

1 David Laughing Horse Robinson,  
2 Chairman  
3 Kawaiisu Tribe of Tejon  
4 P.O. Box 1547  
5 Kernville, CA 93238  
6 (661) 378-1085  
7  
8 Attorney for Plaintiff, PRO SE

**ORIGINAL  
FILED**

NOV 10 2009

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY \_\_\_\_\_  
DEPUTY CLERK

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

9 **KAWAIIISU TRIBE OF TEJON,** )  
10 by its Chairman, )  
11 David Laughing Horse Robinson, )  
12 And, )  
13 **DAVID LAUGHING HORSE ROBINSON** )  
14 As Representative of the Class )  
15 of Kawaiisu Tribe of Tejon )  
16 Persons, and )  
17 **DAVID LAUGHING HORSE ROBINSON,** )  
18 )  
19 Plaintiffs, )  
20 )  
21 v. )  
22 )  
23 **U.S. DEPARTMENT OF INTERIOR,** )  
24 Secretary KEN SALAZAR, )  
25 in his official capacity and )  
26 )  
27 **COUNTY OF KERN,** )  
28 State of California, )  
29 )  
30 Defendants. )  
31 )  
32 -and- )  
33 )  
34 **TEJON MOUNTAIN VILLAGE, LLC** )  
35 Real Party in Interest. )

Civil Case No.

1:09CV 01977 OWW SMS

**COMPLAINT**

SUMMARY

1  
2 1. I, Plaintiff, David Laughing Horse Robinson,  
3 also known as Clyde David Robinson, am bringing this action  
4 to this court on behalf of myself and as duly elected  
5 Chairman of the Kawaiisu Tribe of Tejon. The Kawaiisu Tribe  
6 of Tejon received California Tribal acknowledgement on  
7 August 17, 1989, Number 1645093. I am descended from my  
8 Grandmother, Stella Butterbredt Robinson Metz, California  
9 Indian Roll Number 21529. My father, Clyde Lee Robinson's  
10 California Indian Roll Number is 074317 and my California  
11 Indian Roll Number is 53872. This action is timely filed,  
12 within 30 days of the filing of the Notice of  
13 Determination, by the County of Kern.  
14  
15

16 2. This case is before the court due to an  
17 administrative oversight by The Department of Interior. The  
18 Kawaiisu Tribe of Tejon is a Tribe that has been recognized  
19 by the United States since before 1934 and has been omitted  
20 from the Federal Register list of entities recognized and  
21 eligible to receive services from the United States Bureau  
22 of Indian Affairs. This will require the Assistant  
23 Secretary - Indian Affairs to reaffirm the formal  
24 recognition of the Kawaiisu Tribe of Tejon. Immediate  
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1 action is requested from this court because of the immense  
2 importance to the Kawaiisu Tribe of Tejon, its citizens,  
3 and the citizens of California.  
4

5 3. Also, this case is before this court due to  
6 another administrative oversight by the Department of  
7 Interior. The Federally recognized 75,000 acre  
8 Tejon/Sebastian Indian Reservation (Map #311 EXHIBIT 1) has  
9 been unlawfully omitted from the list of Kawaiisu Tribe of  
10 Tejon trust lands, due to the failure of the fiduciary  
11 trust responsibility of the Department of Interior under  
12 Executive Orders and Congressional Acts. This will require  
13 the Assistant Secretary - Indian Affairs to restore the  
14 Tejon/Sebastian Indian Reservation, Library of Congress  
15 ceded map #311 (EX. 1), to Trust. Immediate action is  
16 requested from this court because of the immense importance  
17 to the Kawaiisu Tribe of Tejon, its citizens, and the  
18 citizens of California.  
19

20 4. This request for emergency relief is necessary  
21 to halt a massive development recently approved on the  
22 Kawaiisu Tribe of Tejon's Federally Recognized Reservation  
23 known as the Tejon/Sebastian Indian Reservation (EX. 1).  
24 The lead agency approving this massive development is the  
25  
26

1 County of Kern, State of California. The applicants for the  
2 development are Tejon Ranch Company, Tejon Mountain Village  
3 LLC and selected companies they control.  
4

