuals of additional tracts through inheritance must not be allowed, except where the survivors are landless and are entitled to land, in which cases formal reassignment should be made.

"4. The leasing by individuals of tracts other than their own, and for their own benefit, should be discontinued. By leasing their own assigned lands for a period of two years would place such cases in the abandoned class and subject them to reassignment. The Office would prefer to have each assignee utilize all of his own land. However, where only part is used and the remainder could be leased for a nominal consideration, it is believed such action should not be opposed, but the assignee be permitted to make the least, collect the rental and use it as he might see fit." (Comm. to Supt., Sacramento Agency, April 13, 1927)

in actual practice, Indians occasionally moved onto the property without any assignment, occupying a parcel abandoned or never assigned. Such possession was not disturbed since these occupants were also "Indians of California" for whose use the land was acquired. The Indians of Central California had not at first been regarded as subject to federal guardianship because they were not members of a tribe having treaty relations with the United States; did not live on reservations, and held no restricted allotments. In 1933, the problem of placing these Indians on lands acquired for them was reconsidered, since very few had moved to these rancherias or had remained there. It was then believed that this was because the Indians were too poor to build homes there, or water was not available. (See report to Comm., Aug. 15, 1933) In some cases, as in the Jackson rancheria in Amador County, houses had been built for Indian families, who later deserted them. (Letter Sept. 5, 1933, file 49-751-26-308.2 Sacramento) By 1950, it had become evident that the rancheria program for the California Indians should be liquidated.

Few congressional acts have received the amount of consideration as was given to the problem of liquidating the California rancherias. In response to the congressional resolution (H. Con. Res. 108, 83d Congress, August 1, 1953) to terminate federal Indian supervision in the State of California and elsewhere, the Department of the Interior, on January 4, 1954, submitted a proposed bill to provide for the distribution of the land and assets of the rancherias, and

extensive hearings were held. Similar bills had been considered by the 82d Congress. The State of California had, in 1951, requested Congress to dispense with all restrictions upon California Indians, and the State has also conducted extensive investigations on this subject.

In 1956, a draft of a proposed bill "to carry out the expressed wishes of the Indian people on the rancherias" was prepared and submitted to the various rancheria groups. On October 27, 1956, a conference with over 400 participants was held in San Francisco to consider termination legislation with respect to California Indians, in which all interested groups were represented. The principal problem of legislation was to determine who should be beneficiaries in the decision to distribute among the California Indians this land originally acquired or set aside for their occupation.

On January 14, 1957, Congressman Moes introduced H. R. 2824, which the Secretary recommended with minor amendments. It included fourteen rancherias when enacted by the House.

Three other bills were introduced in the House on the same subject, of which two were withdrawn and one combined with H. R. 2824. The House Subcommittee on Indian Affairs conducted extensive hearings on this measure in May and June, 1957. The Senate subcommittee's only change of substance was to add a number of rancherias. The bill as enacted is not mandatory. The Indians "who hold formal or informal assignments on each reservation or rancheria, or the Indians of such reservations or rancherias, or the Secretary of the Interior after consultation with such Indians," will prepare a plan of distribution for approval or rejection by a majority of those voting at each rancheria. Both the Senate and the House report notes that no membership roll is required to identify the beneficiaries because "the groups are not well defined." Moreover, the reports state that the lands to be distributed "were for the most part acquired or set aside by the United States for Indians in California, generally, rather than for a specific group of Indians, and the consistent practice has been to select by administrative action the individual Indians who may use the land. The bill provides for the distribution of the land, or the proceeds from the sale of the land, primarily on the basis of plans prepared or approved by these administratively selected users of the land." (Sen. Report No. 1874, July 22, 1958)

The Rancheria Act further provides that "general notice shall be given of the contents" of the plan, and "any Indian who feels that he is unfairly treated in the proposed distribution of the property shall be given an opportunity to present his views and arguments for the consideration of the Secretary." After such consideration "the

plan or a revision thereof shall be submitted for approval of the adult Indians who will participate in the distribution of the property. . . . The plan becomes effective if approved "by a majority of such Indians who vote in a referendum called for that purpose." (Sec. 2(b))

Section 2(c) provides that ^{grantees} ~~grantees~~ "shall receive an unrestricted title to the property conveyed. . . ." Prior to the conveyance, surveys, of such a nature as "necessary or appropriate for the conveyance of marketable and recordable titles," must be made, and certain other action specified must be taken (Sec. 3).

Plans have been approved and deeds issued in the following rancherias: Cache Creek, Buena Vista, Mark West, Paskenta, Ruffeys, Strawberry Valley, Table Bluff.

It has been suggested that the United States cannot dispose of this property in this fashion because it held the property in trust for specific bands, who had a vested interest therein.

The "background" data submitted to and published by the Senate Committee occasionally states that the title to particular Indian land is "in the name of the United States Government in trust for the Indians of California" (See Auburn, Big Sandy, etc.); or that the lands "are held in trust by the United States Government for the Indians of California" (Blue Lake); or that it is "trust land" (Cache Creek). (See Report No. 1874, 35th Cong., 2d Sess.) These references do not connote a trust in which the United States holds merely a legal title, with equitable ownership elsewhere, as in the case of Indian lands generally; the intention was to indicate that the land, although acquired in fee, was purchased for a specific purpose. This is shown both by Congressional and administrative action. For instance, the Secretary generally ordered the purchase of a particular California tract "for the use of the band of Indians referred to" in the special agent's report (see file, Ruffey's Band). A special form of "proposal for sale of lands" was employed which states that " _____ hereby propose to sell to the United States, for the use and occupancy of the _____ Indians (but without restrictions in deed) the following described lands: . . ." (See Paskenta.) (Underlining added for emphasis) The Government's voucher authorizing payment generally contains the language -- "to the purchase of _____ land in _____, said tract to be used for the benefit of the _____ band of

homeless Indians . . ." (See Mark West.) The deeds issued to the United States contain no restriction, and are in the form of absolute conveyances.

It has been decided, administratively, that these lands are not allottable, even to the members of the band for whom acquired, and that they could not be sold without legislation, even if the purpose was to acquire land more suitable for the same band (see Ruffey's Band, File 74408/07/311). They could be used for any landless California Indians, and not merely for the specific band for whom purchased, since neither the deed conveying the property to the United States nor the act appropriating the purchase money contained "any limitation or provision as to what Indians should be settled thereon . . ." (See Marshal and Sebastapol, File 310, Part 21, letter Comm., July 6, 1937.)

The United States has accepted the fact that it long ago acquired the lands of the California Indians, extinguishing their Indian title. The Act of May 18, 1928, 45 Stat. 602, authorized the attorney general of the state of California to bring suit in the Court of Claims on behalf of the "Indians of California" for claims they might have against the United States "by reason of lands taken from them in the state of California by the United States without compensation . . .", any decree to be based upon the compensation proposed in certain ratified treaties of 1851-2. Section 3 of that Act provides: "Any payment which may have been made by the United States or moneys heretofore or hereafter expended . . . for the benefit of the Indians of California, made under specific appropriations for the support . . . of Indians of California, including purchases of land, . . . may be pleaded by way of set-off".

The Court of Claims decided October 5, 1942 that the California Indians were entitled to recover as compensation, the sum of \$10,648,625, for 8,518,900 acres taken, less 764,033.50 for lands "set aside by the United States for the plaintiff Indians as reservations and otherwise, by Executive Orders, Acts of Congress. . ." 98 C. Cls. 583, Cert. Den. 319 U.S. 764, 102 C. Cls. 837. The court held that whatever lands these Indians may have held "became a part of the public domain . . ." because the Indians did not qualify before the Commission set up by the Act of March 3, 1851 (9 Stat. 631) to settle private land claims in California. (P. 592)

It will be noted that this action in favor of the California Indians is not a payment for money due the Indians, since the basis

of the legislation and judgment is that these Indians lost their rights by reason of laches. Nor did this involve all lands of the California Indians. The payment is in the nature of a gift, equitable because the United States Senate failed to ratify an agreement with the Indians concerning these particular lands. The claims of the California Indians, based upon aboriginal title, is now in process of litigation. This suit also is based upon acquisition of the Indians' lands by the United States.

The subsequent plan of distribution of the rancheria land was considered with knowledge of the then recent action of Congress and of the Federal courts in subtracting from the amount to be given to the Indians of California, and thus to each such Indian, under the special act of 1928, the amount expended by the Government for all the rancheria land. The result, as Congress must have foreseen, was that some Indians, who would receive no share in rancheria land, had pro rata deductions made from their distributive share under the 1928 Act based upon the value of this rancheria land, whereas others received the same amount and also will participate in the actual distribution of this off-set land. It should be noted that deductions were also made for other services rendered by the United States which did not directly benefit all.

A practical answer to this seeming inequity is that the Indians of California had the occupation of this rancheria land during a period when many of them needed it, which was the purpose of the legislation. Moreover, the rancheria distribution is generally regarded, even by the Indians, as the most satisfactory method of terminating this program of governmental aid. From a legal point of view, the acquisition by the United States of the rancheria land was for occupancy during a temporary period of Federal supervision. Congress has indicated that the program has now served its purpose. It is the sole judge of the extent of guardianship and of its duration. See United States v. Hellard, 322 U.S. 363, 367 (1944); Lone Wolf v. Hitchcock, 187 U.S. 553 (1903). Moreover, Congress can, under the Constitution, dispose of this property as it pleases, the property belonging to the United States as part of the public domain. U.S. Constitution, Art. IV, sec. 3, cl. 2; Hollowell v. United States, 221 U.S. 317 (1911); Alabama v. Texas, 347 U.S. 272 (1954).

It is also suggested that the legislation is so indefinite in its designation of beneficiaries as to be invalid. Congress recognized the difficulty of being specific (see Committee Report, supra). It concluded to distribute the property among the assignment holders or

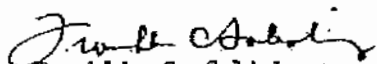
REPRODUCED AT THE NATIONAL ARCHIVES

other Indians, now occupying the rancherias. The plan would designate the distribution. Although no Indian has a vested right in this land, Congress had provided that notice "of the contents of the plan" shall be given so that "any Indian who feels that he is unfairly treated in the proposed distribution of the property shall be given an opportunity to present his views and arguments for the consideration of the Secretary," (sec. 2(b)). The Secretary has the power of approval or rejection of the Plan (sec. 10(a)). Thus, the Secretary is Congress's delegated authority to determine whether the plan properly designates the beneficiaries. The Secretary also is authorized to issue the documents necessary to carry out the distribution. This delegation of power to the Secretary is no greater than that given him in many other cases providing for distribution of property to Indians. Regardless of Indian group or tribal action where distributees are members thereof, the Secretary is generally and properly authorized to determine whether the tribal membership roll is accurate. See Stephens v. Cherokee Nation, 174 U.S. 445, 490 (1899). In the cases in which deeds have so far been issued, there has been no doubt concerning the beneficiaries, and no objection has been received to the plans formulated.

It is suggested that rights may have been acquired by other Indians in the property. If rights were acquired prior to purchase by the United States, those rights should be disclosed in the abstract. This was one reason for obtaining title insurance then. When passing upon conveyances under the Timberland Act, title insurance was procured against any rights acquired prior to acquisition by the United States. Since the acquisition by the United States, rights in the property could not be acquired against the owner. "It is beyond the power of a state, either through statutes of limitation or adverse possession, to affect the interests of the United States." U. S. v. 7,405.3 acres of land, 97 Fed. 2d., 417 (1938)

In conclusion, the rancharia properties belong to the United States, in law and equity; the disposition of these rancharia properties has been properly undertaken by Congress in the method usually employed in the distribution of property among groups of Indians temporarily occupying United States property; and the method of determining distributees is clearly set forth, following the customary practice of delegating to the Secretary of the Interior the authority and responsibility of determining the individual Indian beneficiaries. This does not relieve a title insurance company from the usual responsibility, for which it is paid, of insuring a distributee's title against any defects not set forth in its policy of insurance.

GEORGE W. ABBOTT
The Solicitor

By: 
Franklin C. Salisbury
Assistant Solicitor
Indian Legal Activities

RANCHERIA ACT OF AUGUST 18, 1958

August 1, 1960.

Memorandum

To: Commissioner of Indian Affairs
From: The Solicitor
Subject: Request for opinion on "Rancheria Act" of August 18, 1958 (72 Stat. 619)

Pursuant to your request, we have considered the questions which appear to prevent the insuring of title to the Rancheria tracts now being conveyed by the United States pursuant to the Act of August 18, 1959 (72 Stat. 619). We believe that this indecision results largely from lack of knowledge of the facts concerning these transactions, so we are setting them forth in detail.

As a result of congressional action commencing about 1893, approximately 58 small tracts of land called "rancherias" were purchased in central California by the Secretary of the Interior, who permitted Indians living nearby, generally in groups, to occupy such tracts. This permissive use was referred to as an "assignment" to such Indians.

The Act of March 3, 1893, 27 Stat. 612, 628, appropriated \$10,000 for the acquisition of land at Jackson, California, for the support of the Digger Indians of Central California. . . ."

The first general act of this nature is as follows:

"* * * That the Secretary of the Interior be, and he is hereby, authorized to expend not to exceed one hundred thousand dollars to purchase for the use of the Indians in California now residing on reservations which do not contain land suitable for cultivation, and for Indians who are not now upon reservations in said State, suitable tracts or parcels of land, water, and water rights in said State of California, and have constructed the necessary ditches, flumes, and reservoirs for the purpose of irrigating said lands, and the irrigation of any lands now occupied by Indians in said State, and to construct suitable buildings upon said lands, and to fence the tracts of land so purchased, and fence, survey, and mark the boundaries of such Indian reservations in the State of California as the Secretary of the Interior may deem proper. One hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, for the purpose of carrying out the provisions of this Act." Act of June 21, 1906, 34 Stat. 325, 333; also the act of April 30, 1908, 35 Stat. 76.

From 1914 to 1929, and again in 1937, Congress made small appropriations, designating them substantially as follows: "for the purchase of lands for the homeless

Indians in California, including improvements thereon, for the use and occupancy of said Indians. . . . Said funds to be expended under such regulations and contentions as the Secretary of the Interior may prescribe " (See Act of

1883

OPINIONS OF THE SOLICITOR

AUGUST 1, 1960

August 1, 1914, 38 Stat. 582, 589; Act of August 9, 1937, 50 Stat. 564, 573, ". . . for the relief of homeless Indians of that state . . .")

The "assignment" in the rancheria cases, occasionally referred to as "allotment," differs from the usual "assignment," which is the tribal action of allocating tribal land to individual members. The rancheria assignments are referred to as formal when in writing-informal when oral. They were in the nature of revocable permits, or, at the most, possessory estates, terminating upon abandonment of possession. Actual occupancy was occasionally required. Legal title and ownership interest remains in the United States (Comm. to Representative Lea, 4/4/36). The following assignment is typical:

"TO WHOM IT MAY CONCERN:

This is to certify that Mollie Wright, the widow of Jim Wright, is hereby given permission to use Lot No. 4 of the Pinellville Rancheria as shown by the plat of the said Rancheria by the files at this office. That this document does not give the said Mollie Wright any right of title, only that of occupancy, but that as long as she resides on the land and makes it her home her right of use and occupancy will not be questioned.

Superintendent of the Sacramento
Indian Agency, Having Jurisdiction
over the Pinellville Indian Rancheria

Dated at Sacramento, California, this 21st day of February, 1927."

In connection with this permit, the Commissioner ruled that "right of possession by inheritance cannot be recognized." He also ruled that:

"2. Tracts relinquished or abandoned should be reassigned. In case of abandonment, absence for a period of two years is regarded as sufficient reason for reassigning the land to another.

"3. The acquisition by individuals of additional tracts through inheritance must not be allowed, except where the survivors are landless

and are entitled to land, in which cases formal reassignment should be made.

"4. The leasing by individuals of tracts other than their own, and for their own benefit, should be discontinued. By leasing their own assigned lands for a period of two years would place such cases in the abandoned class and subject them to reassignment. The Office would prefer to have each assignee utilize all of his own land. However, where only part is used and the remainder could be leased for a nominal consideration, it is believed such action should not be opposed, but the assignee be permitted to make the lease, collect the rental and use it as he might see fit." (Comm. to Supt., Sacramento Agency, April 13, 1927)

In actual practice, Indians occasionally moved onto the property without any assignment, occupying a parcel abandoned or never assigned. Such possession was not disturbed since these occupants were also "Indians of California" for whose use the land was acquired. The Indians of Central California had not at first been regarded as subject to Federal guardianship because they were not members of a tribe having treaty relations with the United States, did not live on reservations, and held no restricted allotments. In 1933, the problem of placing these Indians on lands acquired for them was reconsidered, since very few had moved to these rancherias or had remained there. It was then believed that this was because the Indians were too poor to build homes there, or water was not available. (See report to Comm., Aug. 15, 1933) In some cases, as in the Jackson rancheria in Amador County, houses had been built for Indian families, who later deserted them. (Letter Sept. 5, 1933, file 49-75 1-26-308.2 Sacramento) By 1950, it had become evident that the rancheria program for the California Indians should be liquidated.

Few congressional acts have received the amount of consideration as was given to the problem of liquidating the California rancheria. In response to the congressional resolution (H. Con. Res. 108, 83d Congress, August 1, 1953) to terminate Federal Indian supervision in the State of California and elsewhere, the Department of the Interior, on January 4, 1954, submitted a proposed bill to provide for the distribution of the land and assets of the rancherias, and extensive hearings were held. Similar bills had been considered by the 82d Congress. The State of California had, in 1951, requested Congress to dispense with all restrictions upon California Indians, and the State has also conducted extensive investigations on this subject.

In 1956, a draft of a proposed bill "to carry out the expressed wishes of the Indian people on the rancherias" was prepared and submitted to the various rancheria groups. On October 27, 1956, a conference with over 400 participants was held in San Francisco to consider termination legislation with respect to California Indians, in which all interested groups were represented. The principal problem of legislation was to determine who should be beneficiaries in the decision to distribute among the California Indians this land originally acquired

1884

DEPARTMENT OF THE INTERIOR

AUGUST 1, 1960

or set a-side for their occupation.

On January 14, 1957, Congressman Moss introduced H.R., 2824, which the Secretary recommended with minor amendments. It included fourteen rancherias when enacted by the House.

Three other bills were introduced in the House on the same subject, of which two were withdrawn and one combined with H.R., 2824. The House Subcommittee on Indian Affairs conducted extensive hearings on this measure in May and June, 1957. The Senate Subcommittee's only change of substance was to add a number of rancherias. The bill as enacted is not mandatory. The Indians "who hold formal or informal assignments on each reservation or rancheria, or the Indians of such reservations or rancherias, or the Secretary of the Interior after consultation with such Indians," will prepare a plan of distribution for approval or rejection by a majority of those voting at each rancheria. Both the Senate and the House report notes that no membership roll is required to identify the beneficiaries because the groups are not well defined." Moreover, the reports state that the lands to be distributed "were for the most part acquired or set aside by the United States for Indians in California, generally, rather than for a specific group of Indians, and the consistent practice has been to select by administrative action the individual Indians who may use the land. The bill provides for the distribution of the land, or the proceeds from the sale of the land, primarily on the basis of plans prepared or approved by these administratively selected users of the land." (Sen. Report No. 1874, July 22, 1958)

The Rancheria Act further provides that "general notice shall be given of the contents" of the plan, and "any Indian who feels that he is unfairly treated in the proposed distribution of the property shall be given an opportunity to present his views and arguments for the consideration of the Secretary." After such consideration "the plan or a revision thereof shall be submitted for approval of the adult Indians who will participate in the distribution of the property. . . ." The plan becomes effective if approved "by a majority of such Indians who vote in a referendum called for that purpose." (Sec. 2 (b))

Section 2 (c) provides that granters "shall receive an unrestricted title to the property conveyed. . . ." Prior to the conveyance, surveys, of such a nature as "necessary or appropriate for the conveyance of marketable and recordable titles," must be made, and certain other action specified must be taken (Sec. 3).

Plans have been approved and deeds issued in the following rancherias: Cache Creek, Buena Vista, Mark West, Paskenta, Ruffeys, Strawberry Valley, Table Bluff.

It has been suggested that the United States cannot dispose of this property in this fashion because it held the property in trust for specific bands, who had a vested interest therein.

The "background" data submitted to and published by the Senate Committee occasionally states that the title to particular rancheria land is "in the name of the United States Government in trust for the Indians of California" (See Auburn, Big Sandy, etc.); or that the lands "are held in trust by the United States Government for the Indians of California" (Blue Lake); or that it is "trust land" (Cache Creek). (See Report No. 1874, 85th Cong., 2d Sess.) These references do not connote a trust in which the United States holds merely a legal title, with equitable ownership elsewhere, as in the case of Indian lands generally; the intention was to indicate that the land, although acquired in fee, was purchased for a specific purpose. This is shown both by congressional and administrative action. For instance, the Secretary generally ordered the purchase of a particular California tract "for the use of the band of Indians referred to" in the special agent's report (see file, Ruffey's Band). A special form of "proposal for sale of lands" was employed which states that ". hereby propose to sell to the United States, for the use and occupancy of the . . . Indians (*but without restrictions indeed*) the following described lands: . . ." (See Paskenta.) (Underlining added for emphasis) The Government's voucher authorizing payment generally contains the language "to the purchase of . . . land in, said tract to be used for the benefit of the . . . band of homeless Indians . . ." (See Mark West.) The deeds issued to the United States contain no restriction, and are in the form of absolute conveyances.

It has been decided, administratively, that these lands are not allottable, even to the members of the band for whom acquired, and that they could not be sold without registration, even if the purpose was to acquire land more suitable for the same band (see Ruffey's Band, File 74408/07/311). They could be used for any landless California Indians, and not merely for the specific band for whom purchased, since neither the deed conveying the property to the United States nor the act appropriating the purchase money contained "any limitation or provision as to what Indians should be settled thereon." (See Marshal and Sebastopol, File 310, Part 21, letter Comm., July 6, 1937.)

The United States has accepted the fact that it long ago acquired the lands of the California In-

AUGUST 1, 1960 OPINIONS OF THE SOLICITOR

1885

divans, extinguishing their Indian title. The Act of May 18, 1928, 45 Stat. 602, authorized the attorney general of the state of California to bring suit in the Court of Claims on behalf of the "Indians of California" for claims they might have against the United States "by reason of land's taken from them in the state of California by the United States without compensation . . .," any decree to be based upon the compensation proposed in certain ratified treaties of 1851-1852. Section 3 of that act provides: "Any payment which may have been made by the United States or moneys heretofore or hereafter expended . . . for the benefit of the Indians of California, made under specific appropriations for the

support . . . of Indians of California, including purchases of land, . . . may be pleaded by way of set-off."

The Court of Claims decided October 5, 1942, that the California Indians were entitled to recover as compensation the sum of \$10,648,625; for 8,518,900 acres taken, less \$764,033.50 for lands "set aside by the United States for the plaintiff Indians as reservations and otherwise, by Executive Orders, Acts of Congress . . ." 98 C. Cls. 583, Cert. Den. 319 U.S. 764, 102 C. Cls. 837. The court held that whatever lands those Indians may have held "became a part of the public domain . . ." because the Indians did not qualify before the Commission set up by the Act of March 3, 1851 (9 Stat. 631) to settle private land claims in California. (p. 592)

It will be noted that this action in favor of the California Indian's is not a payment for money due the Indians, since the basis of the litigation and judgment is that these Indians lost their rights by reason of laches. Nor did this involve all lands of the California Indians. The payment is in the nature of a gift, equitable because the United States Senate failed to ratify an agreement with the Indians concerning those particular lands. The claims of the California Indians, based upon aboriginal title, is now in process of litigation. This suit also is based upon acquisition of the Indians' lands by the United States.

The subsequent plan of distribution of the rancheria land was considered with knowledge of the then recent action of Congress and of the Federal courts in subtracting from the amount to be given to the Indians of California, and thus to each such Indian, under the special act of 1928, the amount expended by the Government for all the rancheria land. The result, as Congress must have foreseen, was that some Indians, who would receive no share in rancheria land, had pro rata deductions made from their distributive share under the 1928 Act based upon the value of this rancheria land, where as others received the same amount and also will participate in the actual distribution of this off-set land. It should be noted that deductions were also made for other services rendered by the United States which did not directly benefit all.

A practical answer to this seeming inequity is that the Indians of California had the occupation of this rancheria land during a period when many of them needed it, which was the purpose of the legislation. Moreover, the rancheria distribution is generally regarded, even by the Indians, as the most satisfactory method of terminating this program of governmental aid. From a legal point of view, the acquisition by the United States of the rancheria land was for occupancy during a temporary period of Federal supervision. Congress has indicated that the program has now served its purpose. It is the sole judge of the extent of guardianship and of its duration. See *United States v. Hellard*, 322 U.S. 363, 367 (1944); *Lone Wolf v. Hitchcock*, 187 U.S. 553 (1903). Moreover, Congress can, under the Constitution, dispose of this property as it pleases, the property belonging to the United States as part of the public domain, U.S. Constitution, Art. IV, sec. 3, cl. 2; *Hallowell v. United States*, 221 U.S. 317 (1911); *Alabama v. Texas*, 347 U.S. 272 (1954).

It is also suggested that the legislation is so indefinite in its designation of beneficiaries as to be invalid. Congress recognized the difficulty of being specific (see Committee Report, *supra*). It concluded to distribute the property among the assignment holders or other Indians, now occupying the rancherias. The plan would designate the distribution. Although no Indian has a vested right in this land, Congress had provided that notice "of the contents of the plan" shall be given so that "any Indian who feels that he is unfairly treated in the proposed distribution of the property shall be given an opportunity to present his views and arguments for the consideration of the Secretary," (sec. 2 (b)) The Secretary has the power of approval or rejection of the Plan (sec. 10 (a)) Thus, the Secretary is Congress' delegated authority to determine whether the plan properly designates the beneficiaries. The Secretary also is authorized to issue the documents necessary to carry out the distribution. This delegation of power to the Secretary is no greater than that given him in many other cases providing for distribution of property to Indians. Regardless of Indian group or tribal action where distributees are members thereof, the Secretary is generally and properly authorized to determine whether the tribal membership roll is accurate. See *Stephens v. Cherokee Nation*, 174 U.S. 445, 490 (1899). In the cases in which deeds have so far been issued, there has been no doubt concerning

1886

DEPARTMENT OF THE INTERIOR

AUGUST 1, 1960

the beneficiaries, and no objection has been received to the plans formulated.

It is suggested that rights may have been acquired by other Indians in the property. If rights were acquired prior to purchase by the United States, those rights should be disclosed in the abstract. This was one reason for obtaining title insurance then. When passing upon conveyances under the Rancheria Act, title insurance will protect against any rights acquired prior to acquisition by the United States. Since the acquisition by the United States, rights in the property could not be acquired against the owner. "It is beyond the power of a state, either through statutes of limitation or adverse possession, to affect the interests of the United States " *U.S. v. 7,405.3 acres of land*, 97 Fed. 2d., 417 (1938).

In conclusion, the rancheria properties belong to the United States, in law and equity; the disposition of these rancheria properties has been properly undertaken by Congress in the method usually employed in the distribution of property among groups of Indians temporarily occupying United States property; and the method of determining distributees is clearly set forth, following the customary practice of delegating to the Secretary of the Interior the authority and responsibility of determining the individual Indian beneficiaries. This does not relieve a title insurance company from the usual responsibility, for which it is paid, of insuring a distributee's title against any defects not set forth in its policy of insurance.

ABBOTT,

Solicitor.

SALISBURY,

Assistant Solicitor,

Legal Activities.

GEORGE W.

The

By:

FRANKLIN C.

Indian

Exhibit T

008/030



IN REPLY REFER TO:
Tribal Operations
103.3 Big Lagoon

UNITED STATES
DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS
SACRAMENTO AREA OFFICE
2550 FAIR OAKS BLVD.
P.O. BOX 4775
SACRAMENTO, CALIFORNIA 95825

AIRMAIL

JUN 5 1968

Commissioner of Indian Affairs

Washington, D. C. 20242

Attention: Reservation Programs

JUN 7 10 10 AM '68
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C.

