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THE UNITED STATES DEPARTMENT OF THE  
20 INTERIOR, KENNETH L. SALAZAR, et al.

21 **IN THE UNITED STATES DISTRICT COURT**  
22 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
23 **SAN JOSE DIVISION**

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25 WILTON MIWOK RANCHERIA, a formerly  
federally recognized Indian Tribe, ITS  
26 MEMBERS and DOROTHY ANDREWS,

27 Plaintiffs,

28 v.

Case No. C-07-02681 (JF) (PVT)  
Case No. C 07-05706 (JF)

**PLAINTIFFS' AND DEFENDANTS'  
JOINT MOTION TO ENLARGE TIME  
TO RESPOND TO PROPOSED  
INTERVENORS' MOTION TO RE-**

1 KENNETH L. SALAZAR, et al.  
2 Defendants.

**OPEN & VACATE JUDGMENT AND  
TO DISMISS FOR LACK OF SUBJECT  
MATTER JURISDICTION PENDING A  
DECISION ON PROPOSED  
INTERVENORS' MOTION FOR  
INTERVENTION**

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6 ME-WUK INDIAN COMMUNITY OF THE  
7 WILTON RANCHERIA,

**Administrative Motion: No Hearing  
Required; To Be Decided on Written  
Submissions.**

8 Plaintiff,

**Expedited Decision Respectfully  
Requested by August 21, 2009.**

9 v.

10 KENNETH L. SALAZAR, et al.,  
11 Defendants.

**Judge: Hon. Jeremy Fogel**

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13 Plaintiffs, Wilton Miwok Rancheria, its members, and Dorothy Andrews, and the Me-Wuk  
14 Indian Community of the Wilton Rancheria (collectively "Plaintiffs"), and Defendants, Kenneth L.  
15 Salazar, Secretary of the Interior, Larry Echo Hawk, Assistant Secretary – Indian Affairs , the United  
16 States Department of the Interior, Kathleen Sebelius, Secretary of the Department of Health and  
17 Human Services, and the United States Department of Health and Human Services (collectively  
18 "Defendants") (collectively the "Parties"), by and through their respective counsel and pursuant to  
19 Civil Local Rules 6-1, 6-3, and 7-11, respectfully move for an enlargement of time and an order  
20 holding in abeyance Plaintiffs' and Defendants' responses to a Motion to Re-Open and Vacate  
21 Judgment and to Dismiss for Lack of Subject Matter Jurisdiction ("Motion to Dismiss"), filed on  
22 August 4, 2009 by the County of Sacramento, California, and the City of Elk Grove, California  
23 ("Proposed Intervenors") until after the Court decides Proposed Intervenors' Motion for Intervention,  
24 also filed on August 4, 2009.

25 *In the alternative*, if the Court does not grant this Motion to Enlarge Time with respect to the  
26 pending Motion to Dismiss, the Parties respectfully request a 28-day enlargement of time for filing  
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1 their responses to the Proposed Intervenor's Motions due to the complex and numerous factual and  
2 legal issues raised in those motions.

3 The Parties respectfully request an expedited decision on this administrative motion because the  
4 deadline to file Plaintiffs' and Defendants' responses to the Proposed Intervenor's Motions is currently  
5 scheduled for August 28, 2009.

6 **I. Introduction**

7 On June 4, 2009, after these cases had been pending for two years and after approximately  
8 eighteen (18) months of settlement discussions, the Parties filed a Stipulation for Entry of Judgment  
9 ("Stipulation"), requesting that the Court enter judgment and dismiss the aforementioned cases,  
10 retaining jurisdiction only for the very limited enforcement provisions provided within the Stipulation.  
11 On June 5, 2009, the Honorable Jeremy Fogel's Order approving the Stipulation was signed, with  
12 filing and Entry of Judgment occurring on June 8, 2009.

13 On August 4, 2009, Proposed Intervenor's filed a Motion for Intervention and a Motion to Re-  
14 Open and Vacate Judgment and to Dismiss for Lack of Subject Matter Jurisdiction. The hearing on  
15 both of these motions is presently set for September 18, 2009. Accordingly, Plaintiffs' and  
16 Defendants' responses to the motions are due on August 28, 2009.

17 **II. Plaintiffs' and Defendants' Request To Enlarge Time**

18 Plaintiffs and Defendants jointly request that the Court enlarge the time and hold in abeyance  
19 its responses to Proposed Intervenor's Motion to Dismiss until after the Motion for Intervention is  
20 decided by the Court. Granting the Parties' request will further the dual goals of judicial economy and  
21 efficiency by not requiring briefing and hearing on issues of fact and law contained within the Motion  
22 to Dismiss if the Motion to Intervene is not granted. This request is particularly prudent in this  
23 instance as this case has previously been settled by the Parties and because the Motion to Dismiss seeks  
24 to deprive the Court of subject matter jurisdiction over these actions.

25 If required to brief the Motion to Dismiss simultaneously with the Motion for Intervention, the  
26 Parties would be substantially prejudiced. Briefing a dispositive motion such as the Motion to Dismiss  
27 is time-consuming and laborious work that the Parties were not anticipating as these cases had been  
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1 previously closed. Moreover, the Parties will bear significant costs and losses of time, all of which  
2 may be unnecessary if Proposed Intervenors are denied intervention and the extensive briefing on the  
3 Proposed Intervenors' dispositive motion is rendered moot.

4 Plaintiffs and Defendants are not requesting an indefinite postponement of their responses to  
5 the Motion to Dismiss. The Parties request that briefing and argument on the Motion to Dismiss be put  
6 on hold until the Court determines whether the Proposed Intervenors are properly even parties to these  
7 cases and as such may raise claims like those made within the Motion to Dismiss. Thus, the Parties  
8 request that after making a determination on the Motion for Intervention, the Court set the Motion to  
9 Dismiss for briefing and hearing only if the Motion for Intervention is granted. The Parties request that  
10 the hearing on September 18, 2009, be maintained as the date for a hearing on the Motion for  
11 Intervention only.

12 The Proposed Intervenors oppose the relief requested through this motion for the reasons stated  
13 in the accompanying declaration of Rose M. Weckenmann, counsel for plaintiff Wilton Miwok  
14 Rancheria, its members and Dorothy Andrews. The Proposed Intervenors were only willing to agree to  
15 an enlargement of time if the Parties would stipulate to a stay of the Stipulation and to re-opening of  
16 the case. The Parties believe that the requests made by Proposed Intervenors are not warranted. In  
17 addition, a stay for an indefinite time period would be unduly prejudicial to the Parties. Further, the  
18 question of whether this matter should be reopened is a legal question that cannot be stipulated to by  
19 the Parties and Proposed Intervenors.

20 The only recent time modifications that the Parties have previously requested from the Court  
21 were for extensions of the case management conferences to allow for settlement discussions. These  
22 postponements were for the important purpose of working out a settlement agreement between all the  
23 Parties, which they were able to accomplish.

24 **In the alternative**, if the Court does not approve the Parties' request to enlarge time and stay  
25 briefing with respect to the Motion to Dismiss, the Parties move for a 28-day enlargement of time for  
26 their responses to both the Proposed Intervenors' Motion for Intervention and Motion to Dismiss and  
27 that the hearing presently scheduled for September 18, 2009 be rescheduled. This enlargement of time  
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