5 5. The Kawaiisu Tribe of Tejon also asks this  
6 court to define our "Indian Country" as set forth under  
7 Treaty D, signed at Camp Persifer F. Smith, at the Texan  
8 Pass, State of California, June 10, 1851, between George W.  
9 Barbour United States Commissioner, and the Chiefs,  
10 Captains and Head Men of the Kawaiisu Tribe of Tejon.  
11 Treaty D is defined on the Library of Congress Ceded Land  
12 map #286 (EXHIBIT #2). Ceded Land Map #286 (EX. 2)  
13 duplicates the Diseno maps of 1776 and 1777 by Father  
14 Francisco Garces and Father Pedro Font for the Government  
15 of Spain (EXHIBIT #3).  
16

17 6. Kawaiisu Tribe of Tejon's "Indian Country" is  
18 outlined and defined in the 56<sup>th</sup> Congress, 1<sup>st</sup> Session, House  
19 of Representatives Document Number 786 called the  
20 Eighteenth Annual Report of the Bureau of American  
21 Ethnology to the Secretary of the Smithsonian Institution  
22 1896 - 97 and the Smithsonian Institution Bureau of  
23 American Ethnology, Bulletin 30 Handbook of American  
24 Indians North of Mexico published July 1, 1905. In the  
25  
26

1 Handbook of American Indians North of Mexico the Kawaiisu  
2 Tribe of Tejon are documented under several different  
3 names: Cobajais, Cobaji, Covaji, Kah-wis'-sah, Kawaiisu,  
4 Ka-wi'-a-suh, Kawishm, Kow-a'-sah, Kubakhye, Newoo'-ah,  
5 Noches Colteches, Ta-hi-cha-pa-han-na, and Ta-hichp'  
6 (EXHIBIT #4).

7  
8 7. The Diseno Maps (EX. 3) of 1776 and 1777 by  
9 Father Francisco Garces and Father Pedro Font for the  
10 Government of Spain use several of our Tribal designations  
11 on their maps: Cobaji, Cobajaef, Quabajai, Nochi, Nochis  
12 (EX. 3).

13  
14 8. No acts of termination have ever been affirmed  
15 incorporating any of the names used to identify our Tribe:  
16 Cobajais, Cobaji, Covaji, Kah-wis'-sah, Kawaiisu, Ka-wi'-a-  
17 suh, Kawishm, Kow-a'-sah, Kubakhye, Newoo'-ah, Noches  
18 Colteches, Ta-hi-cha-pa-han-na, and Ta-hichp' (EX. 4).

19  
20 9. The Kawaiisu Tribe of Tejon have been issued  
21 over 32 Patented Indian Allotments. The United States  
22 issued allotments to Kawaiisu Tribal members who lived on  
23 the Tejon/Sebastian Indian Reservation (EX. 1). This is  
24 consistent with the Supreme Court finding of *Mattz v.*  
25 *Arnett*, 412 U.S. 481 (1973). In that case the unanimous  
26

1 court ruled that the allotment provisions of the Act of  
2 June 17, 1892 are completely consistent with continued  
3 reservation status. In other words, by issuing allotments  
4 the Department of Interior and Congress are continuing to  
5 recognize the existence of a tribe and it's reservation. In  
6 that Supreme Court case the issuance of allotments reversed  
7 termination; the Kawaiisu Tribe of Tejon have never been  
8 terminated, hold allotments and have a reservation.  
9

10 10. Plaintiff is in immediate danger of sustaining  
11 irreversible injury if the court does not take action at  
12 this time. Four of five of our Board of Supervisors  
13 accepted large campaign donations from the development  
14 Applicant. Governor Schwarzenegger accepted a large  
15 campaign donation from Applicant after a PR appearance  
16 before the Planning Commission vote. The machine is moving  
17 forward to receive a favorable public and political outcome  
18 while violating equal treatment for the Kawaiisu Tribe of  
19 Tejon. Kawaiisu Tribe of Tejon has a pre-historic and  
20 historic claim to the property but was not noticed on a  
21 development project that will create irreversible damage to  
22 the tribe and is an unlawful act that meets the definition  
23 of genocide and ethnocide.  
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1           11.       The Kawaiisu Tribe of Tejon (KTOT) seeks  
2 emergency relief because the County of Kern, as Lead  
3 Agency, approved a massive 26,417 acre private luxury  
4 resort with two 18 hole golf courses on October 5, 2009.  
5 This complex development is designed to also have three  
6 hotels, 750 resort lodging units, 3,450 residences (on lots  
7 up to 20 acres in size), 160,000 sq. feet of commercial  
8 development, two helipads, fire facilities and more.