Sir:

The Plan for the Distribution of the Land and Assets of the Big Lagoon Rancheria, Humboldt County, California, was given conditional approval by the Commissioner of Indian Affairs on January 3, 1968. Pursuant to the Rancheria Act, as amended, and 25 U.S.C. 242.5, general notice of the contents of the distribution plan was properly given. Within the time provided for that purpose Mr. Axel Lindgren submitted a letter which we considered as a protest against the proposed distribution plan. Apparently it was written and mailed before the end of the last day of the 30-day period.

900

The Big Lagoon Rancheria was purchased in 1918 for the use of California Indians and was not set aside for any specific tribe, band or group of Indians. The residents have not formally organized and there is no official membership roll. Further, no allotments or formal assignments have been made to any individuals. In view of this, eligibility to participate as a voter and distributee was limited to those using the land as prescribed in 25 U.S.C. 242.3. Mr. Lindgren has never lived on the Big Lagoon Rancheria, although both he and his parents have resided in that general area and are known by the proposed distributees. In this connection the proposed distributees have re-affirmed their desire to finalize the plan as it now exists, without the addition of Mr. Lindgren. In the circumstances, we recommend that the protest be denied. We are enclosing copies of pertinent correspondence together with Mr. Lindgren's letter.

If we can provide you with additional information, we shall be glad to do so.

Sincerely,

ACTING Area Director

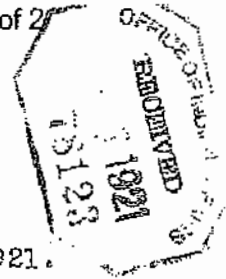
Enclosures: List attached

Enclosures with letter to Commissioner re protest by Axel Lindgren to Big Lagoon Rancheria Distribution Plan.

1. Copy of request to develop distribution plan dated July 28, 1967.
2. Copy of notice of intent to hold election with opportunity for persons to protest by October 21, 1967. No protests received.
3. Copy of Voting Roster and Election Results.
4. Copy of Conditionally Approved Distribution Plan.
5. Copy of publication giving general notice of plan with opportunity for any Indian to object by February 26, 1968.
6. Original of Axel Lindgren letter dated February 25, 1968, received by mail February 27, 1968. It was apparently written and mailed by February 26, 1968, within the 30-day period.
7. Copies of two BIA letters of inquiry to Mr. Lindgren, dated February 27, 1968 and March 26, 1968.
8. Originals of letters from Mr. Lindgren dated April 1968 and May 3, 1968, concerning formal protest.

Exhibit U

DEPARTMENT OF THE INTERIOR
UNITED STATES INDIAN SERVICE



Hoopa Valley Agency,
Hoopa, California, Sept. 20, 1921.

The Commissioner of Indian Affairs,
Washington, D. C.

Sir:

Lagoon Lumber Co.

There is enclosed, a letter from the Little River Redwood Co., of this county, relative to exchanging a tract of land near Trinidad for a certain tract that was purchased by the Department for use of Indians at Big Lagoon.

The statements contained in the letter are correct, to my knowledge. Lagoon Charlie, who lived on the land mentioned was being ejected by the Hammond Lumber Company, some years ago, and in order to save his home, this tract was bought from the fund appropriated for such uses. In the meantime, Lagoon Charlie died, and his widow and children moved to Trinidad, about ten miles distant, where they now reside. It is probable that a good tract of land near Trinidad would suit them better than the place at the Lagoon.

If the Office is willing that such an exchange should be made, I will ascertain the sentiment of the Indian family, and see that such land as may be offered is worth as much or more than the Lagoon tract. As the Lagoon tract now stands, there are no improvements there, but, of course if a mill were erected there, the land would acquire such value as would naturally accrue from its location. From such prospective increase in value, the Company would, no doubt offer a good trade at a place better suited to the use of the Indian family.

Very respectfully,

[Handwritten Signature]
Supt.

Exhibit V



UNITED STATES

DEPARTMENT OF THE INTERIOR
 Location: Humboldt County, West of Highway 55 near Big Lagoon
 Mail Address: Orick
 Tribal Organization - None
 Population 1945: 0 none 1951
 Land 9.26 acres

General notes from files:

Interview with Mrs. Sarah Sucker 6-14-1948. Lagoon Charley (or Charles) and wife were just people living on Big Lagoon. They raised 1 son and 2 daughters. James Charles (Charles) has daughter Mrs. Sarah Sucker, Violet Moon. Jimmy Charles - has 1 son James, Fred and Robert Charles. Frank Charles - dead. Major Charles Ernest Goff of Frank Brown, dead, lives in San Jose. Anna Turner mother of the Turner lives at Johnson.

Jimmy Charles built present building. He lived there after father and mother died. Mrs. Ed Sarah Sucker wants to move to Big Lagoon. She uses Cornelius Watt. Not Mrs. Sucker know at Box 53 Cornell (her daughter's home)

John Scott Jr. at Service Station at Stone Lagoon Orick Box 44. Interested in securing Big Lagoon Rancheria.

Letter from Milton M. Marks, Box 92, Orick, California Nov. 2, 1948:

"I would like very much to acquire the land there. To the best of my knowledge the land has been abandoned for at least 15 years and this buildings that still standing are neither inhabitable nor is the lumber in said buildings even useable."

Marks is a full blood Klamath

Charles letter from J. W. Knox, P. O. Box 191, Trinidad. Requests long term lease or purchase. Claims it has not been in active use for many years. At present a white family occupies it in tent and pays some Indians who claim to have a right there.

Notes from files:

Interview Robert Charles says 2 owners after mother died. He lived on place last year when 1948. Robert Charles, widow in San Quentin two of his children were out by grandmother, Katie Brown. She gets 400 and pension. Charles says he knows Robert, Robert and James, Fred James Robert loaned money to Fred Charles and claims his right because he didn't repay loan.

To begin with James Charles was assigned whole reservation, she constructed house, garage. He and wife family lived on reservation for many years. Living there when he was killed. Robert died 1943. Tom Williams, about 10, nephew of Mrs. Robert Charles, willing to pay 1000. Indian carried to him about an Indian woman. He had son, his wife and 1 child. Worked for someone about years. Address Trinidad, 2/5 Big Lagoon Park.

IN REPLY REFER TO:



Mr. Hill and Mr. [Name] visited [Location] on [Date]

DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

Recreation: 9 acres adjoining the lagoon on the south. About 1/4 mile from highway 101. Most of the land appears to be cultivable but hasn't been used for some time. There were a few small trees in an old abandoned orchard. The buildings are all but fallen down. Wouldn't make good scrap - no value.

Local white woman stated that Tom Williams is reported to have bought the property. Says that he occupied it in a tent in recent years.

Interview: Saw no one with any connection with the recreation.

Recommend: That the land be sold and funds given to heirs or turned over to California Indians, depending on policy adopted.

Tax Data - No lagoon: No available current sale value est - land surrounded by property of [Company Name] - the latter is said to desire acquisition for some time past. No comparable lands for purposes of estimates.

The estimated assessed value (by deputy assessor) is about \$10-\$15 per acre - not over \$25. Net total assessed value - \$120. Taxing district - Patrick's Point
Tax rate - 2.7%

Estimated tax revenue \$6.00 p.a.

GENERAL NOTES

Soils: Value - poor
Grading: fair
Water: little or no value

Physical character of land

Mineral cover: grassland
Soil: [unclear] over 20 inches
[unclear] [unclear] [unclear] [unclear]
[unclear] [unclear] [unclear] [unclear]
[unclear] [unclear] [unclear] [unclear]
[unclear] [unclear] [unclear] [unclear]
[unclear] [unclear] [unclear] [unclear]
[unclear] [unclear] [unclear] [unclear]

Exhibit W

TRIBAL RELATIONS
PAMPHLETS—1

Ten Years of Tribal Government Under I. R. A.

By THEODORE H. HAAS, Chief Counsel
United States Indian Service

UNITED STATES INDIAN SERVICE
1947

DEPARTMENT OF THE INTERIOR

J. A. KRUG, Secretary

UNITED STATES INDIAN SERVICE

WILLIAM A. BROPHY, Commissioner

WILLIAM ZIMMERMAN, JR., Assistant Commissioner

JOHN H. PROVINSE, Assistant Commissioner

Haskell Institute Printing Department
January 1947--10M

Additional copies of this pamphlet may be obtained from
United States Indian Service
Merchandise Mart, Chicago 54, Illinois

CONTENTS

Ten Years of Tribal Government under the Indian Reorganization Act.....	1
Table A. Indian Tribes, Bands and Communities which voted to accept or reject the terms of the I. R. A., the dates when elections were held, and the votes cast.....	13
Table B. Indian Tribes, Bands and Communities under Constitutions and Charters as approved by the Secretary of the Interior in accordance with the I.R.A., the Oklahoma Indian Welfare Act, the Alaska Reorganization Act.	21
Table C. Indian Tribes and Bands which accepted the I. R. A., but operate under constitutions adopted prior to the passage of the I. R. A.	32
Table D. Indian Tribes, Bands and Communities not under the I. R. A., which operate under Constitutions.....	34
The Indian Reorganization Act.....	35
Amendment to the Indian Reorganization Act.....	41
The Alaska Reorganization Act.....	42
The Oklahoma Indian Welfare Act.....	43

TEN YEARS OF TRIBAL GOVERNMENT

Under The Indian Reorganization Act

by Theodore H. Haas, Chief Counsel

THE INDIAN REORGANIZATION ACT (48 Stat. 984), one of the most important and comprehensive Indian laws, was adopted a few days before the close of the first Congress which convened in the administration of Franklin D. Roosevelt. Although approved by the President on June 18, 1934, none of the authorized appropriations became available until May 1935. Though the Act dealt with a wide variety of subjects including land, credit, education, Indian employment and tribal organizations, this article will be confined to a discussion of the self-government feature.

KLAMATH INDIANS FIRST PROPOSED INCORPORATION IN 1927

The first suggestion for the incorporation of tribes was advanced in 1927 by the Klamath Indian tribe of Oregon. Indians of other tribes, including Vice-President Curtis, a Kow Indian, contributed many ideas which were embodied in the bill. The Indian Reorganization Act was presaged by the enactment by Congress of the Pueblo Relief Act on May 31, 1933, prohibiting the Secretary of the Interior from spending moneys appropriated under that Act for the various Pueblos "without first obtaining the approval of the governing authorities of the Pueblo affected."

While the Indian Reorganization bill was pending in Congress, Commissioner Collier and some of his principal aides attended ten meetings in various parts of the country to discuss and consult with delegations from Indian reservations and with other Indians about the proposed legislation. These conferences constituted a new precedent. They symbolized a new relation between the Indians and the Indian Office which the Commissioner hoped would evolve. In lieu of administrative absolutism there would be developed between government officials and Indians a partnership in the determination of many policies. Instead of the superintendents or Washington officials deciding everything, there would be an area for local self-government. If the Indian councils proved capable and faithful to their trust, they would be delegated additional power by the Secretary.

Under the terms of the Indian Reorganization Act power of approval or veto over the disposition of all tribal assets was given to the Indian tribes. It also authorized them to take over control of their own resources and to con-

more control and an ability to direct their affairs. Other enumerated powers were the right to employ legal counsel (subject to the approval of the Secretary of the Interior with respect to the choice of counsel and the fixing of fees), the right to negotiate with federal, state and local governments, and the right to be advised of all appropriation estimates affecting the tribes before such estimates are submitted to the Bureau of the Budget and Congress.

When a tribe is ready to draft its constitution, a constitutional committee of representative tribal members is chosen. It is the duty of this committee to draw up a constitution which will fit the needs of the tribe. The Department offers its assistance in the preparation of such documents, but only to the extent that such assistance is required. Scrupulous care is exercised to see that the document as drafted represents the wishes of the Indians.

When the constitutional committee has completed its draft and is ready to present the constitution to the tribal members for a vote, an election is requested by the constitutional committee or by a petition signed by one-third of the adult members of the tribe. The calling of this election is mandatory upon the Secretary of the Interior when the request is made in the manner prescribed by law. Thus a tribe may vote repeatedly upon the question of adopting a constitution, in those cases where such elections have failed to carry. It is not within the Secretary's discretion to determine whether or not the election shall be called.

CONSTITUTIONS AND BY-LAWS SUBJECT TO AMENDMENT

The constitution and by-laws when ratified by majority vote of the adult members of the tribe or of the adult Indians residing on the reservation, as the case might be, and approved by the Secretary of the Interior, could be revoked by an election open to the same voters and conducted in the same manner. Amendments may be ratified by the tribe and approved by the Secretary in the same manner as the original constitution and by-laws. The Act also provided that it should not be applicable to any reservation wherein a majority of all of the Indians entitled to vote, voted against its application. The original act provided that elections had to be called on the Act within one year after its approval. However, by the Act of June 15, 1935, this period was extended another year. The amendment to the act modified this rule so as to require a majority of those voting in an election in which not less than 30 per cent of those entitled to vote actually vote. Although many provisions of the statute did not originally apply to the Territory of Alaska or the State of Oklahoma, the Act of May 1, 1936, (49 Stat. 1250) and the Act of June 26, 1936, (49 Stat. 1967) extended the main provisions of the Indian Reorganization Act, with minor modifications, to Alaska and to Oklahoma.

organization Act should apply to the reservations, which extended from 1934 to 1936, 258 elections were held. The Oklahoma and Alaska Indians were not concerned in these elections as they were automatically brought under the law. In this balloting, 181 tribes (representing 129,750 Indians) voted to accept the law and 77 tribes (86,365 Indians) rejected it. About half of the latter were members of the Navajo Tribe (45,000) which rejected the act by a close vote.

At the present time there are 195 tribes, bands, and communities, or groups thereof, which are under the Indian Reorganization Act, excluding Indians in Oklahoma and Alaska. The Act applies to 14 groups of Indians who did not hold elections to exclude themselves from the application of the act.

On October 4, 1935 the first constitution prepared in accordance with the Indian Reorganization Act was adopted by the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, by a vote of 549 to 123. It was approved by Secretary Ickes on October 28, 1935. Shortly thereafter constitutions were adopted and approved by the Rocky Boy's, Lower Brule and Fort Belknap Reservations. Ninety-three tribes, bands or Indian communities in the United States have adopted constitutions and by-laws, and seventy-three have been granted charters, permitting them to operate as business corporations.

Many constitutional provisions are substantially the same, notably those designed to enable the tribes to take advantage of the specific powers and benefits provided for in the Act. There are wide variations, however, in the provisions regarding tribal membership, the governmental organization, the safeguards available to individual members, the methods of handling tribal business and the extent of the supervision of the Secretary of the Interior.

TRIBAL GOVERNMENT TAKES MANY FORMS

While formal tribal organization has taken many forms, some governments have been adaptations of earlier tribal organizations. Some have merged the old and new forms and provided for a modern council and at the same time invested the chieftains with some power. A few organizations like the Minnesota Chippewas are confederacies.

After adopting a constitution and by-laws a tribe may, in accordance with section 17 of the Indian Reorganization Act, request the Secretary to issue a charter to the tribe. This request is made in the form of a petition signed by one-third of the adult Indians. The charter must be ratified by the tribe in a special election called by the Secretary. As in the case of the constitution, the calling of an election on the charter is mandatory when a petition is presented to the Secretary. A charter thus issued by the Secretary and ratified by the tribe may not be revoked or surrendered except by an Act of Congress.

CHARTERED TRIBES DEFINE BUSINESS CORPORATIONS
Most tribes subsequently supplemented their constitutions and by-laws by adopting charters. The Indian Reorganization Act provides for the issuance to organized Indian tribes of charters containing such powers as are incident to the normal functioning of a business corporation, such as capacity to make contracts, to adopt and use its corporate seal, to sue and be sued in courts of competent jurisdiction, and other powers as set forth in the following language of section 17: "to purchase, take by gift, or bequest, or otherwise, own, hold, manage, operate and dispose of property of every description, real and personal, including the power to purchase restricted Indian lands, and to issue in exchange therefor interests in corporate property, and such further powers as may be incidental to the conduct of corporate business, not inconsistent with law,".

The exercise of corporate authority by a tribe is limited in certain respects by specific prohibitions against any sale, mortgage, or a lease for more than ten years, of any land within the reservation boundaries. The grant of a charter is made to enable a tribe more effectively to utilize the powers which it already possesses as an organized body, (55 I. D. 14), in promoting the welfare of its members. It bestows legal responsibility upon the organization and it adds weight to the legal status of the government body charged by the members with the duty and authority to administer the tribe's powers.

TRIBAL POWERS LIMITED

Neither the constitution and by-laws nor a corporate charter give the Tribal Council power to control the conduct of members of the tribe except in respect for the matters set forth therein. They do not interfere with the pursuit by the members of their own private objectives except in such ways and to such an extent as the members themselves have agreed. They do not interfere with allotment rights or shares in tribal benefits. The property with which the Tribal Council may deal is only the property of the tribe as a whole, not that of the individual members. Several tribes, which have constitutions but failed to ratify charters, have recently ratified charters, and thus have become eligible for loans under the revolving credit fund.

Many tribal governments are approaching the end of the first decade of their operation. To some tribes with corporate charters the end of the first ten years has a special significance. Most of the I. R. A. charters provide that after the charters have been in effect for a specified period of years certain supervisory powers of the Secretary of the Interior may be terminated by action of the tribal council, the Secretary and the tribe. In some charters the supervisory powers of the Secretary may be terminated after a period of five years. If the Secretary disapproves the request for termination by the tribal council, the council may be freed from this supervision if two-thirds of the eligible voters of the tribe concur.

SOME DIFFICULTIES OF TRIBAL GOVERNMENT

Before the various aspects of tribal governments are discussed, some of their difficulties, past and present, will be reviewed under the following headings:

1. Federal Indian Policy.
2. Institutional opposition to tribal government within the Indian Office.
3. Lack of familiarity among the Indians with white culture.
4. Misunderstandings and misinterpretations of the Indian Reorganization Act.
5. The war.
6. Abolition of the direct governmental services to tribal government.

1. **Federal Indian Policy.** Until comparatively recently the policy of the Federal Government has been to convert the Indian to the conventional land owning white farmer. The first step consisted in an attempt to break up tribal assets into individual allotments, to terminate historical tribal governments, and to suppress Indian customs and tribal laws. As a result some tribal governments had virtually disintegrated or had lost a great deal of their original vigor and importance. Broken treaties and promises, and harsh to cruel treatment naturally caused many Indians to feel varying degrees of hostility to the white race. The suspicion was ingrained that any new policy which might be started by the government was motivated by a desire to aid the whites and hurt the Indians. Since Indians were denied their natural way of life, the government had to establish the odious ration system which sapped initiative and resourcefulness. Many of the Indians became dependent upon government aid as a consequence. A tradition of need for assistance therefore has been developed among many who have experienced long periods of dependency on rations or other government assistance as well as unemployment or partial employment.

2. **Institutional opposition to tribal government within the Indian Office.** When the Indian Reorganization Act was enacted in 1934 a large number of Indian Service officials, including superintendents and chiefs of divisions in the agencies and central office, were skeptical of its success; in fact there were some who did not believe in Indian self-government. During several previous decades some important officials of the Service were luke warm, or even unfriendly to many tribal councils. These employees, consciously or unconsciously, relegated Indian organization to the background. They absented themselves from council meetings.* Indian leaders frequently were not advised of reservation programs and other important facts. Often they were not consulted in the formulation of reservation plans. The attitude of the local administration in such cases may be likened to that of a colonial administrator who feels a keen sense of duty as a superior over an inferior people whose

*Some superintendents who were sympathetic with self-government did not attend tribal council meetings unless asked, because they did not wish to influence the council.

the Indians did not appear to handle their own affairs, though prompted by high motives, may result in a display of paternalism towards the Indians which they will deeply resent. Any mistakes of tribal governments, which supported the preconceived idea that Indians were unfit, loomed large. Achievements, by the same mental process were forgotten. Fear was manifest among a few that their own power would be to a great extent jeopardized by another body having something to say about the management of the reservation. They betrayed an obvious annoyance when the council made recommendations concerning matters which they regarded as peculiarly a governmental responsibility, one within their purview, of course. While there has been great progress, there is still room for improvement.

3. Lack of familiarity among the Indians with white culture. With the exception of a comparatively few tribes and individual Indians, American Indians are among the most economically depressed groups in the country. Educated Indians and those experienced in white methods often leave the reservation. While there has been a great improvement in the amount of education which most Indians receive, it is still several years less than that of most whites in neighboring communities. This leaves a dearth of educated leadership to carry on at home. Also the inability of many of the older Indians to understand English and many of the younger Indians to understand their native Indian tongue adds additional barriers. Lack of understanding and cooperation between the new and the old generation, an inevitable consequence in a rapidly changing culture, is often used to keep Indians in a divided status. Indians in some states are disenfranchised, and even in states where they vote, nowhere, save possibly in the State of Oklahoma, are many Indians elected or appointed to important offices. All these factors indirectly reflect on local Indians. For example most Indian councilmen had little experience in local government or in political matters generally prior to the institution of self-government on the reservation. Deeply frustrated groups are often plagued by internal rivalry and factionalism. Scapegoats are often sought. The Indians' plight is blamed on a person, a Bureau or a statute. The Commissioner of Indian Affairs, the Indian Office, the Superintendent, the Council or the I. R. A. may be attacked as the cause of all woes.

4. Misunderstandings and misinterpretations of the Indian Reorganization Act. Prior to the enactment of the Indian Reorganization Act during the early discussions of it, there was some condemnation by the delegates attending regional-held meetings over the country, based on misunderstanding of the probable effect of the statute, or on reasons not connected with the proposed legislation. As was to be anticipated, some opponents of the new administration including selfish vested interests, conducted a nation-wide campaign of false propaganda to defeat the measure. Real estate interests which had been acquiring Indian lands by devious methods, and stockmen and lumber

to protect their own resources, waged a campaign designed to perpetuate their privileges, often through hired Indians. Fantastic rumors were spread, such as: the bill was designed to deprive the Indians of the interests in their lands, to take away their allotments and communize them, to put the church out of business, and forbid missionaries to work among the Indians. For example, the Navajo Tribe rejected the act by a close vote because many voted in the negative, misadvised that its adoption would result in the confiscation of their sheep and goats by the government. Even before the voting was over there was started the first periodic drive by whites to scuttle the I.R.A., abolish the Indian Service, and terminate Federal guardianship over resources. This drive has recurred periodically. Another method of attack is to resort to litigation to vacate sentences of tribal courts imposed for violations of tribal ordinances.

5. The war. Since most Indian reservations are in rural, thinly populated regions, the difficulties of transportation within recent times have greatly added to the problem of communication so necessary to unity, between Indian leaders on and off the reservations. Various meetings, including those called by the Indian Service to exchange ideas and diffuse knowledge helpful to tribal organization, have been stopped because of travel restrictions and cuts in appropriations. Many courageous and able leaders were in the armed services or defense industries. Many have recently returned and are again playing a vital role in tribal affairs.

6. Abolition of direct governmental services to tribal government. The field staff of the Organization Division, all of whom were Indians, selected for their zealous espousal of Indian participation, stimulated tribal self-government. The failure of Congress to appropriate money for this work has retarded the development of tribal organizations on some reservations.

ACHIEVEMENTS OF TRIBAL GOVERNMENT

The achievements of tribal governments despite the difficulties which I have briefly enumerated have nevertheless been a long step forward. On some reservations work in tribal self-government has been laudable. Most tribal councilmen are seriously endeavoring to exercise their powers wisely and thoughtfully, because they have a stake in the final outcome. On this very principle the government predicates its whole program of self-government, namely that people who are most active in the making of their government will in the long run do most to perfect it. A resume of the accomplishments of tribal governments will prove this thesis.

I. Self-government and the war. Enemy propaganda has sought, according to reports, to exploit the weakest link in our political and economic system. Failure to live up entirely to the American creed of brotherhood and equality has been assailed, particularly in connection with minorities. Persons of Indian ancestry have been included. While sowing the seeds of prejudice

It is argued that the United States had broken treaties with the Indians and impoverished them by reducing the area and quality of their land. Such propaganda for many reasons has had little effect on the American Indian. Even before the outbreak of the war with Germany and Japan some Indian tribes like the Confederated Tribes of the Warm Springs Reservation of Oregon passed resolutions denouncing this propaganda.

There is no doubt that the gradual increase in self-government among the Indians during the last decade has contributed much toward overcoming historical bitterness and mistrust felt by some Indian groups against the United States. This has been evidenced by Indian leaders who frequently expressed their patriotism by speeches and deeds. Tribal councils invested over two million and a half dollars of funds in war bonds besides making sizable contributions to the Red Cross. Moneys were also set aside by some tribes to make loans to tribal members to pay transportation and tuition to trade schools in order to prepare members for defense work. A considerable amount of tribal land was permitted, leased or sold to the United States government for war purposes.

2. Management of tribal resources. One of the major functions of tribal councils is the management of tribal property. However, on allotted reservations containing little tribal land or other tribal resources, some tribal councils found it difficult to maintain interest in self-government after the novelty of elections had worn off. Some of the Lake States with meager tribal assets emphasized social and recreational activities. In other similar situations, as for example in the State of Oklahoma, the councils were mainly concerned with loans, leases, rehabilitation and relief. The chairman of the Caddo Council, by July 1940, intimated that the tribal revolving credit fund had enabled almost one-third of the tribal membership to be rehabilitated and taken off direct relief.

Tribal councils on the whole have exercised good judgment in controlling their resources. Tribal funds have been used to acquire fractionated heirship lands, to make loans for the purchase of land, livestock and equipment for individual members, and for tribal enterprises, such as livestock cooperative associations, tribal farming enterprises (including the producing of hay on tribal land), producers and consumers co-operatives, and arts and crafts organizations. Group action through corporations and cooperatives has increased the utilization of Indian resources. When the resources are owned by the tribe, the benefits of the enterprise accrue to members of the tribe as a whole. Prior to the passage of the I.R.A., only a handful of livestock associations were organized. Now they have increased in strength and number totaling about 160 cooperative livestock associations. Approximately 40 per cent of the Indian-owned beef cattle is managed by livestock associations which

have played an important role in improving breeding and management practices, range control, and feed production and cooperative sales. They have not only materially increased the income derived from the sale of cattle but they have enabled the Indians to utilize more fully the range lands, including the forestry areas suitable for grazing, aggregating approximately 80 per cent of the total Indian land resources.

In the initial stages of these enterprises supervision is usually given by Indian Service personnel to insure efficient operation and protection of the loan of the Federal Government. When the enterprise has created a sufficient surplus to insure its repayment, supervision is gradually relinquished until full responsibility is finally assumed by the Indians. Unfortunately this process is often slow.

Land management laws dealing with assignment, leasing, permitting and use of tribal lands also have been passed. Unfortunately economic plans for the use of Indian property are sometimes made by Indian Service officials with little or no participation by the Indians. Nevertheless, in my opinion there has been a slow but gradual increase in the amount of consultation by government officials with Indian leaders in the framing of policies. It is becoming recognized that a plan, no matter how idyllic, which is not favored by the people affected may be doomed to failure.

An increasing number of ordinances have been enacted by tribal councils to protect fish and wildlife, to provide a better and more equitable use of tribal land, and to conserve tribal land from overgrazing. For instance, recently the Papago Tribal Council enacted ordinances reducing excessive stock on tribal lands and eradicating horses infected with dourine. The White Mountain Apaches have appropriated money to round up wild horses.

The power to approve loans from revolving credit funds to members has been granted to the Flathead Tribe. It is reported that on the whole the tribal loan committee has been successful. In a few jurisdictions there had been abuses of the power to control certain tribal assets and distribute funds. A few tribal treasurers have misused funds and councilmen, in instances, have appropriated to their own use substantial sums by paying larger per diems or for excessive travel. Others have favored relatives and friends. But these are only the exceptional cases.