9  
10           12.       Defendant and Lead Agency, Kern County, has  
11 approved this development on the Kawaiisu Tribe of Tejon's  
12 Indian Reservation, which is Federal property. Congress is  
13 the only Branch of Government that has the power to  
14 transfer Indian Reservation Lands and the State of  
15 California agreed with those Federal Government guidelines  
16 to gain Statehood. Kern County does not have Jurisdiction  
17 to take this action. The Kawaiisu Tribe of Tejon alerted  
18 Defendant, Kern County, about this fact before the Kern  
19 County Planning Commission voted on the project and before  
20 the Board of Supervisors voted on the project. Public Law  
21 86-634, July 12, 1960, HR4386, 74 Stat. 469; It is illegal  
22 to destroy, deface, or remove boundary markers on Indian  
23 Reservations or to trespass.  
24  
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1           13.           Additionally, the EIR shows plans to destroy  
2 over 40 pre-historic village sites as part of this  
3 development and additional Sacred Sites and burials.  
4  
5 Illegal and offensive language is in the Lead Agency EIR  
6 regarding these acts of Intellectual Property destruction,  
7 Antiquities destruction and Cultural decimation; the EIR  
8 states: "the property owner (who is also the owner of the  
9 remains), and of any associated archaeological materials."  
10  
11 104 STAT. 3048, Public Law 101-601  
12 Public Law 86-634, July 12, 1960, HR4386, 74 Stat. 469: It  
13 is illegal to destroy, deface, or remove boundary markers  
14 on Indian Reservations or to trespass.

15           14.           Defendant, United States Department of  
16 Interior has failed in their fiduciary responsibility to  
17 hold and protect the Tribe from the unlawful taking of  
18 their Reservation as required under the law. As trustee,  
19 the Department of Interior should be advocating here on the  
20 Kawaiisu Tribe of Tejon's behalf. Department of Interior is  
21 obligated under law to present to Kern County the finding  
22 that the Tejon/Sebastian Indian Reservation (EX. 1) has  
23 never been terminated by Congress. The Department of  
24 Interior (DOI) was obligated to present Treaty D, our  
25  
26



1 California Treaty, at the California Land Commission  
2 hearings in the 1850's and 1860's. The DOI is required to  
3 put the Kawaiisu Tribe of Tejon in the Federal Register  
4 listings of Historic Federally-Recognized Tribes. The DOI  
5 is required to declare that the Kawaiisu Tribe of Tejon  
6 Indian Country covers the 20 million acre, 1776 Diseno as  
7 recorded in the Library of Congress Ceded Land Map Number  
8 286 (EX. 2). The DOI is required to provide an accounting  
9 and monthly revenue, plus interest, as reported to the  
10 Department of Treasury, for the oil, mineral, water,  
11 grazing and wages collected on the Tejon/Sebastian Indian  
12 Reservation.  
13  
14