3. Social welfare and education. Some tribes having conducted very extensive home improvement and public works programs, are thus beginning to supplement the work of the government in the field of social service. The Apache Tribe of the Mescalero Reservation in New Mexico has constructed houses for each of the families. Tribal loans have been given Indians requiring special medical attention not available at local government hospitals. In addition, committees have assisted in health, education and relief. In a few places the whole relief program has been financed by the

tribe. Almost thirty councils have included a compulsory education section in their law and order code and three councils have adopted special compulsory education ordinances. Tribal funds have been used to employ truant officers.

The Makah Tribe of the Makah Indian Reservation, Washington, bought from the United States Government an abandoned construction camp no longer needed by the U.S. Engineers. Under the direction of a tribal council almost entirely composed of fullbloods, 64 new dwellings were moved to the Village of Neah Bay, the most populous village in the reservation, and about 250 members of the tribe secured vastly improved homes as a result. Twenty-four other buildings are utilized as boat houses, garages, wood shacks and other purposes. About \$60,000 of tribal funds was expended on the buildings and their removal.

4. **Law and order.** Under the revised law and order regulations promulgated by the Department soon after the passage of the Indian Reorganization Act, Indian Service officials are prohibited from controlling, obstructing or interfering with the functions of the Indian courts. Many councils have adapted their own law and order codes for their reservations which, after Secretarial approval, supersede the general regulations. Indian judges, while not always meticulous in following the proper procedure, have usually been conscientious and able in dispensing justice. Yet there is room for improvement in this field. The remuneration of Indian judges and Indian police is very low. Their training in law and procedure is often slight.

5. **Miscellaneous.** Tribal governing bodies besides those mentioned above have also enacted ordinances and resolutions dealing with a wide variety of other subjects. These include the correction of census rolls, the adoption and abandonment of membership, domestic relations including adoption, marriage, divorce and the appointment of guardians, inheritance, taxation and licensing, and tribal organizations and procedure. Variations in legislation will depend upon many facts, such as the power vested in the tribal councils by the tribal constitution, the local conditions and the calibre of the tribal officials. In distant Alaska the council of the native village of Noatak passed ordinances dealing with building permits, the making of wills and the straying of dogs.

6. **Medium for communication.** Ignorance breeds many ills. Maladministration, misunderstanding, and the dissemination of misinformation result when the channels of communication break down or are defective. The isolation of many reservations makes the transmission of developments in the Service of special importance. One of the major problems of the local agency administration is to diffuse a knowledge of its policies and of other important facts to local personnel and others principally affected.

Tribal leaders having a responsibility of conveying the news to their

people should be kept advised of matters of importance to the Indians. Tribal councils offer an excellent medium for the transmittal of this information. Furthermore, by conferences involving the council, the superintendents, and other government officials, an opportunity is afforded to become acquainted with Indian leaders and vice versa.

7. Recommendations. Community government also furnishes a means whereby administrators may know the opinions, hopes and aspirations of the Indians. Officials who are inclined to resent recommendations of Indian councils which they consider are in a field outside of the jurisdiction of the council are treading on doubtful ground. It is not uncommon for state legislatures, municipal councils and even Indian Service superintendents to pass resolutions concerning matters outside of their purview. Tribal councils who might do likewise should not be discouraged. Administrators should appreciate the insight gained thereby into Indian thinking. An ability to vocalize a complaint constitutes an emotional outlet of distinct social value.

A provision of the Indian Reorganization Act whereby the tribal councils were authorized to advise the Secretary of the Interior with regard to all appropriation estimates of Federal projects for the benefit of the tribe has apparently been disregarded in part because of the administrative difficulties involved. I believe that explaining to the councils these estimates and securing their views would be a very important educational process for both the Indian and the government personnel. An important step has already been taken. Budgets involving the use of tribal funds are discussed with the appropriate tribal council.

~~**8. Improvement.** Many effective and modern procedures have been established by councils in the conduct of business affairs and meetings. Tribal offices are now in evidence, some in the agency building and others in a separate tribal building. The number of persons who go to these tribal offices for assistance on some jurisdiction exceeds those who visit the agency.~~

Most of the Indians have also increased their knowledge of their constitutions and charters. There are still, however, many questions of interpretation of these documents which sometimes test the ingenuity of lawyers. Some tribal officials have been accused of violating provisions of their constitutions. Such actions may violate the Law and Order Code, in which case a remedy lies through a complaint to the tribal court. In others, recourse may be found in the impeachment or recall of the official, where the constitution provides for such remedies. Finally the electorate has, in all cases, the ability to elect new officials on the next election day.

9. Tribes not organized under the I. R. A. Four tribes which voted to come under the Indian Reorganization Act are operating under constitutions not under the Act.

Thirteen tribes which are not under the Indian Reorganization Act are

operating under constitutions. Eight of these constitutions have been approved by the Commissioner of Indian Affairs. The governing body provided for in some of these constitutions has considerable power. In other constitutions the powers are meager.

Under the present law, tribes which are not under the Indian Reorganization Act, cannot come within its provisions, and tribes which are under the Act cannot exclude themselves from its provisions.

10. Relation between Indian self-government and world peace. Democracy in many parts of the world is on the march; a march that is increasing in tempo. The economic income of oppressed people throughout the world has become a concern for all and is receiving widespread attention. World peace is linked up with the attainment of more self-government, the decline of imperialism and the elimination of general poverty. Colonial people everywhere are looking hopefully to the United States Government. It is especially important that this country demonstrate the sincerity of its ideals and its ability to effectuate them. On every front this must be exemplified by the increasing substitution of local self-government even on the smallest reservations, for bureaucratic control. The Indian Office, together with tribal councils, by increasing the standard of living of depressed Indian groups and achieving a high measure of self-determination, will be in the vanguard of the movement for greater economic and political democracy.

Table A

**Indian Tribes, Bands and Communities
Which Voted to Accept or Reject the Terms
of the Indian Reorganization Act,
the Dates When Elections Were Held,
and the Votes Cast**

STATE	RESERVATION	POP.	VOTING POP.	TOTAL YES	VOTES NO	ELECTION DATES
ARIZONA						
Colorado River Agency:						
	Colorado River	705	365	119	8	Dec. 15, 1934
	Fort Mojave	432	265	102	8	Dec. 15
	Cocopah	32	18	4	0	Nov. 17
Fort Apache Agency:						
	Fort Apache	2,718	1,340	726	21	April 27, 1935
Papago Agency:						
	Gila Bend	228	120	18	0	Dec. 15
	Papago	5,146	3,028	1,267	166	Dec. 15
	San Xavier	525	283	158	22	Dec. 15
Pima Agency:						
	Fort McDowell	205	111	65	7	Oct. 27, 1934
	Gila River	4,659	2,308	1,188	116	Dec. 15
	Salt River	1,049	592	194	66	Dec. 15
	Ak Chin	179	87	53	15	Dec. 15
San Carlos Agency:						
	San Carlos	2,843	1,473	504	22	Oct. 27
Hopi Agency:						
	Hopi	2,538		519	299	June 15, 1935
Truxton Canon Agency:						
	Havasupai	201	106	72	3	June 15
	Hualapai	451	256	37	22	June 15
	Camp Verde (Yavapai Apache)	451	259	112	20	Dec. 15, 1934
	Navajo Agency (Arizona, New Mexico)	43,135	15,900	7,608	7,992	June 14-15
CALIFORNIA						
Colorado River Agency:						
	Fort Yuma (Quechan)	819	402	192	32	Nov. 17, 1934
Hoopa Valley Agency:						
	Hoopa Valley Reservation	554	240	8	174	Dec. 15
	Klamath River	925	375	38	256	Dec. 15
*Coatz Valley						
	Rancherias:	411				
	Smith River		41	1	31	June 14, 1935
	Crescent City		8	6	0	June 14
	Phonerville		9	1	5	June 14
	Table Bluff		26	0	10	June 14
	Trinidad		4	4	0	June 14
	**Blue Lake	No Votes				June 14
Mission Agency:						
	Augustine	14	13	0	6	Dec. 18, 1934
	Cobezon	29	17	0	7	Dec. 18
	Cahuilla	107	69	3	33	Dec. 18
	Compe	135	73	7	18	Dec. 18
	Capitan Grande (Including Barona)	140	87	37	35	Dec. 18
	**Cuyapaipe	No Votes				Dec. 18
	Inaja	33	22	0	15	Dec. 18
	Laguna	3	1	1	0	Dec. 18
	Lajolla	221	145	28	68	Dec. 18
	La Posta	3	3	2	0	Dec. 18
	Las Coyotes	88	52	3	37	Dec. 18, 1934
	Manzanita	67	36	3	0	Dec. 18
	Mesa Grande	218	119	9	64	Dec. 18
	Pala	205	121	7	66	Dec. 18

*Indians residing on lands purchased from I.R.A. funds. Group is organized under the I.R.A.
 **Act applies since Indians did not vote against its application.
 ***Act applies since less than 30 percent of eligible voters participated in the election.

STATE	RESERVATION	POP.	VOTING POP.	TOTAL VOTES YES NO	ELECTION DATES
	Mission Creek	20	10	0 3	Dec. 18
	Marango	292	173	25 79	Dec. 15
	Palm Springs	50	31	4 16	Dec. 15
	Pauma	69	37	0 23	Dec. 15
	Pechanga	216	156	14 48	Dec. 15
	Rincon	181	114	22 58	Dec. 15
	San Manuel	40	25	2 10	Dec. 15
	San Pascual	9	3	2 1	Dec. 15
	Santa Rosa	50	32	3 13	Dec. 15
	Santa Ynez	90	48	20 0	Dec. 15
	Santa Ysabel	237	122	14 47	Dec. 15
	Soboba	122	76	6 57	Dec. 15
	Sycuan	35	23	6 16	Dec. 15
	Tarres Martinez	198	117	11 66	Dec. 15
Sacramento Agency:					
	Alexander Valley		14	14 0	June 11, 1935
	Alturas		13	6 5	June 8
	Auburn		36	5 16	June 14
	Berry Creek		49	0 26	June 12
**	Big Bend	No Votes			
	Big Sandy		38	1 25	June 8
	Big Valley		46	21 4	June 8
	Cache Creek		15	7 3	June 8
	Buena Vista		4	2 0	June 12
**	Cedarville	No Residents			
	Cloverdale		20	10 0	June 11
	Cold Springs		47	0 23	June 8
**	Colfax	No Residents			
	Copasa		36	25 1	June 12
	Cortina		20	12 0	June 12
	Coyote Valley		8	0 1	June 10-30
	Dry Creek		49	8 17	June 10-30
	East Lake (Robinson)		46	19 13	June 8
	Enterprise		29	7 17	June 12
	Fort Bidwell		41	27 2	June 8
	Guideville		25	14 1	June 10
	Grainstone		27	11 0	June 14
	Hopland		56	28 3	June 10
	Jamestown		5	0 5	June 11
	Jackson		3	3 0	June 12
	Laytonville		29	7 11	June 10
	Likely		30	19 1	June 8, 1935
	Lookout		12	6 2	June 8
**	Lytton	No Residents			
	Manchester		46	30 0	June 11
	Middletown		13	10 0	June 8
**	Millerton	No Residents			
	Mooretown		43	0 34	June 12
	Montgomery Creek		7	5 2	June 10
	Nevada City		18	6 2	June 14
	Northfork		6	0 4	June 10
	Postenta		26	17 0	June 10
	Picayune		11	3 7	June 10
	Pinoleville		51	29 1	June 10
	Pitt River		2	0 2	June 10
	Potter Valley		26	10 3	June 10
	Redding		12	2 4	June 11
	Redwood Valley		18	16 0	June 10
	Rumsay		11	10 0	June 12
**	Santa Rose	Indians refused to Hold Election			

STATE	RESERVATION	POP.	VOTING POP.	TOTAL YES	TOTAL NO	ELECTION DATES
**	Sebastopol	No Residents				
	Scotts Valley		17	0	10	June 8
	Sheep Ranch		1	1	0	June 12
	Sherwood		35	10	12	June 10
	Shingle Springs		3	0	3	June 13
	Stewarts Point		-70	51	10	June 11
	Strawberry Valley		10	0	6	June 14, 1935
	Sulphur Banks		20	11	7	
	Susanville		9	6	0	June 12
	Table Mountain		16	2	10	June 8
**	Strathmore	No Residents				
	Taylorville		4	2	0	June 12
	Tuolumne		40	37	0	June 11
	Tule River	186	94	50	2	Nov. 17, 1934
	Upper Lake		36	7	4	
	Wilton	40	14	12	0	June 15, 1935
	Round Valley (Covele)	827	458	138	36	Nov. 17, 1934
COLORADO						
Consolidated Ute Agency:						
	Southern Ute	389	129	85	10	June 10, 1935
	Ute Mountain	445	225	9	3	June 12
FLORIDA						
Seminole Agency:						
	Seminole	580	295	21	0	March 30
IDAHO						
Northern Idaho Agency:						
	Coeur d' Alene	634	203	76	78	Nov. 17, 1934
	Kalispel	88	38	29	2	Nov. 17
	Nez Perce	1,399	608	214	252	Nov. 17
Fort Hall Agency:						
	Fort Hall	1,839	971	375	31	Oct. 27
IOWA						
Tamah Agency:						
	Sac & Fox	419	198	63	13	June 15, 1935
KANSAS						
Potawatomi Agency:						
	Iowa	498	245	115	3	June 15
	Kickapoo	308	151	74	16	June 15
	Sac & Fox	99	49	32	3	June 15
	Potawatomi	955	469	198	122	June 15
LOUISIANA						
Choctaw Agency:						
	Chitimacha	128	35	25	3	May 14
MINNESOTA						
Consolidated Chippewa Agency:						
	Fond du Lac	1,298	725	167	28	Nov. 17, 1934
	Grand Portage	377	179	75	4	Oct. 27
	Leech Lake	2,076	961	375	60	Oct. 27
	(Cass Lake & Winnibigoshish, White Oak Point)					
	White Earth	8,059	4,169	1,122	245	Oct. 27
	Nett Lake (Boise Fort)	627	317	159	7	Oct. 27
Red Lake Agency:						
	Red Lake	1,968	820	418	24	Nov. 17
	Pipestone School	552	271	94	2	Nov. 17
	Lower Sioux					
	Granite Falls					
	Prairie Island					
				Voted as one group		

STATE	RESERVATION	POP.	VOTING POP.	TOTAL YES	VOTES NO	ELECTION DATES
MICHIGAN						
Great Lakes Agency:						
	L'Anse		558	413	8	June 17, 1935
	Bay Mills		95	42	25	June 17, 1935
	Hannahville			47	3	June 17, 1935
	Ontonagon		Voted with L'Anse			
Tomah Agency:						
	Isabelle (Swan Creek-Black River-Saginaw)		424	237	112	June 17
MISSISSIPPI						
Choctaw Agency:						
	Choctaw	1,792	736	218	21	March 30
MONTANA						
Blackfeet Agency:						
	Blackfeet	3,962	1,785	823	171	Oct. 27, 1934
Flathead Agency:						
	Flathead	2,964	1,218	494	166	Dec. 15
Fort Belknap Agency:						
	Fort Belknap	1,367	604	371	50	Oct. 27
Rocky Boy's Agency:						
	Rocky Boy's	676	344	179	7	Oct. 27
Tongue River Agency:						
	Tongue River	1,541	757	418	96	Oct. 27
Crow Agency:						
	Crow	2,082	982	112	689	May 18, 1935
Fort Peck Agency:						
	Fort Peck	2,663	1,027	276	578	Dec. 15, 1934
NEBRASKA						
Winnebago Agency:						
	Omaha	1,642	807	212	17	Oct. 27
	Ponca	392	192	64	4	Nov. 17
	Santee	1,277	627	260	29	Nov. 17
	Winnebago	1,187	583	133	52	Oct. 27
NEVADA						
Carson Agency:						
	* Duckwater (Shoshone)					
	Fort McDermitt	273	89	73	2	Nov. 17
	Pyramid Lake	549	277	151	54	Dec. 15
	Summit Lake	64	14	10	4	May 24, 1935
	Reno-Sparks	205	95	53	5	June 10
	Dresslerville	170	75	58	1	June 10
	Lovelock	134	45	31	10	June 11
	Winnemucca	35	26	15	0	June 11
	Battle Mountain	28	14	9	0	June 14
	Elko	73	40	34	0	June 14
	Ely	64	35	8	6	June 17
	Moapa River	158	84	42	3	Nov. 17, 1934
	Las Vegas Tract	40	22	10	2	May 17, 1935
	Big Pine	20	11	0	11	June 11
	Bishop	171	93	1	68	June 11
	Fallon	426	247	39	74	May 17
	Ft. Independence	74	49	4	29	May 24
	Indian Ranch	28	8	8	0	May 14
	Red Hill		19	1	12	May 11
	*** Walker River	492	301	37	41	Nov. 17, 1934
	West Bishop		14	1	9	June 11, 1935
	Yerington	72	51	31	3	June 15
	*Yomba					

STATE	AGENCY	POP.	VOTES		ELECTION DATES
			YES	NO	
WEST VIRGINIA	Western Shoshone Agency:				
	Duck Valley (Shoshone-Paiute)	516	383	191	12 Oct. 27, 1934
	Gandy	6	4	4	0 May 5, 1935
	Goshute	155	81	21	0 May 14
	Skull Valley	41	21	9	5 Nov. 21, 1934
NEW MEXICO	Mescalero Agency:				
	Mescalero	722	367	273	11 Dec. 15
	United Pueblos Agency:				
	Acama	1,125	597	283	0 Dec. 15
	Cochiti	305	167	121	0 Dec. 15
	Isleta	1,103	567	138	7 June 17, 1935
	Jemez	677	351	84	178 June 17
	Laguna	2,271	1,315	776	66 Oct. 27, 1934
	Nome	128	72	52	1 Dec. 15
	Picuris	117	59	51	0 Oct. 27
	Pojoaque	9	8	7	0 April 13, 1935
	Sandia	129	69	15	0 Dec. 15
	Son Hdefonso	126	62	57	4 April 13
	Son Felipe	596	331	224	0 June 17, 1935
	Son Juan	561	280	243	0 Dec. 15, 1934
	Santa Ana	241	148	100	0 June 17
	Santa Clara	400	200	134	34 April 13
	Santa Domingo	866	476	171	1 June 17
	Sia	189	92	82	0 June 17
	Taos	745	402	303	36 Oct. 27
	Tesuque	123	71	67	0 Dec. 15
Zuni	2,051	1,066	505	40 Nov. 17, 1934	
NEW YORK	New York Agency:				
	Allegheny		548	37	298 June 10, 1935
	Cattaraugus		864	101	475 June 14
	Cornplanter (Pennsylvania)			23	17 June 15
	Onondaga		350	17	206 June 15
	St. Regis		800	46	237 June 8
	Tonawanda		338	42	175 June 11
	Tuscarora		225	6	132 June 12
NORTH CAROLINA	Cherokee Agency:				
	Qualla Boundary (Eastern Cherokee)	3,254	1,114	700	101 Dec. 20, 1934
NORTH DAKOTA	Fort Berthold Agency:				
	Fort Berthold	1,569	661	477	139 Nov. 17, 1934
	Fort Totten Agency:				
	Fort Totten	960	521	144	233 Nov. 17
	Standing Rock Agency:				
	Standing Rock (North Dakota)	1,677			
	(South Dakota)	2,098	1,559	668	508 Oct. 27
Turtle Mountain Agency:					
Turtle Mountain	6,034	1,181	257	550 June 15, 1935	
OREGON	Klamath Agency:				
	Klamath	1,364	666	56	408 June 15
	Umatilla Agency:				
	Umatilla	1,140	681	155	299 June 15
	Grand Ronde-Siletz Agency:				
	Grande Ronde	356	213	102	68 April 6
Siletz	465	233	54	123 April 6	

STATE	RESERVATION	POP.	VOTING POP.	TOTAL YES	TOTAL NO	ELECTION DATES
	Warm Springs Agency:					
	Warm Springs	992	394	260	74	April 6
	Burns		67	48	1	April 6
SOUTH CAROLINA						
Cherokee Agency:						
**Catawba						
SOUTH DAKOTA						
Cheyenne River Agency:						
	Cheyenne River	3,288	1,420	653	459	Oct. 27, 1934
Crow Creek Agency:						
	Crow Creek	953	388	87	246	Dec. 15
	Lower Brule	603	160	71	39	Dec. 15
Flandreau School:						
	Santee Sioux	345	193	79	5	Oct. 27
Pine Ridge Agency:						
	Pine Ridge	8,370	4,075	1,169	1,095	Oct. 27
Rosebud Agency:						
	Rosebud	6,362	3,126	843	424	Oct. 27
	Yankton	2,018	991	248	171	Oct. 27
Sisseton Agency:						
	Sisseton	2,658	1,170	266	335	April 6, 1935
Standing Rock Agency:						
(See North Dakota)						
UTAH						
Uintah & Ouray Agency:						
	Cedar City	28	13	2	0	May 14, 1935
	Kaibab (in Arizona)	93	51	28	5	Nov. 17, 1934
	Kanosh	24	14	11	0	May 7, 1935
	Koshareem	30	17	14	0	May 10
	Paiute	19	11	7	0	Nov. 24, 1934
	Uintah	1,251	634	335	21	Dec. 15
	Shivwits	79	40	27	2	Nov. 17
Fort Hall Agency:						
	Washakie	137	109	37	26	April 27, 1935
WASHINGTON						
Colville Agency:						
	Colville	3,118	1,659	421	562	April 6
	Spokane	807	376	92	163	April 6
Toahatch Agency:						
	Chehalis	132	70	22	26	April 6
	Makah	403	219	75	47	April 6
	Nisqually	63	40	19	2	Oct. 27, 1934
	Ozette	2	2	2	0	April 13, 1935
	Quinalt	1,729	764	184	176	April 13
	Hoh	4	4	3	1	April 13
	Quileute	242	96	37	15	April 13
	Shoalwater		11	3	5	April 13
	Skokomish	189	107	35	10	Oct. 27, 1934
	Squaxon Island	39	32	10	6	April 6, 1935
Tulalip Agency:						
	Lummi	667	287	72	110	March 30
	Muckleshoot	200	97	59	7	April 13
*Port Gamble						
	Port Madison	171	110	30	0	April 6
	Puyallup	328	190	34	36	April 13
	Swinomish	273	123	122	1	Nov. 17, 1934
	Tulalip	663	215	143	68	April 6, 1935

AGENCY	POPULATION	YOUTH POP.	TOTAL YOUTH	AGES 18-24	ELECTION DATES
Clallam	738				
Nooksak	235	135	53	13	March 30
Skagit-Suittle	205	123	74	3	April 6
Yakima Agency:					
Yakima	2,942	1,392	361	773	April 20
WISCONSIN					
Great Lakes Agency:					
Bad River	1,211	697	296	47	Nov. 17, 1934
Lac Courte Oreille	1,559	871	205	175	Dec. 15
Red Cliff	506	360	122	7	Dec. 15
*Sokoogan					
Potawatomi	388	51	31	3	June 15, 1935
*St. Croix					
Lac du Flambeau	853	492	162	57	June 15
Menominee Agency:					
Menominee	2,077	1,020	596	15	Oct. 27, 1934
Tamah Agency:					
Oneida	3,128	1,844	688	126	Dec. 15
Stockbridge	600	226	166	1	Dec. 15
WYOMING					
Wind River Agency:					
Shoshone & Arapahoe	2,196	1,032	339	469	June 15, 1935

Table B

Indian Tribes, Bands and Communities
under Constitutions and Charters
as Approved by the
Secretary of the Interior
in accordance with the
Indian Reorganization Act
Oklahoma Indian Welfare Act
Alaska Reorganization Act

Revised October 10, 1946

*June 6, 1938 - and Sol - Vigilant
 go to - the U.S. Indians*

*April 23, 1938
 K M Pueblo trust from*

TRIBES ORGANIZED UNDER THE INDIAN REORGANIZATION ACT

The following list shows Indian tribes, grouped by agencies, which are under Constitutions and Charters, as approved by the Secretary of the Interior in accordance with the provisions of the Indian Reorganization Act, the Oklahoma Indian Welfare Act and the Alaska Act. The listed dates show when the Constitutions and Charters went into effect. This listing also indicates which documents have been amended and the dates of amendment. Population figures, except for Alaska, are taken from Statistical Supplement for 1940.

*11-2-37
 1957-1958
 1959-1960*

Agency and Reservation	Official Name of Organization	Constitution Approved	Charter Ratified	Population
Blackfeet: Blackfeet	The Blackfeet Tribe of the Blackfeet Indian Reservation, Montana	Dec. 13, 1935 Amend. 1, Jan. 18, 1946	Aug. 15, 1936	4,494
Carson: Duckwater	The Duckwater Tribe of Indians of the Duckwater Reservation, Nevada	Nov. 28, 1940 Amend. 1, June 6, 1944	Nov. 30, 1940	115
Fort McDermitt	The Fort McDermitt Paiute and Shoshone Tribe, Nevada	July 2, 1936	Nov. 21, 1936 Amend. 1, June 20, 1945	280
Pyramid Lake	The Pyramid Lake Paiute Tribe, Nevada	Jan. 15, 1936	Nov. 21, 1936	558
Reno-Sparks	The Reno-Sparks Indian Colony, Nevada	Jan. 15, 1936	Jan. 7, 1938	191
Walker River	The Walker River Paiute Tribe, Nevada	Mar. 26, 1937 Amend. 1, July 12, 1945	May 8, 1937	461
Washoe (Dresslerville)	The Washoe Tribe, Nevada	Jan. 24, 1936	Feb. 27, 1937 Amended June 25, 1939	162
Yerington	The Yerington Paiute Tribe, Nevada	Jan. 4, 1937	Apr. 10, 1937	84
Yomba	The Yomba Shoshone Tribe, Nevada	Dec. 20, 1939	Dec. 22, 1939	96
Cherokees: (N. C.) Catawba	The Catawba Tribe of Indians South Carolina	June 30, 1944		
Cheyenne River: Cheyenne River	The Cheyenne River Sioux Tribe, South Dakota	Dec. 27, 1935		3,583
Choctaw: Choctaw	The Mississippi Band of Choctaw Indians	May 22, 1945		2,281
Colorado River: Colorado River	The Colorado River Indian Tribes of the Colorado River Reservation, Arizona and California	Aug. 13, 1937		845
Fort Yuma	The Quechan Tribe, California	Dec. 18, 1936		913

22

Agency and Reservation	Official Name of Organization	Constitution Approved	Charter Ratified	Population
Great Lakes: Bad River	The Bad River Band of the Lake Superior Tribe of Chippewa Indians, Wisconsin	June 20, 1936 Amended Dec. 1, 1942 Amend. II, Oct. 31, 1944	May 21, 1938	1,259
Boy Mills	The Boy Mills Indian Community, Michigan	Nov. 4, 1936 Amended Nov. 27, 1937	Nov. 27, 1937	190
Hannahville L'Anse Lac du Flambeau	The Hannahville Indian Community, Michigan The Keweenaw Bay Indian Community, Michigan The Lac du Flambeau Band of the Lake Superior Chippewa Indians of Wisconsin	July 23, 1936 Dec. 17, 1936 Aug. 15, 1936 Amendment I & III June 25, 1943 Amend. II, Oct. 23, 1944	Aug. 21, 1937 July 17, 1937 May 8, 1937 Amended Nov. 8, 1941	108 939 882
Maie Lake Potawatami	The Sokaogon Chippewa Community, Wisconsin The Forest County Potawatami Community, Wisconsin	Nov. 9, 1938 Feb. 6, 1937	Oct. 7, 1939 Oct. 30, 1937	187 310
Red Cliff	The Red Cliff Band of Lake Superior Chippewa Indians, Wisconsin	June 1, 1936	Oct. 24, 1936 Amended Nov. 12, 1938	643
St. Croix	St. Croix Chippewa Indian of Wisconsin	Nov. 12, 1942		
Hoop Valley: Quartz Valley	The Quartz Valley Indian Community, California	June 15, 1939	Mar. 12, 1940	29
Hopi: Hopi	The Hopi Tribe, Arizona	Dec. 19, 1936		3,444
Jicarilla: Jicarilla	The Jicarilla Apache Tribe of New Mexico	Aug. 4, 1937	Sept. 4, 1937	743
Kiowa (See Oklahoma): Ala. Coushatta	The Alabama-Coushatta Tribes of Texas	Aug. 19, 1938	Oct. 17, 1939	344
Mescalero: Mescalero	The Apache Tribe of the Mescalero Reservation, New Mexico	Mar. 25, 1936	Aug. 1, 1936	790
Northern Idaho: Kallispel	The Kallispel Indian Community of the Kallispel Reservation, Washington	Mar. 24, 1938	May 28, 1938	100
Papago: Gila Bend Papago San Xavier	The Papago Tribe, Arizona	Jan. 6, 1937		6,217

24

23

Agency and Reservation	Official Name of Organization	Constitution Approved	Charter Ratified	Population
Consolidated Chippewa: White Earth Leech Lake Fond du Lac Bois Fort Grand Portage	The Minnesota Chippewa Tribe	July 24, 1936	Nov. 13, 1937	13,610
Consolidated Ute: Southern Ute	The Southern Ute Tribe of the Southern Ute Reservation, Colorado	Nov. 4, 1936 Amend. I, Oct. 15, 1942 Amend. II, Feb. 28, 1946	Nov. 1, 1938	423
Ute Mountain	The Ute Mountain Tribe of the Ute Mountain Reservation, Colorado	June 6, 1940		459
Crow Creek: Lower Brule	The Lower Brule Sioux Tribe, South Dakota	Nov. 27, 1935 Amended Jan. 6, 1941	July 11, 1936	619
Flandreau: Flandreau	The Flandreau Santee Sioux Tribe, South Dakota	Apr. 21, 1936 Amended Jan. 6, 1941	Oct. 31, 1936	355
Flathead: Flathead	The Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana	Oct. 28, 1935	Apr. 25, 1936	3,208
Fort Apache: Fort Apache	The White Mountain Apache Tribe, Arizona	Aug. 25, 1938		2,892
Fort Belknap: Fort Belknap	The Fort Belknap Indian Community, Montana	Dec 13, 1935 Amended Feb. 7, 1944	Aug. 25, 1937	1,600
Fort Berthold: Fort Berthold	The Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota	June 29, 1936	Apr. 24, 1937	1,791
Fort Hall: Fort Hall	The Shoshone-Bannock Tribes of the Fort Hall Reservation, Idaho	Apr. 30, 1936	Apr. 17, 1937	1,881
Grande Ronde-Siletz: Grande Ronde	The Confederated Tribes of the Grand Ronde Community, Oregon	May 13, 1936	Aug. 22, 1936	473

Agency and Reservation	Official Name of Organization	Constitution Approved	Charter Ratified	Population
Pima:				
Fort McDowell	The Fort McDowell Mohave-Apache Community, Arizona	Nov. 24, 1936	June 6, 1938	193
Gila River	The Gila River Pima-Maricopa Indian Community, Arizona	May 14, 1936	Feb. 28, 1938	4,865.
Salt River	The Salt River Pima-Maricopa Community of the Salt River Reservation, Arizona	June 11, 1940		1,172
Pine Ridge:				
Pine Ridge	The Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota	Jan. 15, 1936		9,204
Pipestone Schools:				
Lower Sioux	The Lower Sioux Indian Community in the State of Minnesota	June 11, 1936	July 17, 1937	192
Prairie Island	The Prairie Island Indian Community in the State of Minnesota	June 20, 1936	July 23, 1937	94
Potawatomi:				
Iowa	The Iowa Tribe in Nebraska and Kansas	Feb. 26, 1937	June 19, 1937	539
Kickapoo	The Kickapoo Tribe in Kansas	Feb. 26, 1937	June 19, 1937	343
Sac and Fox	The Sac and Fox Tribe of Missouri	Mar. 2, 1937 Amended Nov. 25, 1943	June 19, 1937	129
Rocky Boy's:				
Rocky Boy's	The Chippewa Cree Tribe of the Rocky Boy's Reservation, Montana	Nov. 23, 1935	July 25, 1936	742
Rosebud:				
Rosebud	The Rosebud Sioux Tribe, South Dakota	Dec. 20, 1935	Mar. 16, 1937	6,909
San Carlos:				
San Carlos	The San Carlos Apache Tribe, Arizona	Jan. 17, 1936	Oct. 16, 1940	3,103
Sacramento:				
Big Valley	The Big Valley Band of Pomo Indians of the Big Valley Rancheria, California	Jan. 15, 1936 Amended May 13, 1940	Oct. 19, 1941	92
Colusa	The Cachil Dehe Band of Wintun Indians, California	Nov. 23, 1941	Nov. 23, 1941	72
Fort Bidwell	The Fort Bidwell Indian Community, California	Jan. 28, 1936 Amended June 8, 1940 and Feb. 4, 1942		117

25

Agency and Reservation	Official Name of Organization	Constitution Approved	Charter Ratified	Population
Sacramento (Cont'd)				
Manchester	The Manchester Band of Pomo Indians of the Manchester Rancheria, California	Mar. 11, 1936 Amended May 18, 1940	Feb. 27, 1937	92
Round Valley	The Covelo Indian Community, California	Dec. 16, 1936	Nov. 6, 1937	848
Stewart's Point	The Kashia Band of Pomo Indians of the Stewart's Point Rancheria, California	Mar. 11, 1936 Amended May 19, 1940		140
Tuolumne	The Tuolumne of Me-wuk Indians of the Tuolumne Rancheria, California	Jan. 15, 1936 Amended May 25, 1940	Nov. 12, 1937	80
Tule River	The Tule River Indian Tribe, California	Jan. 15, 1936 Amended May 24, 1940		201
Upper Lake	The Upper Lake Band of Pomo Indians of the Upper Lake Rancheria, California (Name changed by amendment Oct. 22, 1941, to The Upper Lake Pomo Indian Community)	Jan. 15, 1936 Amended May 16, 1940 and Oct. 22, 1941	Feb. 15, 1942	72
Wilton	The Me-wuk Indian Community of the Wilton Rancheria, California	Jan. 15, 1936 Amended May 21, 1940		28
Taholah:				
Makah	The Makah Indian Tribe, Washington	May 16, 1936	Feb. 27, 1937	425
Nisqually	The Nisqually Indian Community, Washington	Sept. 19, 1946		60
Quileute	The Quileute Tribe of the Quileute Reservation, Washington	Nov. 11, 1936	Aug. 21, 1937	287
Skokomish	The Skokomish Indian Tribe of the Skokomish Reservation, Washington	May 3, 1938	July 22, 1939	221
Tomah:				
Isabella	The Saginaw Chippewa Indian Tribe of Michigan	May 6, 1937	Aug. 28, 1937	434
Oneida	The Oneida Tribe of Indians of Wisconsin	Dec. 21, 1936 Amended June 3, 1939	May 1, 1937	3,351
Sac & Fox	The Sac and Fox Tribe of the Mississippi in Iowa	Dec. 20, 1937		473
Stockbridge	The Stockbridge-Munsee Community, Wisconsin	Oct. 30, 1937	May 21, 1938	460
Tongue River	The Northern Cheyenne Tribe, Montana	Nov. 23, 1935	Nov. 7, 1936	1,618
Truxton Canon:				
Camp Verde	The Yavapai-Apache Indian Community, Arizona	Feb. 12, 1937		467
Havasupai	The Havasupai Tribe of the Havasupai Reservation, Arizona	Mar. 27, 1939	Oct. 5, 1946	213

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Ogata (?)

27

Agency and Reservation	Official Name of Organization	Constitution Approved	Charter Ratified	Population
Hualapai (Walapai)	The Hualapai Tribe of the Hualapai Reservation, Arizona	Dec. 17, 1938	June 5, 1943	462
Moapa	The Moapa Band of Paiute Indians	Apr. 17, 1942	May 3, 1942	172
Tulalip:				
Muckleshoot	The Muckleshoot Indian Tribe, Washington	May 13, 1936	Oct. 31, 1936	228
Port Gamble	The Port Gamble Indian Community, Washington	Sept. 7, 1939	Apr. 5, 1941	192
Puyallup	The Puyallup Tribe, Washington	May 13, 1936		319
Swinomish	The Swinomish Indian Tribal Community, Washington	Jan. 27, 1936	July 25, 1936	314
Tulalip	The Tulalip Tribes, Washington	Jan. 24, 1936 Amended Mar. 8, 1941	Oct. 3, 1936	676
Uintah & Ouray:				
Kanosh	The Kanosh Band of Paiute Indians	Dec. 2, 1942	Aug. 15, 1943	
Uintah & Ouray	The Ute Indian Tribe of the Uintah and Ouray Reservation, Utah	Jan. 19, 1937	Aug. 10, 1938	1,347
Shivwits	The Shivwits Band of Paiute Indians of the Shivwits Reservation, Utah	Mar. 21, 1940	Aug. 30, 1941	97
United Pueblos:				
Santa Clara	The Pueblo of Santa Clara, New Mexico	Dec. 20, 1935 Amended Dec. 19, 1939		485
Warm Springs:				
Warm Springs	The Confederated Tribes of the Warm Springs Reservation, Oregon	Feb. 14, 1938 Amended Dec. 19, 1941	Apr. 23, 1938 Amended Dec. 19, 1941	778
Western Shoshone:				
Duck Valley	The Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada	Apr. 20, 1936	Aug. 22, 1936	554
Elko	The Ts-Moak Bands of Western Shoshone Indians of Nevada	Aug. 24, 1938	Dec. 12, 1938	80
Goshute	The Confederated Tribes of the Goshute Reservation in Utah	Nov. 25, 1940	Mar. 29, 1941	155
Winnebago:				
Omaha	The Omaha Tribe of Nebraska	Mar. 30, 1936	Aug. 22, 1936	1,713
Ponca	The Ponca Tribe of Native Americans, Nebraska	Apr. 3, 1936	Aug. 15, 1936	384
Santee	The Santee Sioux Tribe of Nebraska	Apr. 3, 1936	Aug. 22, 1936	1,197
Winnebago	The Winnebago Tribe of Nebraska	Apr. 3, 1936	Aug. 15, 1936	1,268
TOTAL				105,216

OKLAHOMA TRIBES

Agency and Tribe	Official Name of Organization	Constitution Ratified	Charter Ratified	Population
Cheyenne & Arapaho: Cheyenne-Arapaho	The Cheyenne-Arapaho Tribes of Oklahoma	Aug. 25, 1937 Amended Feb. 4, 1942		2,949
Five Tribes: Creek	The Alabama-Quassarte Tribal Town	Jan. 10, 1939	May 24, 1939	150
Creek	The Kialegee Tribal Town	June 12, 1941	Sept. 17, 1942	250
Creek	The Thlopthlocco Tribal Town	Dec. 27, 1938	Apr. 13, 1939	380
Kiowa: Caddo	The Caddo Indian Tribe of Oklahoma	Jan. 17, 1938 Amend. 1, Jan. 11, 1944	Nov. 15, 1938	1,048
Pawnee: Pawnee Tonkawa	The Pawnee Indians of Oklahoma The Tonkawa Tribe of Indians of Oklahoma	Jan. 6, 1938 Apr. 21, 1938	Apr. 28, 1938	1,017 54
Quapaw: Eastern Shawnee	The Eastern Shawnee Tribe of Indians, Oklahoma	Dec. 22, 1939	Dec. 12, 1940	299
Miami	The Miami Tribe of Oklahoma	Oct. 10, 1939	June 1, 1940	299
Ottawa	The Ottawa Tribe of Oklahoma	Nov. 30, 1938	June 2, 1939	438
Peoria	The Peoria Tribe of Indians of Oklahoma	Oct. 10, 1939	June 1, 1940	393
Seneca	The Seneca-Cayuga Tribe of Oklahoma	May 15, 1937	June 26, 1937	288
Wyandotte	The Wyandotte Tribe of Oklahoma	July 24, 1937	Oct. 30, 1937	800
Shownee: Iowa Kickapoo Potawatomi	The Iowa Tribe of Oklahoma The Kickapoo Tribe of Oklahoma The Citizen Band of Potawatomi Indians of Oklahoma	Oct. 23, 1937 Sept. 18, 1937 Dec. 12, 1938	Feb. 5, 1938 Jan. 18, 1938	110 269 2,920
Sac & Fox Shawnee	The Sac and Fox Tribe of Indians of Oklahoma The Absentee-Shawnee Tribe of Indians of Oklahoma	Dec. 7, 1937 Dec. 5, 1938		910 667
TOTAL				13,241

28

ALASKA NATIVE COMMUNITIES AND COOPERATIVES

Alaska Community	Official Name of Organization	Constitution Ratified	Charter Ratified	Population
Angoon	The Angoon Community Association	Nov. 15, 1939	Nov. 15, 1939	347
Atka	The Native Village of Atka	May 23, 1939	May 23, 1939	91
Barrow	The Native Village of Barrow	Mar. 21, 1940	Mar. 21, 1940	386
Chonaga	The Native Village of Chonaga	Feb. 3, 1940	Feb. 3, 1940	100
Chilkat	See Klukwan			
Craig	The Craig Community Association of Craig, Alaska	Oct. 8, 1938	Oct. 8, 1938	201
Deering	The Native Village of Deering	Oct. 26, 1945	Oct. 26, 1945	177
Diomedes	The Native Village of Diomedes	Jan. 31, 1940	Jan. 31, 1940	126
Douglas	The Douglas Indian Association	Nov. 24, 1941	Nov. 24, 1941	232
Elim	The Native Village of Elim	Nov. 24, 1939	Nov. 24, 1939	98
Fort Yukon	The Native Village of Fort Yukon	Jan. 2, 1940	Jan. 2, 1940	320
Gambell	The Native Village of Gambell	Dec. 31, 1939	Dec. 31, 1939	290
Haines	The Chilkoot Indian Association	Dec. 5, 1941	Dec. 5, 1941	106
Hoonah	The Hoonah Indian Association	Oct. 23, 1939	Oct. 23, 1939	590
Hydaburg	The Hydaburg Cooperative Association of Alaska	Apr. 14, 1938	Apr. 14, 1938	329
Kanatak	The Native Village of Kanatak	Mar. 1, 1940	Mar. 1, 1940	60
Karluk	The Native Village of Karluk	Aug. 23, 1939	Aug. 23, 1939	192
Kasaan	The Organized Village of Kasaan	Oct. 15, 1938	Oct. 15, 1938	83
Ketchikan	The Ketchikan Indian Corporation	Jan. 27, 1940	Jan. 27, 1940	787
King Island	The King Island Native Community	Jan. 31, 1939	Jan. 31, 1939	192
Kivalina	The Native Village of Kivalina	Feb. 7, 1940	Feb. 7, 1940	144
Klawock	The Klawock Cooperative Association of Alaska	Oct. 4, 1938	Oct. 4, 1938	277
Klukwan	The Chilkat Indian Village	Mar. 27, 1941	Mar. 27, 1941	115
Kwethluk	The Native Village of Kwethluk	Jan. 11, 1940	Jan. 11, 1940	172
Mekoryuk	The Native Village of Mekoryuk	Aug. 24, 1940	Aug. 24, 1940	133
Metlakatla	The Metlakatla Indian Community	Dec. 19, 1944	Dec. 19, 1944	700
Minto	The Native Village of Minto	Dec. 30, 1939	Dec. 30, 1939	128
Napaklak	The Native Village of Napakiak	July 29, 1946	July 29, 1946	121
Nikolski	The Native Village of Nikolski	June 12, 1939	June 12, 1939	87
Noatak	The Native Village of Noatak	Dec. 28, 1939	Dec. 28, 1939	350
Nome	The Nome Eskimo Community	Nov. 23, 1939	Nov. 23, 1939	508
Noorvik	The Noorvik Native Community	Dec. 27, 1939	Dec. 27, 1939	221
Nunapitchuk	The Native Village of Nunapitchuk	Jan. 2, 1940	Jan. 2, 1940	140
Point Hope	The Native Village of Point Hope	Feb. 29, 1940	Feb. 29, 1940	247
Point Lay	The Native Village of Point Lay	Mar. 22, 1946	Mar. 22, 1946	90
Saxman	The Native Village of Saxman	Jan. 14, 1941	Jan. 14, 1941	99

Alaska Community	Official Name of Organization	Constitution Ratified	Charter Ratified	Population
Selawik	The Native Village of Selawik	Mar. 15, 1940	Mar. 15, 1940	290
Shaktoolik	The Native Village of Shaktoolik	Jan. 27, 1940	Jan. 27, 1940	122
Shishmaref	The Native Village of Shishmaref	Aug. 2, 1939	Aug. 2, 1939	235
Shungnak	The Native Village of Shungnak	July 24, 1946	July 24, 1946	
Sitka	The Sitka Community Association of Alaska	Oct. 11, 1938	Oct. 11, 1938	620
Stebbins	The Stebbins Community Association	Dec. 5, 1939	Dec. 5, 1939	104
Stevens	The Native Village of Stevens	Dec. 30, 1939	Dec. 30, 1939	92
Tanacross	The Native Village of Tanacross	Jan. 5, 1942	Jan. 5, 1942	109
Tetlin	The Native Village of Tetlin	Mar. 26, 1940	Mar. 26, 1940	81
Tyonek	The Native Village of Tyonek	Nov. 27, 1939	Nov. 27, 1939	101
Unalakleet	The Native Village of Unalakleet	Dec. 30, 1939	Dec. 30, 1939	307
Venetie	The Native Village of Venetie	Jan. 25, 1940	Jan. 25, 1940	86
Wales	The Native Village of Wales	July 29, 1939	July 29, 1939	189
White Mountain	The Native Village of White Mountain	Nov. 25, 1939	Nov. 25, 1939	174
				TOTAL 10,899

This list is subject to change. A number of the tribes which have accepted the act have not yet adopted constitutions or charters. Any Oklahoma tribe or Alaskan village may organize at any time.

Table C

Indian Tribes and Bands which accepted
the Indian Reorganization Act
but which operate under
Constitutions adopted prior
to the passage of the I. R. A.

Indian Tribes and Bands which accepted the Indian Reorganization Act
but which operate under Constitutions adopted prior to the passage
of the I. R. A.

Agency and Reservation	Official Name of Organization	Constitution Adopted	Population
Cherokee: Cherokee	The Cherokee Tribe of North Carolina, State Charter	March 8, 1897 Amended April 1, 1931 Amended March 6, 1933	3,795
Menominee: Menominee	The Menominee Indians of the Menominee Agency, Wisconsin	Feb. 11, 1928 Amended	2,551
Red Lake: Red Lake	The Red Lake Band of Chippewa Indians, Minnesota (I. R. A. Constitution pending.)	April 13, 1918	2,484
Standing Rock: Standing Rock	The Standing Rock Sioux Tribe, North Dakota	June 25, 1914 Amended	4,324
	<i>Yankton Band of Sisseton Indians of Kansas</i>	<i>June 16, 1932</i>	13,154

32

Indian Tribes, Bands and Communities
not under
the Indian Reorganization Act
which operate under Constitutions

List of Indian Tribes not under the Indian Reorganization Act
which operate under Constitutions

Agency and Reservation	Official Name of Organization	Constitution Adopted	Population
Colville:			
Colville	The Confederated Tribes of the Colville Reservation, Washington	Feb. 26, 1938	3,505
Hoopa Valley:			
Hoopa	The Hoopa Tribe of the Hoopa Reservation, California	Nov. 20, 1933	636
Fort Peck:			
Fort Peck	The Fort Peck Indians of the Fort Peck Indian Reservation, Montana	Indefinite	3,116
Fort Totten:			
Fort Totten	The Devils Lake Sioux Tribe, North Dakota	April 14, 1944	1,142
Grand Ronde-Siletz:			
Siletz	The Siletz Business Council, Oregon	June 30, 1933	516
Klamath:			
Klamath	The Klamaths, Modoc, and Yahooskin Band of Snake Indians, Klamath Reservation, Oregon	Dec. 23, 1929, Amended Mar. 30, 1936	1,547
Mission:			
Palm Springs	The Agua Caliente Band of Mission Indians, California	June 2, 1939	58
Navajo:			
Navajo	The Navajo Tribe of Indians of the Navajo Reservation, Arizona and New Mexico	July 26, 1938 Amended	55,458
New York:			
Seneca	The Seneca Nation of Indians of the Allegheny Reservation, New York	1848, Revised Oct. 22, 1868 Jan. 13, 1893 Nov. 15, 1898 <i>April 13, 1918</i>	2,879
<i>Ne. Dakota</i>	<i>Sisseton, S.D.</i>		
Sisseton:			
Sisseton-Wahpetan	The Sisseton-Wahpetan Sioux Tribe, South Dakota	Oct. 16, 1946	3,177
Taholah:			
Chehalis	The Confederated Tribes of the Chehalis Reservation, Washington	Aug. 22, 1939	27
Turtle Mountain:			
Turtle Mountain	The Turtle Mountain Band of Chippewa Indians, North Dakota	Oct. 8, 1932	7,439
Wind River:			
Wind River	The Shoshone and Arapahoe Indians of the Wind River Reservation, Wyoming	1930	2,697
			82,197

34

THE INDIAN REORGANIZATION ACT

(Public—NO. 383—73D CONGRESS)

(S. 3645)

AN ACT

To conserve and develop Indian lands and resources; to extend to Indians the right to farm business and other organizations; to establish a credit system for Indians; to grant certain rights of home rule to Indians; to provide for vocational education for Indians; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter no land of any Indian reservation, created or set apart by treaty or agreement with the Indians, Act of Congress, Executive order, purchase, or otherwise, shall be allotted in severalty to any Indian.

SECTION 2. The existing periods of trust placed upon any Indian lands and any restriction on alienation thereof are hereby extended and continued until otherwise directed by Congress.

SECTION 3. The Secretary of the Interior, if he shall find it to be in the public interest, is hereby authorized to restore to tribal ownership the remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened, to sale, or any other form of disposal by Presidential proclamation, or by any of the public-land laws of the United States: **Provided, however,** That valid rights or claims of any persons to any lands so withdrawn existing on the date of the withdrawal shall not be affected by this Act: **Provided further,** That this section shall not apply to lands within any reclamation project heretofore authorized in any Indian reservation: **Provided further,** That the order of the Department of the Interior signed, dated, and approved by Honorable Ray Lyman Wilbur, as Secretary of the Interior, on October 28, 1932, temporarily withdrawing lands of the Papago Indian Reservation in Arizona from all forms of mineral entry or claim under the public land mining laws, is hereby revoked and rescinded, and the lands of the said Papago Indian Reservation are hereby restored to exploration and location, under the existing mining laws of the United States, in accordance with the express terms and provisions declared and set forth in the Executive orders establishing said Papago Indian Reservation: **Provided further,** That damages shall be paid to the Papago Tribe for loss of any improvements on any land located for mining in such a sum as may be determined by the Secretary of the Interior but not to exceed the cost of said improvements: **Provided further,** That a yearly rental not to exceed five cents per acre shall be paid to the Papago Tribe for loss of the use or occupancy of any land withdrawn by the requirements of mining operations, and payments derived from damages or rentals shall be deposited in the Treasury of the United States to the credit

of the Papago Tribe: **Provided further,** That in the event any person or persons, partnership, corporation, or association, desires a mineral patent, according to the mining laws of the United States, he or they shall first deposit in the Treasury of the United States to the credit of the Papago Tribe the sum of \$1.00 per acre in lieu of annual rental, as hereinbefore provided, to compensate for the loss or occupancy of the lands withdrawn by the requirements of mining operations: **Provided further,** That patentee shall also pay into the Treasury of the United States to the credit of the Papago Tribe damages for the loss of improvements not heretofore paid in such a sum as may be determined by the Secretary of the Interior, but not to exceed the cost thereof; the payment of \$1.00 per acre for surface use to be refunded to patentee in the event that patent is not acquired.

Nothing herein contained shall restrict the granting or use of permits for easements or rights-of-way; or ingress or egress over the lands for all proper and lawful purposes; and nothing contained herein, except as expressly provided, shall be construed as authority for the Secretary of the Interior, or any other person, to issue or promulgate a rule or regulation in conflict with the Executive order of February 1, 1917, creating the Papago Indian Reservation in Arizona or the Act of February 21, 1931 (46 Stat. 1202).

SECTION 4. Except as herein provided, no sale, devise, gift, exchange or other transfer of restricted Indian lands or of shares in the assets of any Indian tribe or corporation organized hereunder, shall be made or approved: **Provided, however,** That such lands or interests may, with the approval of the Secretary of the Interior, be sold, devised, or otherwise transferred to the Indian tribe in which the lands or shares are located or from which the shares were derived or to a successor corporation; and in all instances such lands or interests shall descend or be devised, in accordance with the then existing laws of the State, or Federal laws where applicable; in which said lands are located or in which the subject matter of the corporation is located, to any member of such tribe or of such corporation or any heirs of such member: **Provided further,** That the Secretary of the Interior may authorize voluntary exchanges of lands of equal value and the voluntary exchange of shares of equal value whenever such exchange, in his judgment, is expedient and beneficial for or compatible with the proper consolidation of Indian lands and for the benefit of cooperative organizations.

SECTION 5. The Secretary of the Interior is hereby authorized, in his discretion, to acquire through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights or surface rights to lands, with-in or without existing reservations, including trust or otherwise restricted allotments whether the allottee be living or deceased, for the purpose of providing land for Indians.

For the acquisition of such lands, interests in land, water rights, and

surface rights, and for expenses incident to such acquisition, there is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, a sum not to exceed \$2,000,000 in any one fiscal year: **Provided**, That no part of such funds shall be used to acquire additional land outside of the exterior boundaries of Navajo Indian Reservation for the Navajo Indians in Arizona and New Mexico, in the event that the proposed Navajo boundary extension measures now pending in Congress and embodied in the bills (S.2499 and H.R. 8927) to define the exterior boundaries of the Navajo Indian Reservation in Arizona, and for other purposes, and the bills (S. 2531 and H.R. 8982) to define the exterior boundaries of the Navajo Indian Reservation in New Mexico and for other purposes, or similar legislation, become law.

The unexpended balances of any appropriations made pursuant to this section shall remain available until expended.

Title to any lands or rights acquired pursuant to this Act shall be taken in the name of the United States in trust for the Indian tribe or individual Indian for which the land is acquired, and such lands or rights shall be exempt from State and local taxation.

SECTION 6. The Secretary of the Interior is directed to make rules and regulations for the operation and management of Indian forestry units on the principle of sustained-yield management, to restrict the number of livestock grazed on Indian range units to the estimated carrying capacity of such ranges, and to promulgate such other rules and regulations as may be necessary to protect the range from deterioration, to prevent soil erosion, to assure full utilization of the range, and like purposes.

SECTION 7. The Secretary of the Interior is hereby authorized to proclaim new Indian reservations on lands acquired pursuant to any authority conferred by this Act, or to add such lands to existing reservations: **Provided**, That lands added to existing reservations shall be designated for the exclusive use of Indians entitled by enrollment or by tribal membership to residence at such reservations.

SECTION 8. Nothing contained in this Act shall be construed to relate to Indian holdings of allotments or homesteads upon the public domain outside of the geographic boundaries of any Indian reservation now existing or established hereafter.

SECTION 9. There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary, but not to exceed \$250,000 in any fiscal year, to be expended at the order of the Secretary of the Interior, in defraying the expenses of organizing Indian chartered corporations or other organizations created under this Act.

SECTION 10. There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, the sum of \$10,000,-

000 to be established as a revolving fund from which the Secretary of the Interior, under such rules and regulations as he may prescribe, may make loans to Indian chartered corporations for the purpose of promoting the economic development of such tribes and of their members, and may defray the expenses of administering such loans. Repayment of amounts loaned under this authorization shall be credited to the revolving fund and shall be available for the purposes for which the fund is established. A report shall be made annually to Congress of transactions under this authorization.