15 15. The Kawaiisu Tribe of Tejon's claim to the  
16 property is not in dispute. Spain granted the Kawaiisu the  
17 Diseno outlined by Father Garces (EX. 3) in 1776  
18 (Recopilacion de las Indias, Bk. 4, Tit. 12, Laws 5, 7, 9,  
19 14, 18; Bk. 6, Tit. 3, Law 9; Hall, Mexican law, 36, 38,  
20 40, 45, 49, 165; 2 White's New Recopilacion, pp. 50, 52,  
21 242.). Mexico acquired the property by International Treaty  
22 to hold in trust for the Tribe then transferred it by  
23 International Treaty to the United States to hold in trust  
24 (1848 Guadalupe Hidalgo Treaty). The Spanish and Mexican  
25  
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1 laws protecting the Tribe were agreed to by the United  
2 States and guaranteed by the 1848 treaty. The United States  
3 negotiated Treaty D (10 June, 1851) with the Tribe to have  
4 the Kawaiisu cede the 20 million acre Diseno (map #286 -  
5 Exhibit 2) and reserve 1.2 million acres. The United States  
6 established the first California Indian Reservation within  
7 the 1.2 million acre reserve and established a 75,000 acre  
8 Reservation (map #311 - EXHIBIT # 1 - Tejon/Sebastian  
9 Reservation) for the Kawaiisu. An Indian school was  
10 established by the Department of Interior on the  
11 Reservation and is still there. The United States issued  
12 allotments to Kawaiisu Tribe of Tejon members who lived on  
13 the Tejon/Sebastian Indian Reservation.  
14  
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16 16. As this Complaint is being prepared,  
17 television and newspaper reports indicate that the  
18 Applicant is spending several hundreds of thousand dollars  
19 to negotiate with other Tribes to build a Gaming Casino on  
20 the Kawaiisu Tribe of Tejon's Indian Reservation (EX. 1).  
21 No mention of this Casino is in the Lead Agency, Kern  
22 County's, EIR that was approved on October 5, 2009. At the  
23 October 5 hearing, a public participant and an interested  
24 environmental attorney brought up the omission of a Casino  
25  
26

1 in the EIR. Kern County Planning officials denied, at the  
2 televised hearing, that there were any plans for a Casino  
3 on the property and that there was no reason for it to be  
4 in the EIR.  
5

6 17. It is clear that Defendants, Kern County,  
7 California and the Department of Interior must be brought  
8 before this Court to face these charges. The Kawaiisu Tribe  
9 of Tejon is facing irreparable injury, genocide and  
10 ethnocide and seeks emergency intervention.

11 18. At the outset, the Kawaiisu Tribe of Tejon  
12 asks the Court to grant an injunction or stay prohibiting  
13 the Tejon Mountain Village LLC Development Project from  
14 being carried out while the claims of this case are being  
15 resolved. Other relief is stated at the end of this  
16 Complaint.  
17  
18  
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20 **JURISDICTION AND VENUE**

21  
22 This court has jurisdiction over this action pursuant  
23 to 28 U.S.C. Sub. Sec. 1505, the Indian Tucker Act. The Act  
24 conveys jurisdiction because the U.S. waives its sovereign  
25 immunity to permit Indian Tribes to sue for damages in the  
26

1 Court of Federal Claims for claims arising [after August  
2 13, 1946] under the Constitution, laws or treaties of the  
3 US, or Executive orders of the President, or Congress which  
4 otherwise would be cognizable in the Court of Federal  
5 Claims if the claimant were not an Indian tribe, band, or  
6 group.  
7

8 Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1, 17 (1831)  
9 27 Stanford Law Review 1213, 1223, Reid Payton Chambers  
10 Judicial Enforcement for the Federal Trust Responsibility  
11 to Indians  
12

13 This Court has jurisdiction of this action pursuant to  
14 28 U.S.C. Sec 1331 (Constitution, treaty, federal law) and  
15 28 U.S.C. Sec. 1367 (supplemental jurisdiction).

16 This Court has jurisdiction because the claim presents  
17 a question of Federal Indian Law.

18 This Court has jurisdiction because the monetary  
19 relief exceeds \$75,000.

20 Venue is proper in the District Court because a  
21 substantial part of the events giving rise to the  
22 Plaintiff's claims occurred in this district.

23 U.S.C. Sec 1391  
24  
25  
26



1 by the Kawaiisu Tribal members. Plaintiff represents the  
2 interests of Tribal members who are suffering because of  
3 the actions or inactions of the Department of Interior and  
4 the County of Kern. The suffering is economic, mental and  
5 physical and fits the definition of Genocide and Ethnocide.  
6 The Tribe and Plaintiff have been, are, and will be  
7 directly, adversely, and irreparably affected by the  
8 continued omissions and actions of the Department of  
9 Interior and the violations of CEQA and NAGPRA by County of  
10 Kern. Plaintiff and Tribe will continue to be injured by  
11 Defendants collective unlawful actions until and unless  
12 this Court provides the relief prayed for in this  
13 complaint. Plaintiff is a person of very modest means who  
14 finds the filing fee a burden to bear. Plaintiff is trying  
15 to secure Counsel.