SECTION 11. There is hereby authorized to be appropriated, out of any funds in the United States Treasury not otherwise appropriated, a sum not to exceed \$250,000 annually, together with any unexpended balances of previous appropriations made pursuant to this section, for loans to Indians for the payment of tuition and other expenses in recognized vocational and trade schools: **Provided**, That not more than \$50,000 of such sum shall be available for loans to Indian students in high schools and colleges. Such loans shall be reimbursable under rules established by the Commissioner of Indian Affairs.

SECTION 12. The Secretary of the Interior is directed to establish standards of health, age, character, experience, knowledge, and ability for Indians who may be appointed, without regard to civil-service laws, to the various positions maintained, now or hereafter, by the Indian Office, in the administration of functions or services affecting any Indian tribe. Such qualified Indians shall hereafter have the preference to appointment to vacancies in any such positions.

SECTION 13. The provisions of this Act shall not apply to any of the Territories, colonies, or insular possessions of the United States, except that sections 9, 10, 11, 12, and 16, shall apply to the Territory of Alaska: **Provided**, That Sections 2, 4, 7, 16, 17, and 18 of this Act shall not apply to the following-named Indian tribes, the members of such Indian tribes, together with members of other tribes affiliated with such named tribes located in the State of Oklahoma, as follows: Cheyenne, Arapaho, Apache, Comanche, Kiowa, Caddo, Delaware, Wichita, Osage, Kaw, Otoe, Tonkawa, Pawnee, Ponca, Shawnee, Ottawa, Quapaw, Seneca, Wyandotte, Iowa, Sac and Fox, Kickapoo, Pottawatomie, Cherokee, Chickasaw, Choctaw, Creek, and Seminole. Section 4 of this Act shall not apply to the Indians of the Klamath Reservation in Oregon.

SECTION 14. The Secretary of the Interior is hereby directed to continue the allowance of the articles enumerated in section 17 of the Act of March 2, 1889 (23 Stat. L. 894), or their commuted cash value under the Act of June 10, 1896 (29 Stat. L. 334), to all Sioux Indians who would be eligible, but for the provisions of this Act, to receive allotments of lands in severalty under section 19 of the Act of May 29, 1908 (25 Stat. L. 451), or

under any prior Act, and who have the prescribed status of the head of a family or single person over the age of eighteen years, and his approval shall be final and conclusive, claims therefor to be paid as formerly from the permanent appropriation made by said section 17 and carried on the books of the Treasury for this purpose. No person shall receive in his own right more than one allowance of the benefits, and application must be made and approved during the lifetime of the allottee or the right shall lapse. Such benefits shall continue to be paid upon such reservation until such time as the lands available therein for allotment at the time of the passage of this Act would have been exhausted by the award to each person receiving such benefits of an allotment of eighty acres of such land.

SECTION 15. Nothing in this Act shall be construed to impair or prejudice any claim or suit of any Indian tribe against the United States. It is hereby declared to be the intent of Congress that no expenditures for the benefit of Indians made out of appropriations authorized by this Act shall be considered as offsets in any suit brought to recover upon any claim of such Indians against the United States.

SECTION 16. Any Indian tribe or tribes, residing on the same reservation, shall have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws, which shall become effective when ratified by a majority vote of the adult members of the tribe, or of the adult Indians residing on such reservation, as the case may be, at a special election authorized and called by the Secretary of the Interior under such rules and regulations as he may prescribe. Such constitution and bylaws when ratified as aforesaid and approved by the Secretary of the Interior shall be revocable by an election open to the same voters and conducted in the same manner as hereinabove provided. Amendments to the constitution and bylaws may be ratified and approved by the Secretary in the same manner as the original constitution and bylaws.

In addition to all powers vested in any Indian tribe or tribal council by existing law, the constitution adopted by said tribe shall also vest in such tribe or its tribal council the following rights and powers: To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior; to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe; and to negotiate with the Federal, State, and local Governments. The Secretary of the Interior shall advise such tribe or its tribal council of all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Bureau of the Budget and the Congress.

SECTION 17. The Secretary of the Interior may, upon petition by at least one-third of the adult Indians, issue a charter of incorporation to such

tribe: **Provided**, That such charter shall not become operative until ratified at a special election by a majority vote of the adult Indians living on the reservation. Such charter may convey to the incorporated tribe the power to purchase, take by gift, or bequest, or otherwise, own, hold, manage, operate and dispose of property of every description, real and personal, including the power to purchase restricted Indian lands and to issue in exchange therefor interests in corporate property, and such further powers as may be incidental to the conduct of corporate business, not inconsistent with law, but no authority shall be granted to sell, mortgage, or lease for a period exceeding ten years any of the land included in the limits of the reservation. Any charter so issued shall not be revoked or surrendered except by Act of Congress.

SECTION 18. This Act shall not apply to any reservation wherein a majority of the adult Indians, voting at a special election duly called by the Secretary of the Interior, shall vote against its application. It shall be the duty of the Secretary of the Interior, within one year after the passage and approval of this Act, to call such an election, which election shall be held by secret ballot upon thirty days' notice.

SECTION 19. The term "Indian" as used in this Act shall include all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include all other persons of one-half or more Indian blood. For the purposes of this Act, Eskimos and other aboriginal peoples of Alaska shall be considered Indians. The term "tribe" wherever used in this Act shall be construed to refer to any Indian tribe, organized band, pueblo, or the Indians residing on one reservation. The words "adult Indians" wherever used in this Act shall be construed to refer to Indians who have attained the age of twenty one years.
Approved, June 18, 1934.

(PUBLIC—NO. 147—74TH CONGRESS)

(H. R. 7781)

AN ACT

To define the election procedure under the Act of June 18, 1934, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in any election heretofore or hereafter held under the Act of June 18, 1934 (48 Stat. 984), on the question of excluding a reservation from the application of the said Act or on the question of adopting a constitution and bylaws or amendments thereto or on the question of ratifying a charter, the vote of a majority of those actually voting shall be necessary and sufficient to effectuate such exclusion, adoption, or ratification, as the case may be: **Provided, however,** That in each instance the total vote cast shall not be less than 30 per centum of those entitled to vote.

SECTION 2. The time for holding elections on the question of excluding a reservation from the application of said Act of June 18, 1934, is hereby extended to June 18, 1936.

SECTION 3. If the period of trust or of restriction on any Indian land has not, before the passage of this Act, been extended to a date subsequent to December 31, 1936, and if the reservation containing such lands has voted or shall vote to exclude itself from the application of the Act of June 18, 1934, the periods of trust or the restrictions on alienation of such lands are hereby extended to December 31, 1936.

SECTION 4. All laws, general and special, and all treaty provisions affecting any Indian reservation which has voted or may vote to exclude itself from the application of the Act of June 18, 1934 (48 Stat. 984), shall be deemed to have been continuously effective as to such reservation, notwithstanding the passage of said Act of June 18, 1934. Nothing in the Act of June 18, 1934, shall be construed to abrogate or impair any rights guaranteed under any existing treaty with any Indian tribe, where such tribe voted not to exclude itself from the application of said Act.

Approved, June 15, 1935.

THE ALASKA REORGANIZATION ACT
(PUBLIC—NO. 538—74TH CONGRESS)
(H. R. 9866)
AN ACT

To extend certain provisions of the Act approved June 18, 1934, commonly known as the Wheeler-Howard Act (Public Law Numbered 383, Seventy-third Congress, 48 Stat. 984), to the Territory of Alaska, to provide for the designation of Indian reservations in Alaska, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 1, 5, 7, 8, 15, 17, and 19 of the Act entitled "An Act to conserve and develop Indian lands and resources; to extend to Indians the right to form business and other organizations; to establish a credit system for Indians; to grant certain rights of home rule to Indians; to provide for vocational education for Indians; and for other purposes," approved June 18, 1934 (48 Stat. 984), shall hereafter apply to the Territory of Alaska: **Provided,** That groups of Indians in Alaska not heretofore recognized as bands or tribes, but having a common bond of occupation, or association, or residence within a well-defined neighborhood, community, or rural district, may organize to adopt constitutions and bylaws and to receive charters of incorporation and Federal loans under sections 16, 17, and 10 of the Act of June 18, 1934 (48 Stat. 984).

Sec. 2. That the Secretary of the Interior is hereby authorized to designate ~~as an Indian reservation any area of land which has been reserved for the use and occupancy of Indians or Eskimos by section 8 of the Act of May 17, 1884 (23 Stat. 26), or by section 14 or section 15 of the Act of March 3, 1891 (26 Stat. 1101), or which has been heretofore reserved under any executive order and placed under the jurisdiction of the Department of the Interior or any bureau thereof, together with additional public lands adjacent thereto, within the Territory of Alaska, or any other public lands which are actually occupied by Indians or Eskimos within said Territory: **Provided,** That the designation by the Secretary of the Interior of any such area of land as a reservation shall be effective only upon its approval by the vote, by secret ballot, of a majority of the Indian or Eskimo residents thereof who vote at a special election duly called by the Secretary of the Interior upon thirty days' notice: **Provided, however,** That in each instance the total vote cast shall not be less than 30 per centum of those entitled to vote: **Provided further,** That nothing herein contained shall affect any valid existing claim, location, or entry under the laws of the United States, whether for homestead, mineral, right-of-way, or other purpose whatsoever, or shall affect the rights of any such owner, claimant, locator, or entryman to the full use and enjoyment of the land so occupied.~~

Approved, May 1, 1936.

THE OKLAHOMA INDIAN WELFARE ACT
(PUBLIC—NO. 816—74TH CONGRESS
(S. 2047)

AN ACT

To promote the general welfare of the Indians of the State of Oklahoma, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized, in his discretion, to acquire by purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing Indian reservations, including trust or otherwise restricted lands now in Indian ownership: **Provided**, That such lands shall be agricultural and grazing lands of good character and quality in proportion to the respective needs of the particular Indian or Indians for whom such purchases are made. Title to all lands so acquired shall be taken in the name of the United States, in trust for the tribe, band, group, or individual Indian for whose benefit such land is so acquired, and while the title thereto is held by the United States said lands shall be free from any and all taxes, save that the State of Oklahoma is authorized to levy and collect a gross-production tax, not in excess of the rate applied to production from lands in private ownership, upon all oil and gas produced from said lands, which said tax the Secretary of the Interior is hereby authorized and directed to cause to be paid.

SECTION 2. Whenever any restricted Indian land or interests in land, other than sales or leases of oil, gas, or other minerals therein, are offered for sale, pursuant to the terms of this or any other Act of Congress, the Secretary of the Interior shall have a preference right, in his discretion, to purchase the same for or in behalf of any other Indian or Indians of the same or any other tribe, at a fair valuation to be fixed by the appraisement satisfactory to the Indian owner or owners; or if offered for sale at auction said Secretary shall have a preference right, in his discretion, to purchase the same for or in behalf of any other Indian or Indians by meeting the highest bid otherwise offered therefor.

SECTION 3. Any recognized tribe or band of Indians residing in Oklahoma shall have the right to organize for its common welfare and to adopt a constitution and bylaws, under such rules and regulations as the Secretary of the Interior may prescribe. The Secretary of the Interior may issue to any such organized group a charter of incorporation, which shall become operative when ratified by a majority vote of the adult members of the organization voting: **Provided, however**, That such election shall be void unless the total vote cast be at least 30 per centum of those entitled to vote. Such charter may convey to the incorporated group, in addition to any powers which may properly be vested in a body corporate under the laws of the State of Oklahoma,

the right to participate in the revolving credit fund and to enjoy any other rights or privileges secured to an organized Indian tribe under the Act of June 18, 1934 (48 Stat. 984): **Provided, That** the corporate funds of any such chartered group may be deposited in any national bank within the state of Oklahoma or otherwise invested, utilized, or disbursed in accordance with the terms of the corporate charter.

SECTION 4. Any ten or more Indians, as determined by the official tribal rolls or Indian descendants of such enrolled members, or Indians as defined in the Act of June 18, 1934 (48 Stat. 984), who reside within the State of Oklahoma in convenient proximity to each other may receive from the Secretary of the Interior a charter as a local cooperative association for any one or more of the following purposes: Credit administration, production, marketing, consumers' protection, or land management. The provisions of this Act, the regulations of the Secretary of the Interior, and the charters of the cooperative associations issued pursuant thereto shall govern such cooperative associations: **Provided, That** in those matters not covered by said Act, regulations, or charters, the laws of the State of Oklahoma, if applicable, shall govern. In any stock or nonstock cooperative association no one member shall have more than one vote, and membership therein shall be open to all Indians residing within the prescribed district.

SECTION 5. The charters of any cooperative association organized pursuant to this Act shall not be amended or revoked by the Secretary except after a majority vote of the membership. Such cooperative associations may ~~sue and be sued in any court of the State of Oklahoma or of the United States~~ having jurisdiction of the cause of action, but a certified copy of all papers filed in any action against a cooperative association in a court of Oklahoma shall be served upon the Secretary of the Interior, or upon an employee duly authorized by him to receive such service. Within thirty days after such service or within such extended time as the trial court may permit, the Secretary of the Interior may intervene in such action or may remove such action to the United States district court to be held in the district where such petition is pending by filing in such action in the State court a petition for such removal, together with the certified copy of the papers served upon the Secretary. It shall then be the duty of the State court to accept such petition and to proceed no further in such action. The said copy shall be entered in the said district court within thirty days after the filing of the petition for removal, and the said district court is hereby given jurisdiction to hear and determine said action.

SECTION 6. The Secretary is authorized to make loans to individual Indians and to associations or corporate groups organized pursuant to this Act. For the making of such loans and for expenses of the cooperative associa-

tions organized pursuant to this Act, there shall be appropriated, out of the Treasury of the United States, the sum of \$2,000,000.

SECTION 7. All funds appropriated under the several grants of authority contained in the Act of June 18, 1934 (48 Stat. 984), are hereby made available for use under the provisions of this Act, and Oklahoma Indians shall be accorded and allocated a fair and just share of any and all funds hereafter appropriated under the authorization herein set forth: **Provided**, That any royalties, bonuses, or other revenues derived from mineral deposits underlying lands purchased in Oklahoma under the authority granted by this Act, or by the Act of June 18, 1934, shall be deposited in the Treasury of the United States, and such revenues are hereby made available for expenditure by the Secretary of the Interior for the acquisition of lands and for loans to Indians in Oklahoma as authorized by this Act and by the Act of June 18, 1934 (48 Stat. 984).

SECTION 8. This Act shall not relate to or affect Osage County, Oklahoma.

SECTION 9. The Secretary of the Interior is hereby authorized to prescribe such rules and regulations as may be necessary to carry out the provisions of this Act. All Acts or parts of Acts inconsistent herewith are hereby repealed.

Approved, June 26, 1936.

Exhibit X

SACRAMENTO INDIAN AGENCY
Sacramento, California
May 4, 1935.

Fursuant to the Act of June 18, 1934 (Public No. 583), hereafter to be known as the INDIAN REORGANIZATION ACT, a special election will be held on the Indian Rancherias or Reservations listed herein, as between the hours of 8:00 A.M. and 5:00 P.M., on Tuesday, June 11, 1935, to determine whether the duly enrolled Indians of the hereinafter listed rancherias or reservations desire the said Indian Reorganization Act to apply to them:

TUOLUMNE
JAMESTOWN
MANCHESTER
STEWARTS POINT
ALEXANDER VALLEY
CLOVERDALE
DRY CREEK
REUJING
PASKENTIA
LYTTON
SEBASTOPOL

Information will be posted later as to qualifications of voters, place and method of voting.

By order of the COMMISSIONER OF INDIAN AFFAIRS,

O. H. LIPPS,
Superintendent

MH

ER-214A

1935 Letter of May 4 to Roy Nash. . Folder 013, Indian Reorganization Act; Special Election [California Rancherias], Sacramento Area Office, Special Files, 013-020, Box 3. RG 75: Records of the Bureau of Indian Affairs, National Archives, San Bruno, CA.

ADDRESS ONLY THE SIGNER OF INDIAN AFFAIRS

Misc. UNITED STATES DEPARTMENT OF THE INTERIOR OFFICE OF INDIAN AFFAIRS WASHINGTON

MAY -4 1935

Mr. Roy Nash, 23 Appraisers Bldg., San Francisco, Calif.

Dear Mr. Nash:

In accordance with your night telegram of May 2, we are recommending to the Secretary of the Interior that elections be called for Indians under the jurisdiction of the Sacramento Agency to vote on the Indian Reorganization Act of June 18, 1934, as follows:

Table with 2 columns: Agency Name and Date. The date column is headed '1935' and contains dates like 'June 8' and 'June 10'. Agency names include Strathmore, Santa Rosa, Big Sandy, Table Mountain, Cold Springs, Upper Lake, East Lake, Middletown, Scotts Valley, Big Valley, Sulphur Banks, Cache Creek, Cedarville, Alturas, Likely, Lookout, Fort Bidwell, Millerton, Picayune, Northfork, Hopland, Laytonville, Guideville, Coyote Valley, Potter Valley, Redwood Valley, and Sherwood.

Pitt River	June 10
Montgomery Creek	" 10
Big Bend	" 10
Toulumna	June 11
Jamestown	" 11
Manchester	" 11
Stewarts Point	" 11
Alexander Valley	" 11
Cloverdale	" 11
Dry Creek	" 11
Redding	" 11
Peskenta	" 11
Lytton	" 11
Sebastopol	" 11
Buena Vista	June 12
Sheep Ranch	" 12
Jackson	" 12
Ramsey	" 12
Cortina	" 12
Colusa	" 12
Susanville	" 12
Taylorville	" 12
Shingle Springs	June 13
Keoketown	" 13
Enterprise	" 13
Berry Creek	" 13
Auburn	June 14
Golfex	" 14
Nevada City	" 14
Grindstone	" 14
Strawberry Valley	" 14
Wilton	June 15

We will advise you when the recommendation has been approved.

As you are aware, Section 18 requires 30 days' notice of such election. You and Superintendent Lipps should therefore make immediate preparations for the elections, and see that notices are posted at least thirty days in advance of the date of election. Additional notices can, of course, be posted subsequently so as to assist in getting information to all entitled to vote. Other details can also

Rancherias

UNITED STATES
DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS

FIELD SERVICE

SACRAMENTO INDIAN AGENCY

Sacramento, Calif.

June 12, 1935.

RECEIVED
JUN 13 1935
Wash

Mr. Roy Nash
23 Appraisers Building
San Francisco, California

Dear Mr. Nash:

The following Reorganization election returns have been received by this office today from the field:

Rancheria:	For:	Opposed:
North Fork	0	4
Picayune	3	7
Guidiville	14	1
Sherwood	10	12
Hopland	28	3
Cloverdale	10	0
Laytonville	7	11
Alexander Valley	14	0

Sincerely,

O. H. Lipps
O. H. LIPPS,
Superintendent.

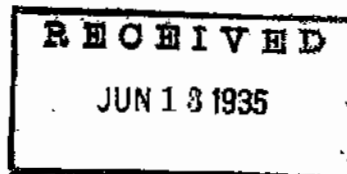
r

1935e Letter of June 17 to Commissioner of Indian Affairs. Folder 013, Indian Reorganization Act; Special Election [California Rancherias], Sacramento Area Office, Special Files, 013-020, Box 3. RG 75: Records of the Bureau of Indian Affairs, National Archives, San Bruno, CA. rancherias

Copied: 2 pp., plus "Tabulation of Election Returns"

COPY

SACRAMENTO INDIAN AGENCY
Sacramento, Calif.
June 17, 1935.



The Honorable
Commissioner of Indian Affairs,
Washington, D. C.

Via Air Mail:

Sir:

There is transmitted herewith tabulated statement of the election returns received at this office showing the results of the referendum under the Reorganization Act held under this jurisdiction between the dates June 8 to 15, inclusive.

It will be noted that had all these rancherias been grouped on a single large reservation, the total vote would be almost two to one in favor of the Act. Segregated in 49 different groups the election resulted in 17 groups opposing the Act and 32 favoring it. No returns have been received from 11 of the groups, on most of which no election was held, the Indians either refusing to vote or the rancheria not being occupied.

It is interesting to note that on the Rancherias where we have been able to conduct worthwhile work and improvement projects the Indians have largely voted in favor of the Act. On such rancherias we have been able to demonstrate to the Indians what our intentions toward them are and thus get them to see that the whole program is designed for their betterment. On most of the rancherias voting strongly against acceptance, we have had very little in the way of a program for the reason that on these rancherias conditions were such as to make it practically impossible to devise road construction and IECM projects, and therefore the Indians in those groups have not been convinced that our intentions toward them are really to help them.

This is only one of the reasons they rejected the Act, the main reason being the influence of the organization

Commissioner.

2.

6/17/85

known as the "Indians of California, Incorporated". This was particularly in evidence on the rancharias in Fresno, Madera and Butte Counties as well as on some of the others.

On the whole, considering the limited time available for contacting the Indians immediately prior to the elections, it is believed the results are quite satisfactory.

Very respectfully,

(Signed) O. H. LIPPS

OEL:MR

O. H. Lipps,
Superintendent.

Encl

CC: Mr. Nash

TABULATION OF ELECTION RETURNS ON THE INDIAN REORGANIZATION ACT, FROM THE RANCHERIAS UNDER THE JURISDICTION OF THE SACRAMENTO INDIAN AGENCY, CALIFORNIA, LISTED IN THE ORDER IN WHICH SUCH RETURNS WERE RECEIVED AT THE SACRAMENTO OFFICE:

No.	Rancheria:	Date:	Number Eligible Voters	%	In Favor:	Against:
✓ 1.	Lookout	June 8	12	30%	6 ✓	6
✓ 2.	Fort Bidwell	" 8	41	✓	37 ✓	4
✓ 3.	Alturas	" 8	15	✓	6 ✓	9
✓ 4.	Likely	" 8	30	✓	19 ✓	11
✓ 5.	Table Mountain	" 8	16	✓	8	10 ✓
✓ 6.	Big Valley	" 8	46	✓	21 ✓	25
✓ 7.	Cold Springs	" 8	47	✓	0	23 ✓
✓ 8.	Lower Lake (L. Lake)	" 8	30	✓	11 ✓	19
✓ 9.	Scotts Valley	" 8	17	✓	0	10 ✓
✓ 10.	Cache Creek	" 8	15	✓	7 ✓	8
✓ 11.	Hardisty	" 8	36	10.8 ✓	7 ✓	29
✓ 12.	Middletown	" 8	13	✓	10 ✓	3
✓ 13.	Robinson	" 8	40	✓	13 ✓	27
✓ 14.	Coyote Valley	" 10	8	2.4 ✓	0	8 ✓
✓ 15.	Pinoleville	" 10	51	✓	29 ✓	22
✓ 16.	Potter Valley	" 10	26	✓	10 ✓	16
✓ 17.	Redwood Valley	" 10	16	✓	16 ✓	0

2 - Tabulation Reorganization Election Returns (Cont'd):

<u>No.</u>	<u>Rancheria</u>	<u>Date</u>	<u>Number of</u> <u>Eligible Voters</u>	<u>30%</u>	<u>In Favor</u>	<u>Against</u>
- ✓ 18.	North Fork	June 10	0	✓	0	4 ✓
- ✓ 19.	Picayune	" 10	11	✓	3	7 ✓
- ✓ 20.	Guidville	" 10	25	✓	14 ✓	1
- ✓ 21.	Sherwood	" 10	55	✓	10	12 ✓
- ✓ 22.	Hopland	" 10	68	✓	28 ✓	5
- ✓ 23.	Cloverdale	" 11	80	✓	10 ✓	0
- ✓ 24.	Laytonville	" 10	29	✓	7	11 ✓
- ✓ 25.	Alexander Valley	" 11	14	✓	14 ✓	0
- ✓ 26.	Jackson	" 12	8	✓	8 ✓	0
- ✓ 27.	Fuchsme	" 11	40	✓	37 ✓	0
- ✓ 28.	Jamestown	" 11	5	✓	0	5 ✓
- ✓ 29.	Geyserville <i>Creek</i>	" 11	49	✓	8	17 ✓
- ✓ 30.	Colusa	" 12	36	✓	26 ✓	1
- ✓ 31.	Big Sandy	" 6	33	✓	1	25 ✓
- ✓ 32.	Manchester	" 11	46	✓	30 ✓	0
- ✓ 33.	Sheep Ranch	" 12	1	✓	1 ✓	0
- ✓ 34.	Stewarts Point	" 11	70	✓	51 ✓	10
- ✓ 35.	Buena Vista	" 12	4	✓	2 ✓	0
- ✓ 36.	Rumsey	" 12	11	✓	10 ✓	0
- ✓ 37.	Taylorville	" 12	4	✓	2 ✓	0
- ✓ 38.	Susanville	" 12	9	✓	6 ✓	0

3 - Tabulation Reorganization Election Returns (Cont'd):

No.	Rancheria	Date	Number of Eligible Voters	In Favor	Against
✓ 39.	Berry Creek	June 18	49	<u>30</u> ✓	28 ✓
✓ 40.	Auburn	" 14	36	✓	16 ✓
✓ 41.	Nevada City	" 14	16	✓	8
✓ 42.	Grindstone	" 14	27	✓	11 ✓
✓ 43.	Wilcox	" 15	14	✓	18 ✓
✓ 44.	Redding	" 11	15	✓	24 ✓
✓ 45.	Montgomery Creek	" 10	7	✓	5 ✓
✓ 46.	Pit River	" 10	5	✓	0 ✓
✓ 47.	Paskenta	" 11	28	✓	17 ✓
✓ 48.	Mooretown	" 15	43	✓	0 ✓
✓ 49.	Enterprise	" 15	29	✓	7 ✓

Number of Rancherias In Favor of Act -	32
" " Opposed to " "	17
Total voters in favor of Act -	617
" " opposed to Act -	288

No Returns from	Reason
✓ Cedarville	No Indians living there.
✓ Big Bend <i>Red</i>	No returns received
✓ Lytton	No Indians living there.
✓ Sebastopol	" " " "
✓ Curtina	No returns received.
✓ Strawberry Valley <i>Red</i>	" " " "
✓ Strathmore	No Indians living there.
✓ Santa Rosa	Election probably not held.
✓ Millerton	No Indians living there.
✓ Shingler Springs	No returns received
✓ Colfax	No Indians living there.

Nash, Roy

1935 Letter of June 25 to Commissioner of Indian Affairs. . Folder 013, Indian Reorganization Act; Special Election [California Rancherias], Sacramento Area Office, Special Files, 013-020, Box 3. RG 75: Records of the Bureau of Indian Affairs, National Archives, San Bruno, CA.

21 Appraisers Building
San Francisco

June 25, 1935.

FROM: Roy Nash, State Representative
TO: Commissioner of Indian Affairs
SUBJECT: Tabulation of Referenda on Indian Reorganization Act for California.

Dear Mr. Collier:

I herewith transmit final tabulation of results of referenda on the Indian Reorganization Act for all California jurisdictions, based on the assumption that S. 3655, according to the Speaker-Board Act was signed by the President.

Our latest information was that on June 11th, the bill had passed both Houses of Congress.

Sincerely,

Roy Nash,
State Representative

1 Encl.

cc Gupta, Lippa,
Budy,
Parrott,
Gonzalez and
Boggs

P. S. All Superior offices

Please check for possible errors or omissions.