18 Defendant, Kern County, State of California, USA is  
19 sued in its official capacity as Project Lead Agency for  
20 State Clearing House (SCH) Project #2005101018 called Tejon  
21 Mountain Village by TMV LLC and Tejon Ranch Company. The  
22 Notice of Determination (NOD) was filed on October 13,  
23 2009.

1 Defendant, Department of Interior, is sued in its  
2 official capacity as the United States Federal Agency  
3 charged with, among other things, supervising the Bureau of  
4 Indian Affairs, the National Parks Service and Federal  
5 Trust responsibilities for Native Americans and Native  
6 American Tribes.  
7

8 **CAUSES OF ACTION**

9 **FIRST CLAIM**  
10 **AS TO DEPARTMENT OF THE INTERIOR**

11 **Breach of Fiduciary Duty (as to the Tribe - Omitting a**  
12 **historic Tribe from the Federal Register) Article 1,**  
13 **Section 8, Clause 3, U.S. Constitution, Indian**  
14 **Nonintercourse Act 25 U.S.C.S. Sub. Sec. 177**  
15

16  
17 Plaintiff repeats and incorporates paragraphs 1  
18 through 18 set forth in the SUMMARY.

19 The United States Department of Interior breached  
20 their fiduciary duty to the Kawaiisu Tribe of Tejon when,  
21 through administrative oversight, they omitted placing the  
22 tribe's name on the Federal Register.  
23

24 The Kawaiisu Tribe of Tejon is a historic tribe and  
25 shall be entitled to the privileges and immunities  
26

1 available to other federally-recognized historic tribes by  
2 virtue of their government-to-government relationship with  
3 the United States 25 C.F.R. Sub. Sec. 83.12(a).  
4

5 This claim meets the criteria of the Indian Commerce  
6 Clause, Article 1, Section 8, Clause 3, U.S. Constitution,  
7 where the Kawaiisu Tribe of Tejon has not been terminated  
8 and the Tribe's reservation has not been terminated.

9 The claim is made because the Department of Interior  
10 maintains the Trust responsibility over the Kawaiisu Tribe  
11 of Tejon as established by these actions: the United States  
12 Government solicited the Kawaiisu Tribe of Tejon to sign  
13 Treaty D (EX. 2), 10 June 1851 at Camp Persifer F. Smith on  
14 what is now known as the Tejon Ranch. The US Government  
15 expanded their trust responsibility to the Tribe with the  
16 establishment of the Tejon/Sebastian Indian Reservation  
17 (EX. 1) on March 3, 1853 (10 Stat. 226 238).  
18

19 The claim is brought under the Indian Tucker Act,  
20 Trust at Common Law and the Fifth Amendment.  
21

22 Until the Department of Interior reaffirms the formal  
23 recognition of the Kawaiisu Tribe of Tejon, the Department  
24 of Interior remains in breach of their fiduciary duty as  
25 Trustee of the Tribe.  
26



1           According to Black's Law Dictionary, "Simply put,  
2 fiduciaries must exhibit the highest form of trust,  
3 fidelity and confidence, and are expected to act in the  
4 best interest of their clients at all times."  
5

6           The injury caused to the Kawaiisu Tribe of Tejon by  
7 omitting the Tribe from the Federal Register is that the  
8 Tribe is unable to act in its official and legal authority  
9 with the County of Kern.

10           For example, in the case of the Tejon Mountain Village  
11 LLC (TMV LLC) Development, the Kawaiisu Tribe of Tejon was  
12 not given Notice, by the County of Kern, about the TMV LLC  
13 project, or the preparation of the projects EIR.  
14

15           With the TMV LLC project, the injury caused is that  
16 the Kawaiisu Tribe of Tejon is not being brought in under  
17 many of the legal requirements of State CEQA and Federal  
18 NAGPRA regulations such as: participating as a Consultant,  
19 being listed as a Most Likely Descendant, participating in  
20 Archeological surveys, consulting and taking possession  
21 during Repatriation, protection of Sacred Sites and  
22 intellectual property, participating in reburials and  
23 monitoring the development during construction.  
24

1           The Department of Interior's omission of the Tribe's  
2 name from the Federal Register is also causing other injury  
3 to the Tribe such as making it more difficult for the  
4 Kawaiisu Tribe of Tejon to restore their Reservation,  
5 restore the Tribe's Indian Country, receive an accounting  
6 of accrued revenues from natural resources extraction,  
7 receive payment from Department of Interior and Department  
8 of Treasury of those resource revenues, establish Tribal  
9 law enforcement, attain funding for Tribal health care,  
10 secure grants for Tribal education, create Tribal economic  
11 development and maintain self-governance. The Tribe is  
12 asking for money damages for some of these injuries as  
13 outlined in "Relief Requested."  
14  
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16           All of the above injuries taken together are resulting  
17 in the continued impoverishment of the Kawaiisu Tribe of  
18 Tejon and exacting genocide and ethnocide on the Kawaiisu  
19 Tribe of Tejon in violation of 18 USC Sce. 1091 and the  
20 Universal Declaration of Human Rights (UDHR), 10 December  
21 1948, General Assembly Resolution 217 A (III) International  
22 Bill of Human Rights.  
23  
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**FIRST CLAIM AUTHORITIES**

1  
2 Article 1, Section 8, Clause 3, U.S. Constitution, Indian  
3 Commerce Clause

4 June 24, 1924 Indian Citizenship Act

5  
6 January 12, 1891, I 26 Stat., 712. Trust Continued

7 18 USC Sec. 1091 Genocide Law

8 18 USC Sec. 1151 Indian Country defined

9 General Assembly Resolution 217 A (III) International Bill  
10 of Human Rights, 10 December 1948

11 Mattz v. Arnett 412 U.S. 481 (1973).

12 Statutes at Large 24, 388-91 General Allotment Act or Dawes  
13 Act) divided up reservation lands into individual land  
14 holdings for tribal members

15  
16 (10 Stat. 226 238) March 3, 1853 Session II, Thirty-Second  
17 Congress established Tejon/Sebastian Indian Reservaton and  
18 Appropriated \$250,000 "to defray the expense of subsisting  
19 the Indians...and removing them to said reservations for  
20 protection"

21 (10 Stat. 686, 699) March 3, 1855

22 **United States v. Washington (1974)**

23 Indian Tucker Act 28 U.S.C. Sub. Sec. 1505

24 Indian Trust Doctrine  
25  
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Kawaiisu Tribe of Tejon v. Department of Interior and County of Kern, CA

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Trust at Common Law  
Reserved Rights Doctrine  
Congress Plenary Power  
Fifth Amendment Trust property must not be taken without  
"just compensation"  
Section 702 of the Administrative Procedure Act. Waives  
sovereign immunity of federal officials for actions  
"seeking relief other than money damages" involving a  
federal official's action or failure to act.  
Indian Trust Fund Management Reform Act of 1994. Secretary  
of Interior must provide adequate accounting.  
US v. Mitchell, 463 U.S. 206, 219 (1983) (Mitchell II)  
Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1 (1831)  
Tribes are "denominated domestic, dependant nations."  
Worcester v. Georgia, 31 U.S. (6 Pet.) 515 (1832)  
United States v. Mitchell, 463 U.S. 206, 219 (1983)  
Mitchell II)  
United States v. White Mountain Apache 537 U.S. 465 (2003)  
Solem v. Bartlett, 465 U.S. 463 (1984) U.S. Supreme Court  
held "(a) Only Congress can divest an Indian reservation of  
its land and diminish its boundaries. But Congress must

1 clearly evince an intent to change boundaries before  
2 diminishment will be found.”  
3

4  
5 **SECOND CLAIM**  
6 **AS TO THE DEPARTMENT OF THE INTERIOR**

7 **Breach of Fiduciary Duty (as to Tejon/Sebastian Reservation**  
8 **Ceded Map #311)**

9 **Article I Section 8 Clause 3, Acts of Congress, Fifth**  
10 **Amendment 25 U.S.C.S. Sub. Sec. 1291-1297, Indian**  
11 **Nonintercourse Act 25 U.S.C.S. Sub. Sec. 177**

12  
13 Plaintiff repeats and incorporates paragraphs 1  
14 through 18 set forth in the SUMMARY.