R. N.

FINAL TABULATION

RESULTS OF REFERENDA ON INDIAN REORGANIZATION ACT

ALL CALIFORNIA JURISDICTIONS

GROUP 1

With 30 per cent voting, following
AGUERRA
 Indian Reorganization Act
 by a majority vote

Reservation, Homestead, or Rancheria by counties	Date of Referendum	Total Eligible Voters	30 % of Eligibles	Vote	
				For	Against
<u>FORT YUMA AGENCY</u>					
<u>Imperial County</u>					
1. Yuma	<u>1934</u> Nov. 17 . . .	458 . . .	137 . . .	192 . . .	32
<u>MISSION AGENCY</u>					
<u>San Diego County</u>					
2. San Pasqual	Dec. 10 . . .	3 . . .	1 . . .	2 . . .	1
3. Laguna	Dec. 18 . . .	1 . . .	1 . . .	1 . . .	0
4. La Posta	Dec. 18 . . .	3 . . .	1 . . .	2 . . .	0
5. Barona	Dec. 18 . . .	52 . . .	10 . . .	22 . . .	5
<u>Santa Barbara County</u>					
6. Santa Ynez	Dec. 18 . . .	48 . . .	14 . . .	20 . . .	0
<u>HOOPA VALLEY AGENCY</u>					
<u>Del Norte County</u>					
7. Crescent City	<u>1935</u> June 14 . . .	8 . . .	2 . . .	6 . . .	0
<u>Humboldt County</u>					
8. Trinidad	June 14 . . .	4 . . .	1 . . .	4 . . .	0

CHART 1 - Page 2

Reservation, Homestead, or Rancheria by County	Date of Referendum	Total Eligible Voters	30 % of Eligibles	Vote	
				For	Against
<u>WALKER RIVER AGENCY</u>					
<u>Tuys County</u>					
9. Indian Ranch	June 14	8	2	6	0
<u>SACRAMENTO AGENCY</u>					
<u>Amador County</u>					
10. Susan Vista	June 12	4	2	2	0
11. Jackson	June 12	3	2	2	0
<u>Calaveras County</u>					
12. Sheep Ranch	June 12	1	1	1	0
<u>Colusa County</u>					
13. Colusa	June 12	36	11	25	1
<u>Glenn County</u>					
14. Grindstone	June 14	27	8	11	0
<u>Lake County</u>					
15. Hardisty	June 8	36	11	7	4
16. Middletown	June 8	13	4	10	0
17. Robinson	June 8	46	14	19	13
18. Big Valley	June 8	46	14	21	4
19. Cache Creek	June 8	15	5	7	3
20. Lower Lake (Sulphur Banks)	June 8	20	6	11	7

GROUP 1 - Page 3

Reservation, Homestead, or Rancheria by counties	Date of Referendum	Total Eligible Voters	30 % of Eligibles	Vote	
				For	Against
<u>SACRAMENTO AGENCY (continued)</u>					
<u>Lassen County</u>					
21. Susanville	¹⁹³² June 12	9	3	6	0
<u>Madocaine County</u>					
22. Round Valley	¹⁹³⁴ Nov. 17	446	134	139	36
23. Fetter Valley	¹⁹³⁵ June 10	26	8	10	3
24. Pineleville	June 10	51	15	29	1
25. Hopland	June 10	55	17	28	3
26. Manchester	June 11	46	14	30	0
27. Guidiville	June 10	25	8	14	1
28. Redwood Valley	June 10	18	5	16	0
<u>Modoc County</u>					
29. Alturas	June 8	13	4	6	5
30. Likely	June 8	30	9	19	1
31. Lockout	June 8	12	4	6	2
32. Fort Bidwell	June 8	41	12	29	2
<u>Nevada County</u>					
33. Nevada City	June 14	18	5	6	2
<u>Plumas County</u>					
34. Taylorville	June 12	4	1	2	0

GROUP 1 - Page 4

Reservation, Homestead, or Rancheria by location	Date of Referendum	Total Eligible Voters	10 % of Eligibles	Vote	
				For	Against
<u>SACRAMENTO AGENCY (continued)</u>					
<u>Sacramento County</u>					
	<u>1937</u>				
35. Wilton	June 15 . .	14 . . .	4 . . .	12 . . .	0
<u>Shasta County</u>					
36. Montgomery Creek	June 18 . .	7 . . .	2 . . .	5 . . .	2
37. Big Bend	June 18 . .	1 . . .	1 . . .	2 . . .	0
<u>Schenoa County</u>					
38. Stewarts Point	June 11 . .	70 . . .	21 . . .	51 . . .	10
39. Cloverdale	June 11 . .	20 . . .	6 . . .	16 . . .	0
40. Alexander Valley	June 11 . .	14 . . .	4 . . .	14 . . .	0
<u>Tahama County</u>					
41. Parkana	June 11 . .	25 . . .	8 . . .	17 . . .	0
<u>Tulare County</u>					
	<u>1914</u>				
42. Pole River	Nov. 17 . .	94 . . .	28 . . .	50 . . .	2
<u>Tuolumna County</u>					
	<u>1935</u>				
43. Tuolumna	June 11 . .	60 . . .	12 . . .	37 . . .	0
<u>Yuba County</u>					
44. Rumsy	June 12 . .	11 . . .	3 . . .	10 . . .	0
<u>Colusa County (continued)</u>					
45. Cortina	June 12 . .	20 . . .	6 . . .	12 . . .	0

From the Rancherias Under the Jurisdiction of the Sacramento Indian Agency, California, Listed in the Order in Which Such Returns Were Received at the Sacramento Office, June 26. Folder 013, Indian Reorganization Act; Special Election [California Rancherias], Sacramento Area Office, Special Files, 013-020, Box 3. RG 75: Records of the Bureau of Indian Affairs, National Archives, San Bruno, CA.

RECEIVED

JUN 26 1935

REVISED TABULATION OF ELECTION RETURNS ON THE INDIAN REORGANIZATION ACT, FROM THE RANCHERIAS UNDER THE JURISDICTION OF THE SACRAMENTO INDIAN AGENCY, CALIFORNIA, LISTED IN THE ORDER IN WHICH SUCH RETURNS WERE RECEIVED AT THE SACRAMENTO OFFICE:

<u>No.</u>	<u>Rancherias:</u>	<u>Date</u>	<u>Number Eligible Voters:</u>	<u>In Favor:</u>	<u>Against:</u>
1.	Lookout	June 8	12	6	6
2.	Fort Bidwell	" 8	41	27	14
3.	Alturas	" 8	18	6	12
4.	Likely	" 8	29	19	10
5.	Table Mountain	" 8	16	2	14
6.	Big Valley	" 8	48	21	27
7.	Cold Spring	" 8	47	0	47
8.	Sulphur Bank (Lower Lake)	" 8	20	11	9
9.	Scotts Valley	" 8	17	0	17
10.	Cache Creek	" 8	16	7	9
11.	Upper Lake (Hardisty)	" 8	36	7	29
12.	Middletown	" 8	15	10	5
13.	East Lake (Robinson)	" 8	46	19	27
14.	Coyotte Valley	" 10	8	0	8
15.	Pinoleville	" 10	51	29	22
16.	Potter Valley	" 10	26	10	16
17.	Redwood Valley	" 10	18	16	2

2- Tabulation Reorganization Election Returns (Cont'd):

<u>No.</u>	<u>Rancheria:</u>	<u>Date:</u>	<u>Number of Eligible Voters:</u>	<u>In Favor:</u>	<u>Against:</u>
18.	North Fork	June 10	8	0	4
19.	Picayune	" 10	11	8	7
20.	Guideville	" 10	25	14	1
21.	Sherwood	" 10	36	10	12
22.	Hopland	" 10	66	28	8
23.	Cloverdale	" 11	21	10	0
24.	Laytonville	" 10	39	7	11
25.	Alexander Valley	" 11	14	14	0
26.	Jackson	" 12	8	8	0
27.	Tuolumne	" 11	40	37	0
28.	Jamestown	" 11	8	0	6
29.	Dry Creek (Geyserville)	" 11	49	8	17
30.	Colusa	" 12	36	26	1
31.	Big Sandy	" 8	58	1	25
32.	Manchester	" 11	46	50	0
33.	Sheep Ranch	" 12	1	1	0
34.	Stewart's Point	" 11	70	61	10
35.	Buena Vista	" 12	4	2	0
36.	Ramsey	" 12	11	10	0
37.	Taylorville	" 12	4	2	0
38.	Susanville	" 12	9	6	0

3 - Tabulation Reorganization Election Returns (Cont'd):

No.	Rancheria:	Date:	Number of Eligible Voters:	In Favor:	Against:
39.	Berry Creek	June 13	49	0	26
40.	Autumn	" 14	36	5	16
41.	Nevada City	" 14	18	6	8
42.	Grindstone	" 14	27	11	0
43.	Wilton	" 16	14	12	0
44.	Redding	" 11	12	2	4
45.	Montgomery Creek	" 10	7	5	2
46.	Pit River	" 10	2	0	2
47.	Paskenta	" 11	26	17	0
48.	Mooretown	" 13	43	0	34
49.	Enterprise	" 13	39	7	17
50.	Strawberry Valley	" 14	10	0	8
51.	Big Bend	" 10	5	2	0
52.	Cortina	" 12	20	12	0

Number of Rancherias in Favor of Act -	54
" " Opposed to " "	19
Total voters in favor of Act -	531
" " opposed to Act -	284

No Returns From:

Reasons:

Shingle Springs *	Election held, no returns received.
Santa Rosa *	Indians refused to hold election.
Cedarville *	No Indians living there.
Lythen *	No Indians living there.
Sebastopol *	No Indians living there.
Strathmore *	No Indians living there.
Millerton *	No Indians living there.
Colfax *	No Indians living there.

Miller, Wendell

1937 The Alexander Valley Rancheria, Sonoma, County, California. Folder,
Alexander Valley Termination, 103.3, Tribal Group Files, ca. 1930-80,
Box 1, Central California Agency, Sacramento, CA. RG 75: Records of
the Bureau of Indian Affairs, National Archives, San Bruno, CA.

The Alexander Valley Rancheria

Sonoma, County

California

Wendell Miller

S . G . S .

February, 1937

The Alexander Valley Rancheria

1. Population

Age Groups						Total Popu- lation	Sec. Edu- ca- tion	Degree of Indian Blood			
Male			Female					0	1/8	1/4	3/4
1-16	18-50	50- over	1-16	18-50	50- over						
16	6	4	6	4	2	37	2	1	21	4	11

2. The Indians of Alexander Valley live in frame houses resembling those in other rancherias throughout the valley. One family has their own electric light plant. None of the houses are close together but are scattered the length of the rancherias.

3. The rancheria contains fifty four acres of land adjoining the Russian River. The land is partly covered with forest brush and trees. About three acres are under cultivation. Two acres contain an orchard in very poor condition. The other acre is planted in grapes by James Adams who is by far the most aggressive man of the group. At least half of the fifty four acres could be cultivated, but as the Indians have no equipment they can not cultivate it. This is their excuse. The writer believes or is doubtful that they would farm if they did have the necessary equipment. There are good farms operated by whites surrounding the rancherias. The road that runs through the rancheria is in very poor condition. The Indians that live farthest from the main road leave their cars at the entrance to the rancheria and walk to their homes on rainy days. Their

- 2 -

is no definite assignment of land among the Indians. One family claims twenty acres, another thirty two, and another four, but as so little of the land is used it does not make much difference. The people depend on wage work for a living. All able bodied men work on ranches. Two of them have permanent jobs as ranch hands. The other work in the pruning and picking season. The average yearly income per household is about \$625.00. The household average is 7.4 persons.

4. The Indians of the rancherias have in general a cooperative spirit. They get together and chew the rag when they are not working. When they are working they usually work together on the same rancheria. As a whole they do not seem to be over anxious to work and have the idea that the government owes them a living. The children go to the Rodgers Public School about three quarters of a mile from the rancheria and to high school at Healdsburg.

Genus of the
Alexander Valley Rancheria

Name	Sex	Age	Degree of Blood	Family Relationship
Adams, James B.	M	50	1/2	Head
Adams, Minnie(McCloud)	F	48	3/4	Wife
McGill, John Jr.	M	22	5/4	Stepson
Adams, Lacey (McGill)	M	17	5/8	Stepson
Adams, Florentine(Hennick)	M	14	5/8	Stepson
Cordova, Oscar	M	15	5/8	Nephew
Cordova, Rosento	M	10	5/8	Nephew
Martinez, Bessie	F	42	4/4	Wife
Martinez, Paul	M	16	1/2	Son
Martinez, Carrie	F	13	1/2	Daughter
Martinez, Sam	M	10	1/2	Son
Martinez, Martin Jr.	M	7	1/2	Son
Martinez, Juanita	F	4	1/2	Daughter
Martinez, Lawrence	M	14	1/2	Son
Martinez, Martin Sr.	M	51	None	Head
McCloud, Grover	M	40	4/4	Son
McCloud, Martha(Elefano)	F	78	4/4	Head
McCloud, Joseph	M	13	1/2	Grandson
McCloud, Bessie	F	9	1/2	Granddaughter
McCloud, Bill	M	7	1/2	Grandson
McCloud, Sid	M	5	1/2	Grandson

Census

← B ←

Mr the, McGlond, Cont.	Sex	Age	Degree of Blood	Family Relationship
Cordova, Andrew	M	15	1/2	Grandson
Brown, H. Sr.	M	55	1/2	Son
Brown, H. C. Jr.	M	3	3/4	Grandson
McGill, James Sr.	M	47	1/2	Head
McGill, Lorie (Grippe)	F	58	4/4	Wife
McGill, Melvin	M	15	3/4	Son
Amante, James	M	19	1/2	Stepson
Bacco, Geraldine	F	10	1/2	Stepdaughter
McGill, Nathan	M	7	1/2	Stepson
Grippe, Angelo	M	55	4/4	Head
Grippe, Lovine	F	41	4/4	Wife
Grippe, Jubenia	M	10	4/4	Son
Grippe, Caroline	F	3	4/4	Daughter
Merando, Frances	F	59	4/4	Mother
Merando, Mariano	M	77	4/4	Stepfather
Miguel, Louise	F	12	4/4	Niece

Hooper, E. H.

1940b Letter of December 27 to Commissioner of Indian Affairs. Folder 064, Indian Organizations General, Tribal Subject Files, Sacramento Area Office, Box 23. RG 75: Records of the Bureau of Indian Affairs, National Archives, San Bruno, CA.

Copied, 3 pp. [Proof of no Alexander Valley organization]

J.P. [Signature]

Sacramento Indian Agency

**Sacramento, California,
December 27, 1940.**

**Commissioner of Indian Affairs,
Washington, D. C.**

Sir:

Replying to your postcard of December 10th, the following is submitted for your information:

COUNCIL	AGE	DEGREE OF BLOOD	DATE OF ELECTION
TUOLUMNE RANCHERIA - Tuolumne Band of Me-wuk Indians of the Tuolumne Rancheria			
William Fuller, Chairman	57	1/8	11/25/40
Harry Butler, Vice chairman	40	1/2	do
Viola F. Cox, Secretary	35	5/8	do
Fred Geisdorff, Treasurer	68	1/2	do
BIG VALLEY RANCHERIA - Big Valley Band of Pomo Indians of the Big Valley Rancheria			
Roger Fosh, Chairman	37	Full	11/18/40
Edward Elgin, Vice Chairman	48	3/4	do
Lincoln Dennison, Secretary	51	Full	do
Tom Martin, Treasurer	37	1/4	do
UPPER LAKE RANCHERIA - Upper Lake Band of Pomo Indians of the Upper Lake Rancheria			
Harris George, Chairman	76	Full	11/15/40
Jim Brown, Vice Chairman	46	Full	do
Rodney Snow, Secretary	28	Full	do
George Tansy, Treasurer	28	Full	do

-2-

WILTON RANCHERIA - Ha-wuk Indian Community of the Wilton Rancheria

Raymond Taylor, Chairman	31	1/2	11/19/40
Archis Williams, Vice Chairman	40	1/2	do
Edith Williams, Secretary	28	Full	do
Ella Taylor, Treasurer	82	1/2	do

MANCHESTER RANCHERIA - Manchester Band of Pomo Indians of the Manchester Rancheria

Harry Finkle, Chairman	55	Full	11/8/40
Walter Frank, Vice chairman	45	3/4	do
Irving Pike, Secretary	30	7/8	do
Raymond Laiva, Treasurer	65	1/2	do

STEWARTS POINT RANCHERIA - Kashia Band of Pomo Indians of the Stewart's Point Rancheria

John R. Smith, Chairman	50	Full	11/10/40
Allen James, Vice chairman	34	Full	do
Oladya Antons, Secretary	27	Full	do
Louise Smith, Treasurer	40	Full	do

TULE RIVER RESERVATION - Tule River Tribal Council

William Garfield, Chairman	49	Full	5/7/40
Brigido Jerinio, Vice Chairman	57	1/2	10/19/40
Albert Manuel, Secretary	43	5/8	5/7/40
Renaio Emeterio, Treasurer	58	Full	10/19/40

COUNCILMEN

Walter Rodiles	42	Full	5/8/40
Maude Manuel	41	1/2	5/8/40
Garmon Santos	29	7/8	5/8/40
Manuel Garner	52	1/2	5/8/40

Vacancy caused by resignation of Ross Ellis

FORT BIDWELL - Fort Bidwell Indian Community of the Ft. Bidwell Reservation

Herman Townsend, Chairman	24	Full	11/18/40
Willie San, Vice Chairman	52	Full	do
Dewey Barr, Secretary	55	Full	do
Bieber Hawley, Treasurer	31	Full	do

-2-

ROUND VALLEY - Govele Indian Community Council

Thomas Hoaglin, Chairman	59	3/4	4/13/39
Filmore Duncan, Vice chairman	44	Full	4/13/39
Robert Hatcher, Treasurer, Pro Tem	45	1/4	1/28/39
Arthur Duncan, Secretary (From outside the Council)			

COUNCILMEN

Arthur Anderson	49	3/4	4/13/39
David Ayers	48	5/8	March, 1940
Woodie Whipple	56	Full	4/13/39
Melvin Major	36	7/8	4/13/39

Very truly yours,

E. H. Hooper,
Acting Superintendent

Documents responsive to Item No. 4

Exhibit Y



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240



MAR 12 2009

Memorandum

To: Regional Directors

From: George T. Skibine
Deputy Assistant Secretary for Policy and Economic Development
Office of the Assistant Secretary Indian Affairs

Subject: Application of the Holding in *Carcieri v. Salazar* to Pending Requests to Acquire Land-in-Trust

On February 24, 2009, the United States Supreme Court issued its decision in *Carcieri v. Salazar*. The decision held that Congress granted limited authority to the Secretary of the Interior under the Indian Reorganization Act (IRA) to acquire land-in-trust for Indian tribes. To acquire land-in-trust under section 465 of the IRA, a tribe must have been "under Federal jurisdiction" at the time the IRA was passed in June 1934. The Court did not define the phrase "under Federal jurisdiction."

The Department in consultation with the Solicitor's Office is reviewing the decision to determine the scope of its impact and how best to proceed with processing applications to acquire land-in-trust. To assist in this review, I ask that the Regional Directors provide the information identified below to my Office by March 20, 2009. In addition, this memorandum provides guidance for processing pending applications to acquire land-in-trust.

Needed Information

The following information is needed from the Regional Offices to identify tribes that may be impacted by the *Carcieri* decision. Please compile a list that identifies:

1. Tribes that were federally acknowledged under 25 C.F.R. Part 83, restored or reaffirmed after June 1934, and any specific land acquisition authorities for those tribes;
2. Tribes with an organizational history that raises any question about whether they were under federal jurisdiction in 1934;
3. Whether those tribes identified above have had land taken in trust;
4. The total number of acres and location(s) of land taken in trust for those tribes;
5. The state(s) that lands were acquired in trust for these tribes;

6. The current use of these trust lands (e.g., housing, grazing, commercial leasing, etc.).
7. Which of these lands have gaming facilities already operating or planned for operation, and
8. In whose name were the deeds filed before they were transferred to the United States in trust (i.e., did the United States, the tribe or a third party hold title prior to the land being held in trust?).

One source that can be used to assist in determining whether a tribe was under Federal jurisdiction is the report *Ten Years Of Tribal Government Under The Indian Reorganization Act* by Theodore H. Hays (1947). While this is not the only or finally determinative source, it may be helpful as a starting point. Until a complete list of criteria can be developed about what constitutes "under Federal jurisdiction" in 1934, please provide any information that may be helpful in making that determination. Please consult with the Regional Tribal Operations staff while compiling this information.

Guidance for Processing Pending Applications

Please adhere to the following guidance in processing pending applications to acquire land in trust under 25 U.S.C. § 465.

1. For those tribes where there is no question that they were under Federal jurisdiction in 1934, continue processing the applications as usual.
2. For those tribes with an organizational history that raises any question about whether they were under Federal jurisdiction in 1934, seek advice from the Solicitor's Office as to the effect of the *Cherokee* decision on those tribes. It may be possible to continue processing the applications while legal advice is being sought. No final decision should, however, be made and no deeds should be approved until it has been determined whether or not they were under Federal jurisdiction in 1934.
3. For those tribes that were federally acknowledged under 25 C.F.R. Part 83, restored or reaffirmed after June 1934, seek advice from the Solicitor's Office before continuing to process the applications.
4. For those tribes which have specific land acquisition authority other than 25 U.S.C. § 465, continue processing applications because they are not affected by the *Cherokee* decision.

If you have any question about the applicability of the *Cherokee* decision to pending applications, please seek the advice of the Solicitor's Office before proceeding.

Exhibit Z

1 Peter J. Engstrom, State Bar No. 121529
 2 peter.j.engstrom@bakernet.com
 3 Bruce H. Jackson, State Bar No. 98118
 4 bruce.h.jackson@bakernet.com
 5 Irene V. Gutierrez, State Bar No. 252927
 6 irene.v.gutierrez@bakernet.com
 7 **BAKER & MCKENZIE LLP**
 8 Two Embarcadero Center, 11th Floor
 9 San Francisco, CA 94111-3802
 10 Telephone: +1 415 576 3000
 11 Facsimile: +1 415 576 3099

12 Attorneys for Plaintiff
 13 BIG LAGOON RANCHERIA

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
 16 OAKLAND DIVISION

17 BIG LAGOON RANCHERIA, a Federally
 18 Recognized Indian Tribe,

19 Plaintiff,

20 v.

21 STATE OF CALIFORNIA,

22 Defendant.

23 Case No. CV-09-1471-CW (JCS)

24 **PLAINTIFF BIG LAGOON
 25 RANCHERIA'S RESPONSE TO
 26 DEFENDANT STATE OF
 27 CALIFORNIA'S FIRST SET OF
 28 REQUESTS FOR ADMISSIONS**

1 PROPOUNDING PARTY: DEFENDANT STATE OF CALIFORNIA
2 RESPONDING PARTY: PLAINTIFF BIG LAGOON RANCHERIA
3 SET: ONE
4

5 Pursuant to Federal Rule of Civil Procedure 36, plaintiff Big Lagoon Rancheria ("Plaintiff"
6 or "Big Lagoon") hereby responds to defendant State of California's ("Defendant" or "State of
7 California") first set of requests for admissions (the "Requests"), served by Federal Express on
8 November 16, 2009, as follows:

9 **GENERAL OBJECTIONS**

10 Big Lagoon states the following general objections to Defendant's Requests:

- 11 1. Big Lagoon objects to the Requests to the extent that they seek information protected
12 by the attorney-client privilege, attorney work-product doctrine, or any other applicable privilege on
13 the grounds that such information is not subject to discovery. Any inadvertent disclosure of
14 privileged information shall not constitute a waiver of any applicable privilege.
- 15 2. Big Lagoon objects to the Requests to the extent that they seek information already in
16 Defendant's possession, custody or control or information equally available to Defendant on the
17 grounds that such Requests are unduly burdensome, oppressive and harassing.
- 18 3. Big Lagoon objects to the Requests to the extent that they seek information which is
19 not relevant to the subject matter of this action, and is not reasonably calculated to lead to the
20 discovery of admissible evidence.
- 21 4. Big Lagoon's responses are made with the caveat that it has not completed its
22 investigation of the facts underlying this action, or is discovery, or its trial preparation, and, as a
23 result, may discover additional information in the course of that investigation, discovery, and trial
24 preparation. Furthermore, although Big Lagoon has made a diligent search and reasonable inquiry to
25 locate responsive information, discovery, investigation and trial preparation are continuing, and Big
26 Lagoon reserves the right to use at trial information which are subsequently located.

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RESPONSES TO REQUESTS FOR ADMISSIONS

Subject to and without waiving the above General Objections, Big Lagoon responds to the Requests as follows:

REQUEST NO. 1:

Please admit or deny that no current member of the Big Lagoon Rancheria is a lineal descendant of the individual commonly known as Jim "Lagoon" Charley.

RESPONSE TO REQUEST NO. 1:

Subject to and without waiving its general objections, and with the further objection that this request is both vague and ambiguous, and legally inconsequential, Big Lagoon admits that no current member of the Tribe is known to be related to Jim "Lagoon" Charley other than by marriage.

Dated: January 19, 2010

Peter J. Engstrom
Bruce H. Jackson
Irene V. Gutierrez
BAKER & MCKENZIE LLP

By: 
Irene V. Gutierrez
Attorneys for Plaintiff
BIG LAGOON RANCHERIA

CERTIFICATE OF SERVICE

I, Christine von Seeburg, declare as follows:

I am over the age of eighteen years and not a party to the case. I am employed in the County of San Francisco, State of California, where the mailing occurs; and my business address is **BAKER & McKENZIE LLP**, Two Embarcadero Center, 11th Floor, San Francisco, California 94111-3802; +1 415 576 3000. On January 19, 2010, I served a copy of the within document(s):

PLAINTIFF BIG LAGOON RANCHERIA'S RESPONSE TO DEFENDANT STATE OF CALIFORNIA'S FIRST SET OF REQUESTS FOR ADMISSIONS

on counsel for Defendant State of California in this action by placing said document enclosed in a sealed envelope addressed as follows:

Edmund G. Brown Jr.
Attorney General of California
Sara J. Drake
Supervising Deputy Attorney General
Randall A. Pinal
Deputy Attorney General
110 West A Street, Suite 1100
San Diego, CA 92186-5266

Attorneys for Defendant
STATE OF CALIFORNIA

Telephone: +1 619 645 3075
Facsimile: +1 619 645 2012

- (BY U.S. MAIL) I placed such sealed envelope, with postage thereon fully prepaid for first-class mail, for collection and mailing at BAKER & McKENZIE LLP, San Francisco, California, following ordinary business practices. I am readily familiar with the practice of BAKER & McKENZIE LLP for collection and processing of correspondence, said practice being that in the ordinary course of business, correspondence is deposited in the United States Postal Service the same day as it is placed for collection.
- (BY PERSONAL SERVICE) I caused each such envelope to be delivered by hand to the addressee(s) noted above.
- (VIA OVERNIGHT COURIER - FEDEX) I placed such sealed envelope, for collection, at BAKER & McKENZIE LLP, San Francisco, California. I am readily familiar with the practice of BAKER & McKENZIE LLP for collection and processing of overnight packages, said practice being that in the ordinary course of business, documents are deposited with the overnight courier the same day as they are placed for collection.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

I declare under penalty of perjury under the laws of the United States of America that the above is true and correct. Executed on January 19, 2010, at San Francisco, California.

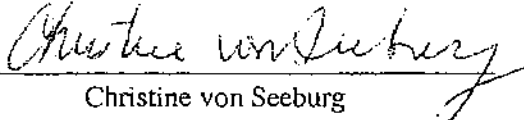

Christine von Seeburg

Exhibit AA

We, the members of the Yurok Tribe, also known historically as the Pohlik-lah, Ner-er-ner, Petch-ik-lah, or Klamath River Indians, hereby adopt this constitution and establish our tribal government.

PREAMBLE

Our people have always lived on this sacred and wondrous land along the Pacific Coast and inland on the Klamath River, since the Spirit People, Wo-ge' made things ready for us and the Creator, Ko-won-no-ekc-on Ne-ka-nup-ceo, placed us here. From the beginning, we have followed all the laws of the Creator, which became the whole fabric of our tribal sovereignty. In times past and now Yurok people bless the deep river, the tall redwood trees, the rocks, the mounds, and the trails. We pray for the health of all the animals, and prudently harvest and manage the great salmon runs and herds of deer and elk. we never waste and use every bit of the salmon, deer, elk, sturgeon, eels, seaweed, mussels, candlefish, otters, sea lions, seals, whales, and other ocean and river animals. We also have practiced our stewardship of the land in the prairies and forests through controlled burns that improve wildlife habitat and enhance the health and growth of the tan oak acorns, hazelnuts, pepperwood nuts, berries, grasses and bushes, all of which are used and provide materials for baskets, fabrics, and utensils.