15 The Kawaiisu Tribe of Tejon petitions the Court for  
16 emergency relief to restore the Historic Federally-  
17 Recognized Tejon/Sebastian Reservation to Trust status.  
18 (EXHIBIT #1: Library of Congress Ceded Map #311)  
19

20 The Department of Interior violated their appointed  
21 responsibilities under the United States Constitution,  
22 Article I Section 8 Clause 3, Acts of Congress, Executive  
23 Orders of the President of the United States and Supreme  
24 Court rulings.  
25  
26

1           Before Kern County voted on the Tejon Mountain Village  
2 Development, the Kawaiisu Tribe of Tejon asked the Kern  
3 County Board of Supervisors to show the Tribe a  
4 Congressional Act that clearly shows intent to remove or  
5 recind the Tejon/Sebastian Reservation. Chairman Robinson  
6 knows this Act does not exist.  
7

8           Instead, Kern County cited a Supreme Court Case (U. S.  
9 v. TITLE INSURANCE & TRUST CO., 265 U.S. 472 (1924) about  
10 Mexican Ranchos that the County of Kern's own attorney  
11 said, during the televised broadcast, does not mention the  
12 Reservation and does not make clear which Ranchos or  
13 property the case is addressing. This 1924 case lacked a  
14 Cause of Action and even the Justice said that he "assumed"  
15 that there was no claim made for the Disenos by the Tribe.  
16 Quite to the contrary, the Kawaiisu Tribe of Tejon signed a  
17 treaty in 1851, which met the Claim's Commission  
18 requirements. Furthermore, Tribal members were not citizens  
19 of the U.S. until 1924 and it was the responsibility of the  
20 Department of the Interior to protect and preserve the  
21 Tribes rights and they did not.  
22  
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24           The 1924 case still has nothing to do with the  
25 Tejon/Sebastian Indian Reservation (EX. 1). The Reservation  
26

1 is an entity of its own, as it was set-aside by the  
2 President of the United States through an Act of Congress  
3 giving him that power. Under the U.S. Constitution and  
4 Court Rulings, Congress is the only Branch of Government  
5 that can delineate, terminate, or dissolve an Indian  
6 Reservation. The Court can make a ruling on an Act of  
7 Congress to remove Tribal ownership but has no power to do  
8 so on its own.  
9

10           According to U.S. law the Tejon/Sebastian Indian  
11 Reservation (EX. 1) is still Trust Property of the Tribe.  
12 This has caused great injury to the Tribe and the  
13 Department of Interior must restore the Tejon/Sebastian  
14 Reservation to meet their Fiduciary Responsibility.  
15

16           The Department of Interior knows this because they  
17 issued the Kawaiisu Tribal Members over 32 Indian  
18 Allotments (48 Stat. 985, 25 U.S.C. § 465) and the Supreme  
19 Court has ruled that the Issuance of Allotments indicates a  
20 Government-to-Government relationship to a Federally  
21 Recognized Tribe. *Mattz v. Arnett* 412 U.S. 481 (1973).  
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**SECOND CLAIM AUTHORITIES**

1  
2 Mattz v. Arnett 412 U.S. 481 (1973).