For millennia our religion and sovereignty have been pervasive throughout all of our traditional villages. Our intricate way of life requires the use of the sweathouse, extensive spiritual training, and sacrifice. Until recently there was little crime, because Yurok law is firm and requires full compensation to the family whenever there is an injury or insult. If there is not agreement as to the settlement, a mediator would resolve the dispute. Our Indian doctors, Keg-ae, have cared for our people and treated them when they became ill. In times of difficulty village headmen gather together to resolve problems affecting the Yurok Tribe.

Our people have always carried on extensive trade and social relations throughout our territory and beyond. Our commerce includes a monetary system based on the use of dentalium shells, Terk-n-term and other items as currency. The Klamath River was and remains our highway, and we from time beginning utilized the river and the ocean in dugout canoes, Alth-way-och, carved from the redwood by Yurok craftsmen, masterpieces of efficiency and ingenuity and have always been sold or traded to others outside the tribe. Our people come together from many village* to perform ceremonial construction of our fish dams, Lohg-en. Our traditional ceremonies -- the Deerskin Dance, Doctor Dance, Jump Dance, Brush Dance, Kick Dance, Flower Dance and others -- have always drawn hundreds, and sometimes thousands, of Yuroks and members of neighboring tribes together for renewal, healing, and prayer. We also have always traveled to the North and East to the high mountains on our traditional trails to worship the Creator at our sacred sites, -- Doctor Rock, Chimney Rock, Thkla-mah (the stepping stones for ascent into the sky world), and many others.

October 22, 1993

Ratified: November 19, 1993

1

Constitution of the Yurok Tribe

ER-249

This whole land, this Yurok country, stayed in balance, kept that way by our good stewardship, hard work, wise laws, and constant prayers to the Creator.

Our social and ecological balance, thousands and thousands of years old, was shattered by the invasion of the non-Indians. We lost three-fourths or more of our people through unprovoked massacres by vigilantes and the intrusion of fatal European diseases. The introduction of alcohol weakened our social structure, as did the forced removal of our children to government boarding schools, where many were beaten, punished for speaking their language, and denied the right to practice their cultural heritage. After goldminers swarmed over our land we agreed to sign a "Treaty of Peace and Friendship" with representatives of the President of the United States in 1851, but the United States Senate failed to ratify the treaty. Then in 1855, the United States ordered us to be confined on the Klamath River Reserve, created by Executive Order, (pursuant to the Act of March 3, 1853 10 Stat. 226,238) within our own territory.

In 1864 a small part of our aboriginal land became a part of the Hoopa Valley Indian Reservation which was set apart for Yuroks and other Indians in Northern California. This became known as the 12-mile "Square." In 1891, a further small part of our aboriginal land was added when "The Extension" to the Hoopa Valley Indian Reservation was set aside by executive order authorized by the 1864 statute, which created the Hoopa Valley Indian Reservation. This statutory reservation extension extended from the mouth of the Klamath River, including the old Klamath River Reserve, about 50 miles inland and encompassed the river and its bed, along with one mile of land on both sides of the river.

But even this small remnant of our ancestral land was not to last for long. In the 1890's individual Indians received allotments from tribal land located in the Klamath River Reserve portion of the Hoopa Valley Reservation and almost all of the remainder of the Reserve was declared "surplus" and opened for homesteading by non-Indians. The forests were logged excessively and the wildlife was depleted. Even the great salmon runs went into deep decline due to overfishing and habitat destruction. In the mid 1930's the State of California attempted illegally to terminate traditional fishing by Yurok people, the river's original -- and only -- stewards from Bluff Creek to the Pacific Ocean. Our fishing rights were judicially reaffirmed in the 1970's and the 1980's after many legal and physical battles.

Throughout the first 140 years of our tribe's dealings with the United States, we never adopted a written form of government. We had not needed a formal structure and were reluctant to change. The United States had decimated the Yurok population, land base, and natural resources and our people were deeply distrustful of the federal government.

October 22, 1993

Ratified: November 19, 1993

Constitution of the Yurok Tribe

2

ER-250

Yet we, the Yurok people, know that this is the time to exercise our inherent tribal sovereignty and formally organize under this Constitution. We do this to provide for the administration and governance of the modern Yurok Tribe that has emerged, strong and proud, from the tragedies and wrongs of the years since the arrival of the non-Indians into our land. Our sacred and vibrant traditions have survived and are now growing stronger and richer each year.

The Yurok Tribe is the largest Indian tribe in California, and while much land has been lost, the spirit of the Creator and our inherent tribal sovereignty still thrives in the hearts and minds of our people as well as in the strong currents, deep canyons, thick forests, and high mountains of our ancestral lands.

Therefore, in order to exercise the inherent sovereignty of the Yurok Tribe, we adopt this Constitution in order to:

- 1) Preserve forever the survival of our tribe and protect it from forces which may threaten its existence;
- 2) Uphold and protect our tribal sovereignty which has existed from time immemorial and which remains undiminished;
- 3) Reclaim the tribal land base within the Yurok Reservation and enlarge the Reservation boundaries to the maximum extent possible within the ancestral lands of our tribe and/or within any compensatory land area;
- 4) Preserve and promote our culture, language, and religious beliefs and practices, and pass them on to our children, our grandchildren, and to their children and grandchildren on, forever;
- 5) Provide for the health, education, economy, and social wellbeing of our members and future members;
- 6) Restore, enhance, and manage the tribal fishery, tribal water rights, tribal forests, and all other natural resources; and
- 7) Insure peace, harmony, and protection of individual human rights among our members and among others who may come within the jurisdiction of our tribal government.

October 22, 1993

Ratified: November 19, 1993

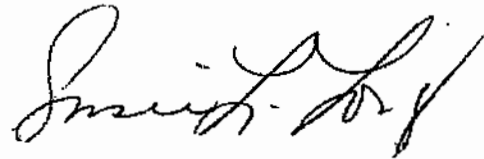
Constitution of the Yurok Tribe

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ER-251

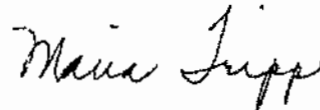
CERTIFICATION

This is to certify that this Resolution was approved at a duly called Special Meeting of the Yurok Tribe Interim Council on November 24, 1993, at which a quorum was present and that this Resolution (#93-62) was adopted by a vote of 3 FOR and 0 AGAINST with no abstentions. This Resolution has not been rescinded or amended in any way.

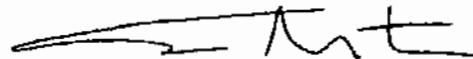


Susie L. Long, Chair
Yurok Tribe Interim Council

ATTEST:



Maria Tripp, Council Member
Yurok Tribe Interim Council



Susan Masten, Council Member
Yurok Tribe Interim Council

Exhibit BB

F.A.S.

Realty

Office Memorandum • UNITED STATES GOVERNMENT.

Area Director
 TO : Sacramento Area Office
 Sacramento 4, Calif. Attn: Mr. Clark DATE: 9-23-54
 FROM : *[Signature]*
 SUBJECT: Trespass on Big Lagoon Rancheria

While on the coast yesterday I paid a visit to the Big Lagoon Rancheria and find a house under construction. At one time I gave permission to an Indian to camp there temporarily, but this office has not issued any permission for building there. I first viewed the new construction on September 21st and finding no one present returned on the 23rd with the same luck, so I presume a working man is doing the building after work hours. I left a note on the door to stop all construction at once, and to report to the Hoopa Office where permission was given for such construction.

Since my last visit to this rancheria the two old cabins, which were in a badly delapidated state of repair, has burned to the ground, and brush and weeds have grown about the place. I find it very difficult to determine the boundaries, so possibly a boundary survey might be of value some time when the survey crew is in the vicinity.

I am afraid that we are going to have a great deal of difficulty with such places, in the absence of more frequent visits. I also discovered another resident on Trinidad Rancheria this trip. The woman of the house was definitely white, but states that she is married to one Cornelius Henry, who constructed the house for Mrs. Hancorne. I tried to follow this up by calling at the Hancorns residence, but found no one home. I will continue to investigate this situation and make a complete report as soon as I have the facts in the case.

In the rush of the Senate Hearings, a new agent and other complications I have been more or less confined to Hoopa, but I expect to be able to do some work in the rancherias soon.

Exhibit CC

TO : Sacramento Area Office
Sacramento 4, California

FROM : H. Dashane, Hoopa

SUBJECT: Big Lagoon Trespass

DATE: 2-1-55

RECEIVED
FEB -1 1955
SACRAMENTO AREA OFFICE

After many fruitless trips to Big Lagoon I have finally been able to contact the builder of the houses on this rancheria, Mr. and Mrs. Tom Williams, P. O. Box 25 Trinidad, California.

These are the people that were given permission by this office to camp on the rancheria, but ended up building a cabin. I discussed this with them at the time, and they were quite frank in admitting that they were laying no claim to the land, but had to have someplace to work from. I believe this was mentioned to the Sacramento Office previously, so with the added construction at a much later date I did not know the builder and was not able to contact him on many previous trips there.

Mr. Williams works in a mill at Orick, California, so I was not able to talk to him, but I did contact his wife and have the following explanation as told by Mrs. Williams: Mrs. Thomas Green Williams, an unallotted and unassigned Yurok Indian, states that she called many times at the Hoopa Office trying to get an assignment on one of the rancherias and was never able to get a satisfactory answer, only that such a program was not ready at the time. She was finally given permission to camp on Big Lagoon, so they built a cabin in order to look up their belongings when they were away. I explained to her that there a good possibility of her losing the improvements that they had placed on the rancheria. She further states that the reason for building the additional cabin was in order that her daughter and her husband could have a place to stay. She was very belligerent at the outset of the discussion but gradually calmed down to a reasonable attitude as the discussion continued. I am at a loss as to what to recommend in this case, as these people have no place to go--the place where they have been living they are renting, and the daughter and her husband are living on the rancheria. This, I feel, is only the beginning of like trespasses on unoccupied rancheria land, and it would seem that we are forced into some policy making on the assignment of this type of land. One of her questions was if they could not have an assignment there, what was to happen to the land. I told her that the answer to that would undoubtedly be contained in the proposed termination bill. Another question that seemed to be uppermost in her mind was, if the land could not be assigned to the Williams would it be possible that it would be assigned to others. I told her that if the land was to be assigned at all that the Williams would be given the same opportunity as anyone else to acquire an assignment thereon, but if the land would by chance be up for sale, then any improvements thereon would be placed in jeopardy. Her main worry was that the land not be assigned to someone else.

I have long worried about the Trinidad, Big Lagoon and Resighini Rancherias, as we have such meager information as to existing assignments, etc, and so much unoccupied land there that the Indians are unable to understand why they cannot be

I told Mrs. Williams that I would report my finding to the Sacramento Office and that she would be contacted further by that Office. I hope there is some equitable way that this can be settled, as I feel that we definitely have an obligation to such Indians in that area. How we should go about such a settlement or course of action I believe will be unanswered until there is passage of termination legislation containing enabling action in regard to such land. Possibly this could be the subject of a Sacramento conference, as I definitely feel that we should go into this problem in its entirety and come up with some answers, as I stated before I believe this is just the beginning of such unauthorized occupying of rancheria land.

I believe this concludes about all I have on the subject. If there are further questions I will be glad to answer them to the best of my ability, or if you have further action you wish me to take in this case I will be glad to comply.

Exhibit DD

File Copy

Real Property Management
Big Lagoon Rancheria

Area Director, Sacramento Area Office
Acting Tribal Operations Officer

June 30, 1967

Area Field Representative
Hoopa Area Field Office

Big Lagoon Rancheria

At a meeting with Mr. and Mrs. Thomas Williams and Mr. and Mrs. Ted Moorehead at Big Lagoon Rancheria on Thursday, June 22, 1967, they expressed a definite desire to develop a distribution plan for the Rancheria.

Following is a list of persons with the date of birth and family relation of each shown who are believed to be the only persons eligible to participate in the distribution of assets:

<u>Name</u>	<u>Family Relation</u>	<u>Date of Birth</u>	<u>Age</u>
Thomas Williams	Husband	4-9-12	55
Lila Williams	Wife	1-14-14	53
Thomas Williams, Jr.	Son	7-13-49	17
Franklin Lara	Grandson	9-28-54	12
Dale Lara	Grandson	5-23-56	11
Ted Moorehead	Husband	12-9-28	38
Beverly Moorehead <i>(Mrs)</i>	Wife	11-27-34	32
Peter Lara	Son	8-22-57	9
Edgar Moorehead	Son	9-9-58	8
Vigil Moorehead	Son	1-13-60	7
Holly Moorehead	Daughter	11-9-61	5

Franklin and Dale Lara live with the Williams and are the sons of their daughter, Beverly Moorehead, by a previous marriage.

From discussion with the Williams and Mooreheads, it appears that it will be necessary to re-survey the exterior boundaries of the Rancheria as well as dividing lines in order to have recordable descriptions of the lots. They advise that Georgia-Pacific, who own the adjoining lands over which it will be necessary to cross for extending electric service, has in the past been amenable to granting the necessary right-of-way. Also, Georgia-Pacific has recognized the right of the occupants to cross over Georgia-Pacific lands from the old State highway to the Rancheria; however, it may be advisable to attempt to secure some written agreement or document as a matter of record for the access.

For your information, it is quite possible that some expense will be involved in getting electric power extended to the Rancheria due to the distance from the existing power line.

The people were advised that we would get in touch with them in the near future to assist them in formulating a distribution plan. It is not planned that this office will take any further action in this matter until we have had further advice and instructions from you.

(Sgd) Andrew W. Latham

Andrew W. Latham
Area Field Representative

AllLatham/ls

Exhibit EE

MAY-31-02 16:05 From:
May-31-02 09:24 From:

T-380 P.04/05 Job-568

MAR 29 1983

Superintendent, Northern California Agency

Request for Solicitor's Opinion on Acquisition of Permanent Road Right of Way to Big Lagoon Rancheria

Mr. James Bordenkircher, Regional Solicitor's Office

THROUGH: Area Director, Sacramento Area Office

As a result of a telephone conversation between James Bordenkircher of the Solicitor's Office and Herbert A. Ferris, Realty Officer, on March 23, 1983, Mr. Bordenkircher asked this office to forward a complete history of the acquisition of the land, as well as the past and present use of the existing road by the Indian residents.

The subject land was included in a patent issued to Walter Carrier on October 1, 1879. In 1916, Hammond Lumber Company, having acquired the land, sold Lots 1, 2 and the SW 1/4 of the SW 1/4 of Section 13 and the NW 1/4 of the SW 1/4 of Section 24, all in T. 2N., R. 1W., S. 1E., Humboldt County, California, containing 145.81 acres, more or less, to F. G. Ladd.

On April 3, 1917, James Charley, aka Lagoon Charley, wrote to the Indian Service saying he was fearful that Mr. Ladd would force him from his home.

After several months of negotiations, the United States purchased on July 10, 1918, a 9.26 acre parcel, covering the improvements of Lagoon Charley, being part of said Lot 2. The title status report indicates the land was purchased for the right of use and occupancy of Jim (Lagoon) Charley and his family and such other Indians as the Secretary of the Interior may see fit to settle on the tract.

As shown by the attached maps, drawn by Mr. Ladd, he retained the larger parcel of 136.25 acres, physically landlocking the Indian land on all sides, except on the Big Lagoon shore line.

It appears this is an excellent case to claim an easement by necessity, or implied rights of access, over the land retained by Mr. Ladd, which is now apparently owned by Louisiana-Pacific Corporation.

Lagoon Charley and his family continued to occupy the Rancheria until 1945. An on-site inspection in 1951, disclosed the property was vacant. In 1954, Lila and Tom Williams began construction of a house on the land. Beverly and Ted Moonhead were reported to be living on the property in 1967, when the four of them were determined to be the Distributees of the Rancheria Assets, under the provisions of the Rancheria Act of August 18, 1958 (72 Stat. 619).

As a requirement of the termination of the Rancheria, a legal right of way to the land would be acquired by the Bureau. On November 30, 1967, a letter from the Hoopa Agency was addressed to officials of the Georgia-Pacific Corporation, regarding the acquisition of a legal right of way over the existing road to the Rancheria. A follow-up letter on January 10, 1967, produced a reply from Alfred E. Merrill, Chief Forester, indicating the Company had future plans to subdivide their property.

their property, but for the present they would be willing to grant a temporary non-exclusive right of access, subject to the relocation of the right of way by Georgia-Pacific, at a later date.

On February 6, 1969, the Area Tribal Operations Officer wrote to Mr. Merrill to inquire as to the terms and conditions under which they would grant a legal and permanent right of way. Our files indicate no reply was received.

By Memorandum of September 14, 1970, from the Area Director to the Commissioner, it was pointed out that to secure legal, permanent access to the rancharia over the adjoining privately-owned lands, we estimate that acquisition of a 40' right of way across valuable development potential property for approximately 1/3 mile, which will sever the land, will amount to \$14,000.00.

In addition, the Roads Branch advises that clearing, which will involve the cutting of some several high redwood trees, and grading and gravelling the approximately 1/2 mile, 40' or less right of way, will amount to \$100,000.00.

On or about September 23, 1970, the matter was assigned to the Regional Solicitor's Office. The Area Director pointed out to the Solicitor, on December 17, 1970, that we would pursue the acquisition of a permanent right of way over the existing road, or an alternate route, whether or not the rancharia was to be terminated.

By letter of March 26, 1971, James Bordenkircher of the Solicitor's Office wrote to Mr. Merrill, with whom he had a brief meeting on March 10, 1971, at Trinidad, California, regarding the road. The letter asked for a definite location of the right of way, which now could be a simple gravel surfaced drive, since the distributees may decide not to terminate the rancharia. Mr. Bordenkircher indicated the right of way could be subject to future relocation, as long as a permanent right of ingress and egress is assured. Our Soopa records indicate that no reply was received to this letter, which is the last correspondence regarding the acquisition of a right of way for the rancharia.

On March 15, 1983, Tribal Resolution No. 83-1, requested the Bureau to acquire the right of way, now apparently owned by Louisiana-Pacific Corporation, who also acquired the top management of Georgia-Pacific, since Mr. Merrill and Mr. Merlo are still making the decisions. On March 22, 1983, Barbara A. Ferris, Realty Officer, contacted Mr. Merrill, who reported they were only interested in providing a "floating" type of access, with a definite location of a right of way being provided only when Louisiana-Pacific decides to subdivide their land.

We have requested an appraisal of the current roadway for acquisition purposes, as Mr. Bordenkircher suggested. The Solicitor is to provide an opinion as to prescriptive rights, easement by necessity, implied rights and possible condemnation of the proposed right of way. We attach the Title Status Report, maps and pertinent correspondence on this matter.

Superintendent

Attachments

SLStansbury:ljc

Exhibit EE

MAY-31-02 16:05 From:

MAY-31-02 08:24 From:

T-380 P.04/05 Job-566

MAR 29 1983

Superintendent, Northern California Agency

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THROUGH: Area Director, Sacramento Area Office

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Superintendent

Attachments

SLStanbury:ljc

Exhibit FF

Admin
Tribal Operations
103.3 Big Lagoon

gls

AIRMAIL

AUG 9 1968

Commissioner of Indian Affairs

Washington, D. C. 20242

Attention: Reservation Programs

Sir:

The referendum on the Big Lagoon Distribution Plan was conducted on August 8, 1968, resulting in a vote of 2 for and 0 against acceptance of the plan as conditionally approved by the Commissioner on January 3, 1968.

August 8, 1968, therefore, becomes the effective date of the plan, a copy of which is enclosed.

Sincerely yours,

(Sgd.) William E. Finale

Area Director

Enclosure

cc: Hoopa Area Field Office ✓

(received without enclosure at Hoopa)

BLO00010

ER-268

Admission Copy

OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

Memorandum

TO : Area Field Representative, Hoopa

DATE: January 5, 1968

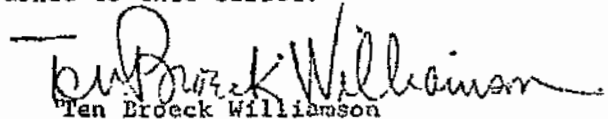
FROM : Area Tribal Operations Officer
Sacramento Area Office

SUBJECT: Posting of Big Lagoon Rancheria distribution plan

The plan for the distribution of the assets of the Big Lagoon Rancheria was given conditional approval by the Commissioner on January 3, 1968.

Pursuant to the telephone conversation with Mr. Tomhave on this date, it will be appreciated if you will post a copy of the plan in a prominent place on the Rancheria such as the entrance gate and in the Post Office at Trinidad on January 12, 1968. Beginning on that date and again on January 19 and 26, general notice of the contents of the plan is being published in the Humboldt Times.

Attached are two copies of the distribution plan for posting and a third copy for retention in your office. Also attached is a certificate of posting to be executed and to be returned to this office.


Ten Broeck Williamson

Attachments (4)

BL000011

ER-269

PLAN FOR DISTRIBUTION OF THE ASSETS OF
THE BIG LAGOON RANCHERIA IN ACCORDANCE
WITH THE PROVISIONS OF PUBLIC LAW 85-671
AS AMENDED BY PUBLIC LAW 88-419

The Big Lagoon Rancheria, located about ten miles north of the town of Trinidad, Humboldt County, California, comprised 9.26 acres, more or less, at the time of purchase in 1918. (A legal description of the rancheria is attached.)

The rancheria is located on the south shore of Big Lagoon and west of United States 101 highway. Present access is by an unimproved dirt road, taking off of the Patrick's Point State Park Road across property of the Georgia-Pacific Corporation. The rancheria is used only for homesites.

There are no government-owned buildings nor Bureau of Indian Affairs roads on the rancheria. No lien has been placed against the land as a result of construction and maintenance of a water system. There are no funds to the credit of the rancheria on deposit in the United States Treasury. The only house on the rancheria is in very poor condition. Present domestic water sources are inadequate and sanitation facilities are needed.

No minors will receive deeds in the distribution of the land. All persons sharing in the distribution of the assets of the rancheria are capable of handling their own affairs. Distributees have been advised of the opportunity to participate in the education and training program offered by Public Law 88-419. The distributees listed in this plan are recognized as the only persons currently utilizing the rancheria pursuant to an informal assignment.

BL000012

ER-270

The Indians of the Big Lagoon Rancheria hereby request distribution of rancheria assets under the provisions of Public Law 85-671, as amended, and ask that the following actions be performed as rapidly as possible.

1. Make such exterior and interior surveys as are necessary for the Secretary of the Interior or his authorized representative to convey merchantable and recordable title to parcels taken in individual ownership as hereinafter provided.
2. Secure legal, permanent access to the rancheria over the adjoining privately-owned lands.
3. Improve the access road by grading, graveling or providing drainage where necessary.
4. Assist distributees with such supervision and financial assistance as is available through the Bureau of Indian Affairs for home construction and install domestic water and sanitation facilities for such homes in accordance with standard U. S. Public Health Service procedures, pursuant to Public Law 88-419.
5. Furnish each distributee with the approximate value of his parcel at the time of conveyance.
6. Convey to individual Indians, according to this plan, unrestricted title to the designated parcels as generally located on the attached sketch map.

The distributees who will share in the distribution of the assets of the Big Lagoon Rancheria and the dependent members of their immediate families, as defined in 25 C.F.R. 242.2(f) are:

NAME	PARCEL NO.	RELATIONSHIP	BIRTHDATE	ADDRESS
Thomas Williams	1	Joint-Distr. (as Joint Tenants)	1912✓	P.O. Box 115 Trinidad, Cal.
Lila Williams		Joint-Distr.	1914✓	Same
Thomas Williams, Jr.		Son	1949✓	Same
Franklin Lara		Grandson	1954✓	Same
Dale Lara		Grandson	1956✓	Same
Ted Moorehead	2	Joint-Distr. (as Joint Tenants)	1928✓	Rt. 1, Box 240 Eureka, Calif.
Beverly Moorehead		Joint-Distr.	1934✓	Same
Peter Lara		Son	1957✓	Same
Roger Moorehead		Son	1958✓	Same
Virgil Moorehead		Son	1960✓	Same
Holly Moorehead		Daughter	1961✓	Same

Upon approval of this plan, or a revision thereof, by the Secretary of the Interior and acceptance by a majority of the adult members of the Big Lagoon Rancheria, as provided in Section 2(b) of Public Law 85-671, as amended, the distributees and the dependent members of their immediate families listed in the plan shall be the final list of Indians entitled to participate in the distribution of the assets of the Big Lagoon Rancheria and the rights or beneficial interest in the property of each person whose name appears in this list shall constitute vested property which may be inherited or bequeathed but which shall not otherwise be subject to alienation or encumbrance before the transfer of title of such property by the United States.

After the assets of the Big Lagoon Rancheria have been distributed pursuant to this plan and Public Law 85-671, as amended, and after a notice to this effect has been published in the Federal Register, the Indians who receive any part of such assets and the dependent members of their immediate families shall thereafter not be entitled to any of the services performed

by the United States for Indians because of their status as Indians. All statutes of the United States which affect Indians because of their status as Indians shall not apply to them and the laws of the several states shall apply to them in the same manner as they apply to other citizens or persons within their jurisdiction. Nothing in this plan, however, shall affect the status of such persons as citizens of the United States.

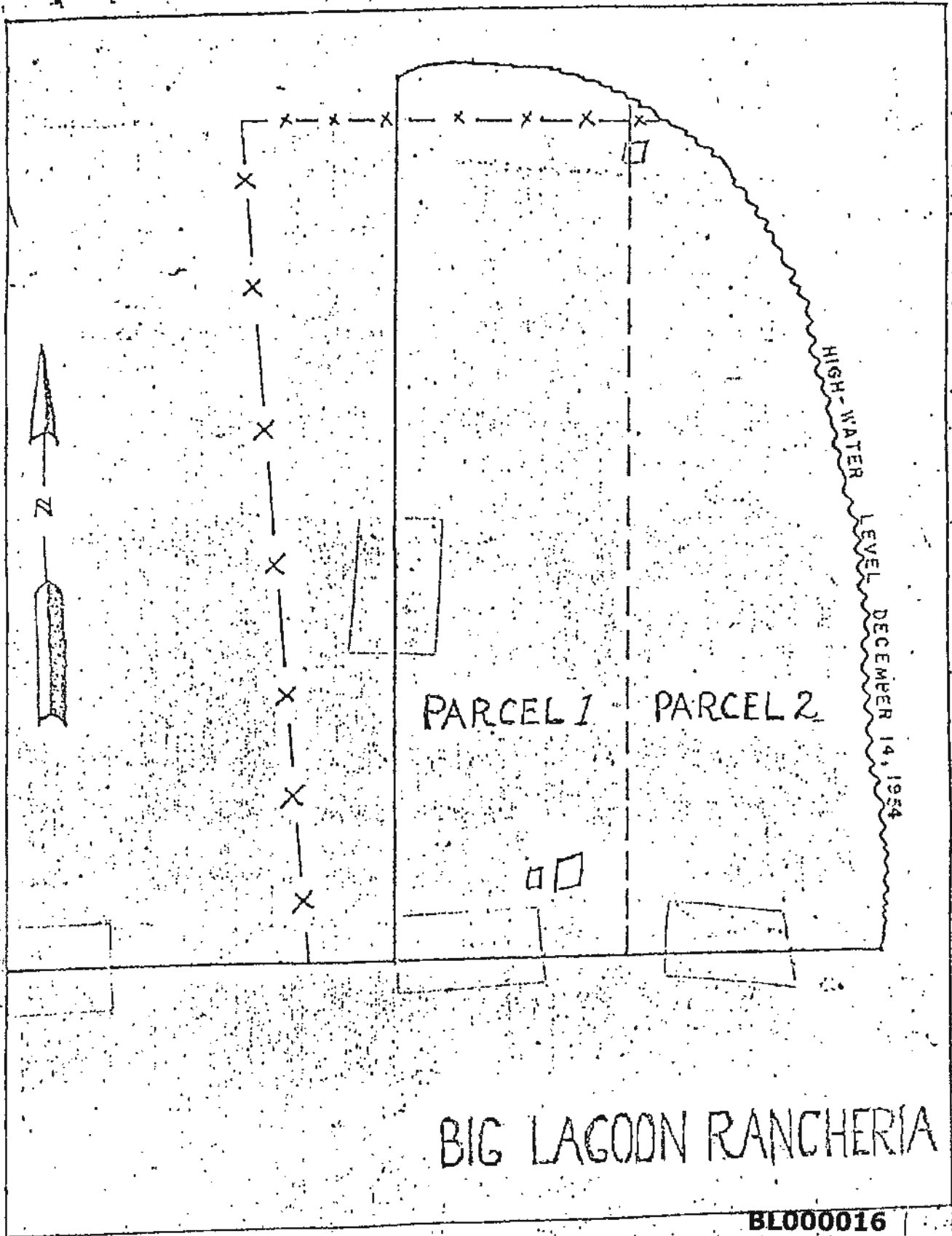
All provisions of Public Law 85-671, as amended, shall be applicable in the execution of this plan and general notice of its contents shall be given by posting a copy of the plan in the post office at Trinidad, California, by posting a copy of the plan in a prominent place on the rancheria, by mailing or delivering in person a copy of the plan to each adult participating in the plan, by mailing or delivering in person a copy of the plan to any person who feels he may have a material interest in the plan and so advises the Sacramento Area Office of the Bureau of Indian Affairs, and by publication of the general contents of the plan once weekly for three consecutive weeks in a local newspaper.

This plan has been prepared by the Area Director, Bureau of Indian Affairs, Sacramento Area Office, pursuant to the authority delegated on November 21, 1964, and after consultation with the Indians of the Big Lagoon Rancheria.

Approved, with authority retained to
revise or change if appeals are
received in accordance with 25 CFR
242.6.


Commissioner

Date JAN 3 1968



Land Description
of the
BIG LAGOON RANCHERIA

A portion of Lot 2 of Section 13 Township 9 North, Range 1 West, Humboldt Meridian, as shown on the official plat of the government survey of said Township, bounded and described as follows: BEGINNING at a point on the South line of said Lot 2 distant 10 chains Easterly thereon from the Southwest corner of said Lot 2; running thence Northerly 14.50 chains on a line parallel with the West line of said Lot 2 to the waters of Big Lagoon; thence in a Southeasterly direction along the shore of the Big Lagoon to the line between Lots 1 and 2 of said Section 13; thence West along the South line of said Lot 2, 9.24 chains, more or less, to the point of beginning; containing an area of 9.26 acres, more or less. Subject to right of way for railroad as reserve in deed dated October 7, 1916, recorded in the Recorder's Office of Humboldt County, California, in Book 135 of Deeds, Page 368.

BL000017

ER-275

Exhibit GG

CONSTITUTION OF THE
BIG LAGOON RANCHERIA
PREAMBLE

We the Indians of the Big Lagoon Rancheria in California in order to establish a formal constitution and to promote our common welfare, do hereby adopt the following constitution.

ARTICLE I - NAME

The Indians of the Big Lagoon Rancheria shall be known as and operate under the name Big Lagoon Rancheria, hereinafter "Tribe."

ARTICLE II - TERRITORY AND JURISDICTION

The jurisdiction of the tribe, its general council, business council and tribal courts shall extend to the fullest extent permitted by applicable law to the following:

- (a) Notwithstanding the issuance of any patent, all lands, water and other resources within the exterior boundaries of the Big Lagoon Rancheria established by Executive Authority of the Secretary of the Interior dated July 10, 1918;
- (b) All other lands, water and resources as may be hereafter acquired by the tribe, whether within or without said boundary lines, under any grant, transfer, purchase, adjudication, treaty, Executive Order, Act of Congress or other acquisition;
- (c) All persons within any territory under the jurisdiction of the tribe; and,
- (d) All tribal members, wherever located.

ARTICLE III - MEMBERSHIP

Section 1. The membership of the Big Lagoon Rancheria shall consist of:

- (a) Those persons whose names are listed on the document entitled Plan of Distribution on the Assets of the Big Lagoon Rancheria dated January, 3, 1968, in accordance with the provisions of P.L. 85-671, as amended by P.L. 88-419;
- (b) All lineal descendants of those persons specified in Section 1 (a) above who possess one-eighth (1/8) degree or more Indian blood, and shall be eligible to vote in all tribal elections and shall be eligible to hold office in the tribal government.

- (c) All Indian persons who possess (1/8) degree or more Indian blood upon whom membership is conferred by adoption pursuant to an ordinance to be promulgated by the business council in accordance with applicable federal law.

Section 2. An official membership roll shall be prepared in accordance with an enrollment ordinance which shall be promulgated by the business council. Such ordinance shall provide for an enrollment committee and procedure for keeping the roll current.

Section 3. Withdrawal of Membership. Any person who wishes to withdraw from membership in the Big Lagoon Rancheria must submit his withdrawal in writing to the tribal council chairperson, who shall direct the enrollment committee to adjust its records accordingly.

ARTICLE IV - RIGHTS OF MEMBERS

Subject to the limitations imposed by this constitution, all members of the tribe shall enjoy equal political rights and opportunities to participate in the tribal government, tribal economic resources, tribal assets and all the rights that are conferred upon a tribal citizen, and no member shall be denied freedom of speech, religion, the right to peaceful assembly, or other rights guaranteed by applicable federal law, nor shall any member be denied the right to petition the business council, general council or the tribal courts for redress of grievances against the tribe, or otherwise be deprived of life, liberty or property without notice and an opportunity to be heard.

ARTICLE V - GOVERNING BODY

The governing body of the tribe shall be the general council. In addition, for the orderly transaction of business, there shall be elected from the general council a business council. The general council shall exercise all powers of self-government through the initiative, referendum and recall procedures specified in Article IX of this constitution. The business council shall exercise all powers delegated to it by the general council as set forth in this constitution. The tribal government shall exercise its powers of self-government subject to any express limitations contained herein or imposed by federal law.

Section 1. Electorate

All duly enrolled tribal members eighteen (18) years of age or older shall be members of the general council of the Big Lagoon Rancheria and shall be eligible to vote in all tribal elections.

ARTICLE XIII - ADOPTION

This constitution, when adopted by the majority of the qualified voters of the Big Lagoon Rancheria voting at an election called for that purpose in which at least two thirds of those entitled to vote shall vote, shall become immediately effective but shall thereafter be submitted to the Secretary of the Interior for his information.

CERTIFICATE OF RESULTS OF ELECTION

Pursuant to an election held on May 14, 19 86, the foregoing Constitution of the Big Lagoon Rancheria, located in Humboldt County, California, was submitted to the qualified voters of the Big Lagoon Rancheria and was duly adopted on that date by a vote of 11 for and 0 against, constituting a majority of all eligible voters, in an election conducted in accordance with Article XIII, above.



Chairman, Big Lagoon Rancheria

Attest:



Secretary

Exhibit HH



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D. C. 20245

IN REPLY REFER TO:

Tribal Government Services

MAY 20 1977

Memorandum

To: Acting Deputy Commissioner
From: Rancheria Review Committee
Subject: Policy Recommendation - Terminated Rancherias

On April 29 you convened a meeting in your office including the following individuals:

Theodore Krenzke, Acting Deputy Commissioner
William Finale, Sacramento Area Director
Eddie Edwards, Assistant Area Director
Ralph Keen, Acting Director Office of Trust Responsibilities
Louis White, Realty Specialist
Dennis Petersen, Chief, Division of Tribal Government Services
Leslie Gay, Chief, Branch of Tribal Relations
Pat Simmons, Tribal Relations Specialist
Bob Farring, Tribal Relations Specialist

Because of the recent court decision revoking certain aspects of termination for the Robinson Rancheria and anticipated similar court action regarding other terminated rancherias, Mr. Finale requested policy direction as to dealing with the matter. Rather than face separate litigation for those rancherias, the questions arose as to the advisability of our using the authority of the Robinson decision to unilaterally revoke termination for those yet in that status. Mr. Keen felt consideration should be given as to whether such blanket restoration would provide further "ammunition" for use by the, so called, "white back lash." After pointing out several other possible courses of action, Mr. Finale suggested the creation of a joint Area Office - Central Office committee to study the matter and recommend to the Commissioner what policy should be pursued. Mr. Finale appointed Frank Haggerty, of the Central California Agency, to work with Lou White and Bob Farring from the Central Office.

In preparation for an anticipated committee meeting in California during the last week of May, you arranged for Frank Haggerty to be in Washington during the week of May 2. After review of pertinent documents and lengthy discussions, including a telephone conversation with the Sacramento



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ER-281

- 2 -

Regional Solicitor's Office (Mr. William Wirtz), the committee has arrived at a consensus set forth below. Because of such agreement, there appears no need for a meeting in California at this time.

Even at the start it was obvious there would be significant problems associated with the blanket application of the Robinson principle in that there exists so many different circumstances among the remaining terminated rancherias. In an effort to understand those differences, we constructed a chart listing the names of the forty-one rancherias mentioned in the 1958 Act. While not all forty-one were terminated, it shows what steps, if any, were taken in that direction. In addition, we included seven rancherias terminated under the authority of the 1964 amendment to the Termination Act. We are attaching a copy of the chart.

In general, the litigation involving terminated rancherias relates to the failure of the Federal Government to provide satisfactory water and sanitation facilities as required by Section 3 of the Termination Act. In early law suits, the Federal Government was ordered by the court to provide adequate water and sanitation facilities for Auburn, Graton and Guidiville. When such facilities were completed, there remained no further question regarding the adequacy of the termination process. The court and this Bureau then considered them properly terminated.

In later cases (Ambrose Duncan, Jr., et. al. v. Andrus and Eddie Knight, et. al. v. Andrus), the court issued a class action judgment. All dependent members, as listed on distribution plans and termination notices of all terminated rancherias, were declared untermiated and as individuals, are eligible for certain Bureau services.

A more recent suit (Mabel Duncan, et. al. v. United States) resulted in an order of the court untermiating the Robinson Rancheria. All distributees of that rancheria and dependent members of their immediate families are now restored to their status as Indians. Provisions were included for placing in trust status both community and individual land.

Litigation relating to Section 3 requirements is pending on behalf of Hopland, Table Bluff and Upper Lake. In each case, deeds were issued to distributees. However, the Area Director has determined that Section 3 requirements are not adequate. Of the three, only Table Bluff was issued a termination proclamation.

Due to the high water table at Table Bluff, it is considered a practical impossibility to construct adequate domestic water and sanitation systems there. The distributees have expressed a desire to move the rancheria to a more desirable location.

- 3 -

The Area Director is nearing completion of a survey involving each of the forty-one rancherias to determine whether Section 3 requirements have been adequately completed. The following is a summary of those findings and other information concerning the existing circumstances. While Section 3 facilities were not surveyed on the seven additional rancherias terminated pursuant to the 1984 amendment to the Termination Act, they are included in the analysis.

Two rancherias have taken no formal steps toward termination (Middletown and Montgomery Creek). Five others (Big Sandy, Cold Springs, Hopland, Table Mountain and Upper Lake) have made progress toward termination, however, their proclamations have not been published. All land remains in common ownership at Cold Springs which has requested that its distribution plan be revoked. While deeds have been issued for Big Sandy, Hopland, Table Mountain and Upper Lake, some land is still owned by distributees at each of these rancherias. All five are lacking in Section 3 requirements, however.

Termination proclamations have been issued for thirty-four of the forty-one rancherias. However, the Area Office has determined that Section 3 requirements have been completed on at least the following twenty-one:

Auburn	North Fork
Big Valley	Paskenta
Blue Lake	*Picayune
Buena Vista	*Pinoleville
Chico	*Quartz Valley
Elk Valley	*Redding
Graton	*Redwood Valley
*Greenville	Ruffeys
Guidville	*Wilton
Indian Ranch	
Mark West	
Nevada City	

*Pending final review by Area Director

Regarding Buena Vista and North Fork, all distributees are now deceased and there were no dependent members listed on their distribution plan.

The following thirteen remaining in the group which had proclamations issued, were considered to be deficient regarding Section 3 requirements:

- 4 -

Alexander Valley
Cache Creek
Chicken Ranch
Cloverdale
Lytton
*Mooretown
Table Bluff

Potter Valley
Robinson
*Rohnerville
Scotts Valley
Smith River
Strawberry Valley

*Pending final review by Area Director

Of the above thirteen, four rancherias (Alexander Valley, Cache Creek, Lytton and Strawberry Valley) have no land remaining in the ownership of distributees or their Indian heirs.

Of those rancherias for whom proclamations were issued, this leaves only the following nine where the Area Director has determined that Section 3 requirements are inadequate and, if completed, would benefit distributees or their Indian heirs:

Chicken Ranch
Cloverdale
Mooretown
Potter Valley
Robinson

Rohnerville
Scotts Valley
Smith River
Table Bluff

Robinson, of course, is now restored to Federal status by the recent court decision.

A further group of terminated rancherias has no land remaining in the ownership of distributees. Their water and sanitation facilities were determined to be completed, however. They are as follows:

Mark West
Nevada City

Paskenta
Ruffeys

While not listed among the forty-one rancherias named in the 1958 Act, seven other rancherias were terminated pursuant to the authority of the 1964 amendment. Five of the seven were uninhabited at the time of termination. The lands were sold and the resulting income was placed in a fund for the benefit of California Indians. These include:

Colfax
Likely (except cemetery)
Lookout (west)

Strathmore
Taylorsville

Both of the remaining rancherias (Mission Creek and Shingle Springs-

- 5 -

El Dorado tract) adopted distribution plans and were issued termination proclamations. Pursuant to the Mission Creek plan, all lands were sold and the proceeds were divided among the distributees; minors were included as distributees. Some land remains in the ownership of distributees at the Shingle Springs, El Dorado tract.

We are aware of the current policy regarding termination and agree that in far too many instances the process was inadequately carried out. We are also aware, however, that the California Rancheria Termination Act, as amended, is still on the books. Except for Cold Springs, the last formal expression, by those rancherias who have not been issued a termination proclamation, anticipates the completion of certain steps leading to termination. In a March 24, 1977, memorandum to Mr. Floyd France, the U. S. Attorney for the Northern District of California, discusses the court action relating to the Robinson Rancheria. Regarding the Termination Act, that memorandum includes the following statement:

There is nothing in the decision to suggest that the statute is defective, and we presume that a procedurally and substantively valid termination could take place in the future if both the Indians and the BIA desired it.

In those instances where a rancheria has adopted a distribution plan and a proclamation has not been issued and in the absence of an order of the court or appropriate action by Congress, there is no justification to avoid compliance with the intent of the Termination Act. In most instances this merely amounts to completion of Section 3 requirements. Except where litigation is now pending, we feel this Bureau and the Indian Health Service should cooperate in promptly meeting such obligation. The Bureau should then proceed with issuing the termination proclamation. Included in such circumstances are:

Big Sandy
Hopland

Table Mountain
Upper Lake

Hopland and Upper Lake are currently involved in litigation concerning Section 3. For each of the above four rancherias, their distribution plans have been implemented to the extent deeds were issued. However, there remains some land jointly owned by the distributees. Until proclamations are published or unless directed otherwise by the court, Bureau services to the above rancherias should continue to be limited to those provided to Indians as individuals. There would be no Government to Government relationship. Eligibility for those services would cease when the distribution plan is fully implemented and a proclamation is issued.

- 6 -

At Cold Springs Rancheria the distributees have requested revocation of the distribution plan. In this case no deeds were issued and the land remains in trust status. The share of each distributee was listed in the plan. The Washington Office has requested that each distributee sign a release form returning his share of the rancheria to common ownership. A problem has developed in securing signed releases from the heirs. The Area Director has not received a response to his request for direction in this matter.

Since Middletown and Montgomery Creek have never adopted a distribution plan they would continue to function as governmental entities eligible for the full range of Bureau services. When the necessary releases from distributees and heirs are secured, Cold Springs should be treated likewise in that no deeds have been issued and the land remains in trust status.

Regarding those rancherias where a proclamation has been issued and there remains no land in the ownership of distributees, we recommend termination be considered final. Even though four of the nine rancherias in this group were determined to have inadequate water and sanitation facilities, we feel there is no basis for now upgrading such facilities if it would only benefit non-Indians. The following are included in this group:

*Alexander Valley	Nevada City
*Cache Creek	Paskenta
*Lytton	Ruffeys
Mark West	*Strawberry Valley
Mission Creek	

*Determined to have inadequate water and sanitation facilities

The following five rancherias should also be considered finally terminated in that they were unoccupied and all lands were sold pursuant to the amended Termination Act:

Colfax	Strathmore
Likley (except cemetery)	Taylorville
Lookout (west)	

Where a proclamation has been issued, the distributees retain ownership of rancheria land, and Section 3 facilities are inadequate, the committee recommends taking corrective action for such rancherias regarding Section 3 requirements without restoring to distributees their eligibility for Bureau services. This would not apply to those where litigation

- 7 -

has just been concluded or is still pending, unless authorized by the court. The following would constitute such group:

Chicken Ranch	Rohnerville
Cloverdale	Scotts Valley
Mooretown	Smith River
Potter Valley	

It is possible that Shingle Springs-El Dorado tract would be included in the above group. However, no attempt has been made to determine whether water and sanitation facilities are adequate there.

Terminated Rancherias with Remaining Land & Distributees

It is axiomatic that sufficient authority must exist to "unterminate" a reservation and provide the services that are normally provided recognized groups or individual Indians. Insofar as the litigated rancheria cases that have been brought to a conclusion are concerned, the authority exists in the court order or judgment. This review committee questions the advisability of the Bureau proceeding to "unterminate" a rancheria in the absence of a court order or an Act of Congress.

Circumstances surrounding any controversy involving a particular rancheria are factual in nature. To uniformly apply the stipulation, for instance, as agreed to in the Mabel Duncan case, to all other rancherias could possibly be construed as ultra vires acts. We are trying to say that for all purposes, and in the absence of a court determination to the contrary, the rancherias in this category are legally terminated. No authority exists to extend recognition to the terminated individuals, to cancel or void deeds, make allotments, etc. It is therefore, our recommendation that Congressional approval to "unterminate" be obtained or that we allow these cases to come to court and receive authority, probably through consent judgments, using the Duncan case as a basis.

Pending Litigation Cases

Await conclusion of the cases in order to insure proper authority to carry out the stipulations and judgment.

The combined Ambrose Duncan and Eddie Knight cases resulted in the court issuing a class action judgment. It declared as unterminated all dependent members as listed on distribution plans and termination notices. As individuals, they are eligible for certain Bureau services. The Secretary is enjoined from treating any such person as a terminated Indian "until such time as that Indian has been given full notice and afforded an opportunity for a hearing --- and, if a hearing is requested

- 8 -

in a timely manner until such time as a written decision based upon the evidence adduced at such hearing has been rendered."

In line with the court judgment, we feel the Bureau should promptly conduct such hearings and render a decision regarding the termination status of those individuals.

Adjudicated Cases

We must naturally proceed on those cases that have been adjudicated or stipulations agreed to in accordance with the terms of the judgment. The question arises, insofar as conveyance to the United States in trust for individual Indians on the Robinson Rancheria (or similar cases), as to what type of estate has been created. While similar to a trust allotment we are of the opinion that an allotment has not been created, consequently, once the land has been conveyed in accordance with the desire of the individual (assuming in trust), does sufficient authority exist for the Secretary to lease, sell, etc., or provide other services authorized to allottees or their heirs? Our statutes relating to Indian land generally refer only to lands allotted under law or treaty and make reference to allottees or their heirs. Regarding the unique concept in the Robinson case, it may be that special statutory authority will be necessary in order to perform the necessary services that are normally provided to allottees or their heirs. Another possibility would be achieving further clarification from the court.

The question of reimbursement for taxes paid cannot be addressed at this time. We understand that a suit has been filed in the Court of Claims on behalf of distributees of the Robinson Rancheria. We are not familiar with the details of the claims filed and presume that payment of past taxes will be sought as part of the monetary damages.

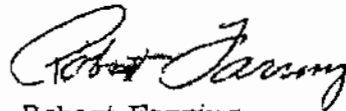
Another Possibility

We understand the Department has recently submitted to the Office of Management and Budget proposed restoration criteria. If enacted by Congress, any terminated group could request restoration to Federal status. If certain conditions are met, the Secretary could then submit to Congress a plan for each applicant. If not rejected during a stated period, the tribe would then be restored. This would eliminate the need for lengthy litigation or separate legislation for each tribe. However, until such a system is established by Congress, it appears we are limited to the procedures set forth in this memorandum or as directed by the court.

Regarding the Commissioner's June 25, 1975, memorandum to the

- 9 -

Sacramento Area Director, we recommend it be modified in line with the above analysis and recommendations.

A handwritten signature in cursive script, appearing to read "Robert Farring".

Robert Farring
For the Committee

Enclosure

Exhibit II

Rully
308 - Big Lagoon

Dear Sirs:

In regard to our termination of the Big Lagoon Rancheria for Thomas Williams and Theodore Moorehead.

We do not wish to terminate until we have some assistance to the fixing up of the property. We have no road, lights, plumbing facilities, or proper survey of the property. The two cabins on the land are in good shape. We wish help or some proper advice to the land, and do not wish to terminate until such help. Thank you.

Theodore Moorehead
Thomas Williams

RECEIVED
JUN 13 1980

HOOPA AREA FIELD OFFICE

Exhibit KK

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 8 Attorneys for Defendant State of California

9
 10 IN THE UNITED STATES DISTRICT COURT
 11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 12 OAKLAND DIVISION

13
 14 **BIG LAGOON RANCHERIA, a Federally
 Recognized Indian Tribe,**

15 Plaintiff,

16 v.

17
 18 **STATE OF CALIFORNIA,**

19 Defendant.

CV 09-1471 CW (JCS)

**DECLARATION OF RANDALL A.
 PINAL IN SUPPORT OF DEFENDANT'S
 MOTION CONTINUE FACT
 DISCOVERY COMPLETION DATE**

Date: April 8, 2010
 Time: 2 p.m.
 Courtroom: 2
 Judge: The Honorable Claudia Wilken
 Trial Date: n/a
 Action Filed: April 3, 2009

20
 21
 22 I, Randall A. Pinal, declare as follows:

23 1. I am an attorney at law duly admitted to practice before this Court and the courts of
 24 the State of California. I am a Deputy Attorney General employed by the California Attorney
 25 General's Office, and I represent Defendant State of California (State) in the above-entitled
 26 matter. I make this declaration of my own personal knowledge, and, if called as a witness, I
 27 could and would testify competently thereto.

1 2. Attached as **Exhibit A** is a true and correct copy of a subpoena duces tecum served
2 on the United States Department of the Interior, Bureau of Indian Affairs (BIA) Pacific Regional
3 Office on December 18, 2009.

4 3. Attached as **Exhibit B** is a true and correct copy of a subpoena duces tecum served on
5 the BIA Northern California Agency on December 18, 2009.

6 4. Attached as **Exhibit C** is a true and correct copy of a subpoena duces tecum served
7 on the United States Department of the Interior, Assistant Secretary—Indian Affairs (Assistant
8 Secretary) on December 22, 2009.

9 5. The subpoenas in Exhibits A through C are identical and seek documents concerning
10 the State's affirmative defense in this case that Plaintiff Big Lagoon Rancheria (Big Lagoon or
11 Tribe) is not entitled to injunctive relief compelling the State to negotiate a compact authorizing
12 class III gaming on land taken in trust for Big Lagoon after October 17, 1988, because Big
13 Lagoon is not eligible to be a beneficiary of a trust conveyance pursuant to the Indian
14 Reorganization Act, 25 U.S.C. § 465 (IRA).

15 6. Responses to the subpoenas in Exhibits A through C were due by January 8, 2010, far
16 enough in advance to allow the State to review the documents and conduct any necessary
17 depositions before February 26, 2010.

18 7. At minimum, the State intends to depose a person most knowledgeable from Big
19 Lagoon concerning the Tribe's history as it relates to the State's affirmative defense described in
20 paragraph 5 above. Other deponents will be identified once the State receives and reviews
21 documents identified in the subpoenas in Exhibits A through C.

22 8. To date, the State has not received any objections or documents in response to the
23 subpoenas in Exhibits A through C.

24 9. Having received no documents by the response deadline, I twice called the Assistant
25 Secretary's Office and left voicemails for Sequoyah Simermeyer on January 29, 2010, and
26 February 5, 2010. Jim Porter, United States Department of Interior, Solicitor's Office, Division
27 of Indian Affairs, previously advised me that Mr. Simermeyer was the appropriate contact in the
28

1 Assistant Secretary's Office for document subpoenas. The purpose of my calls was to inquire
2 about the Assistant Secretary's efforts to comply with the subpoena.

3 10. Attached as **Exhibit D** is a true and correct copy of a letter I faxed to the Assistant
4 Secretary on February 19, 2010.

5 11. On February 26, 2010, Mr. Porter responded by e-mail to the letter I faxed to the
6 Assistant Secretary in Exhibit D. Attached as **Exhibit E** is a true and correct copy of the e-mail I
7 received from Mr. Porter. This is the first response I received from the Assistant Secretary to the
8 subpoena in Exhibit C.

9 12. On February 26, 2010, I left a voicemail with Mr. Porter to ascertain when the State
10 may expect to receive the documents identified in the subpoena in Exhibit C.

11 13. After repeated inquiries into the status of the BIA's response to the subpoenas in
12 Exhibits A and B, Karen Koch, Assistant Regional Solicitor for the Department of the Interior,
13 telephoned me to discuss the subpoenas for the first time on January 21, 2010.

14 14. As a courtesy, the State extended the date for the BIA Pacific Regional Office and
15 Northern California Agency to respond to the subpoenas to January 29, 2010. Attached as
16 **Exhibit F** is a true and correct copy of a letter I wrote to Ms. Koch concerning our discussion
17 about the subpoenas on January 21, 2010.

18 15. On January 28, 2010, Ms. Koch asked the State to withdraw its subpoenas because
19 the Assistant Secretary had ordered the BIA Pacific Regional Director to make a determination
20 concerning Big Lagoon's eligibility to have land taken into trust for its benefit under the IRA.
21 Attached as **Exhibit G** is a true and correct copy of an e-mail chain between me and Ms. Koch
22 concerning the BIA's request for the State to withdraw the subpoenas in Exhibits A and B.

23 16. On February 5, 2010, the State declined to withdraw the subpoenas in Exhibits A and
24 B. (See Exhibit G.)

25 17. I called Ms. Koch again on February 10, 2010, to discuss when the BIA expected to
26 comply with the subpoenas in Exhibits A and B. At Ms. Koch's request, the State narrowed the
27 scope of its subpoenas in Exhibits A and B. Attached as **Exhibit H** is a true and correct copy of
28

1 an e-mail chain between me and Ms. Koch concerning our discussion on February 10, 2010, and
2 the State's narrowing of the scope of its subpoenas in Exhibits A and B.

3 18. To date, the BIA has not yet indicated when it expects to comply with the subpoena,
4 and has expressed that some documents may be withheld as privileged, despite the State's
5 possible argument that the BIA waived any objections by failing to timely respond to the
6 subpoenas. (See Exhibit H.) Therefore, if and when the BIA complies with the subpoenas, the
7 State may be required to take further action to enforce the subpoenas, depending upon the
8 response.

9 19. Attached as **Exhibit I** is a true and correct copy of a Notice of Subpoenas Duces
10 Tecum served upon Big Lagoon on December 16, 2009.

11 20. Attached as **Exhibit J** is a true and correct copy of Big Lagoon's Response to the
12 State's First Set of Interrogatories. In response to Interrogatories five through thirteen, Big
13 Lagoon stated that "documents sought by Defendant pursuant to subpoenas duces tecum directed
14 to the [BIA] Pacific Regional Office and Northern California Agency should contain additional
15 information from which the answer to this interrogatory may be discovered or ascertained."

16 I declare under penalty of perjury of the laws of the United States of America that the
17 foregoing is true and correct, and that this declaration was executed on February 26, 2010, in San
18 Diego, California.

19
20 s/Randall A. Pinal
21 RANDALL A. PINAL
22 Deputy Attorney General

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