3 **United States v. Washington (1974)**

4 Article 1, Section 8, Clause 3, U.S. Constitution, Indian  
5 Commerce Clause  
6

7 June 24, 1924 Indian Citizenship Act

8 January 12, 1891, I 26 Stat., 712. Trust Continued

9 48 Stat. 985, 25 U.S.C. § 465

10 18 USC Sec. 1091 Genocide Law

11 18 USC Sec. 1151 Indian Country defined

12 Public Law 85-31, May 16, 1957, S. 998, 71 Stat. 29:

13 Restoration of Indian Schools to trust land

14 Public Law 86-634, July 12, 1960, HR4386, 74 Stat. 469:

15 Illegal to destroy, deface, or remove boundary markers on  
16 Indian Reservations or to Trespass.  
17

18 General Assembly Resolution 217 A (III) International Bill  
19 of Human Rights, 10 December 1948

20 Statutes at Large 24, 388-91 General Allotment Act or Dawes  
21 Act) divided up reservation lands into individual land  
22 holdings for tribal members  
23

24 (10 Stat. 226 238) March 3, 1853 Session II, Thirty-Second  
25 Congress established Tejon/Sebastian Indian Reservaton and  
26



Kawaiisu Tribe of Tejon v. Department of Interior and County of Kern, CA

1 Appropriated \$250,000 "to defray the expense of subsisting  
2 the Indians...and removing them to said reservations for  
3 protection"

4 (10 Stat. 686, 699) March 3, 1855

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10 Fifth Amendment Trust property must not be taken without  
11 "just compensation"

12 Section 702 of the Administrative Procedure Act. Waives  
13 sovereign immunity of federal officials for actions  
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15 federal official's action or failure to act.

16 Indian Trust Fund Management Reform Act of 1994. Secretary  
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18 US v. Mitchell, 463 U.S. 206, 219 (1983) (Mitchell II)

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4 Solem v. Bartlett, 465 U.S. 463 (1984) U.S. Supreme Court  
5 held "(a) Only Congress can divest an Indian reservation of  
6 its land and diminish its boundaries. But Congress must  
7 clearly evince an intent to change boundaries before  
8 diminishment will be found."  
9

10  
11 **THIRD CLAIM**  
12 **AS TO THE DEPARTMENT OF THE INTERIOR**

13  
14 **Breach of Fiduciary Duty (as to the Tribe's Indian Country**

15 **Ceded Map #286)**

16 **18 USC Sec. 1151 Article 1, Section 8, Clause 3, U.S.**

17 **Constitution, United States v. Washington (1974), Indian**

18 **Nonintercourse Act 25 U.S.C.S. Sub. Sec. 177**  
19

20  
21 Plaintiff repeats and incorporates paragraphs 1  
22 through 18 set forth in the SUMMARY.

23 The Kawaiisu Tribe of Tejon is being denied its  
24 "Indian Country", as guaranteed in the Treaty of Guadalupe  
25

1 Hidalgo 1848. This treaty was ratified by the Congress of  
2 the United States and set into law.

3 The Library of Congress, Ceded Land Map Number 286  
4 (Exhibit #2) shows our "Indian Country", as it was  
5 established in the Treaty the Kawaiisu Tribe of Tejon  
6 signed at Camp Persifer Smith, June 10, 1851. The  
7 Congressional Treaty Commission sent to California for that  
8 purpose had the authority of Congress to make that Treaty  
9 and to determine and set aside the area of "Indian  
10 Country".  
11

12 It is the responsibility of the Department of Interior  
13 to maintain that the rights of our "Indian Country" are not  
14 infringed upon. Department of Interior has violated their  
15 Fiduciary Duty by not maintaining the Tribes rights in  
16 Trust to a defined "Indian Country".  
17

18 The injury caused by this action or inaction is that  
19 it allows State Governments, Local Governments, and  
20 Individuals to violate those rights guaranteed to the  
21 Kawaiisu Tribe of Tejon.  
22

23 **THIRD CLAIM AUTHORITIES**

24 Mattz v. Arnett 412 U.S. 481 (1973)

25 United States v. Washington (1974)  
26

1 Oklahoma Tax Comm'n v. Sac and Fox Nation , 508 U.S. 114

2 (1993) California v. Cabazon Band of Mission Indians , 480

3 U.S. 202, 207 n.5 (1987)

4 Article 1, Section 8, Clause 3, U.S. Constitution, Indian

5 Commerce Clause

6 June 24, 1924 Indian Citizenship Act

7 January 12, 1891, I 26 Stat., 712. Trust Continued

8 18 USC Sec. 1091 Genocide Law

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22 its land and diminish its boundaries. But Congress must  
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26

1 clearly evince an intent to change boundaries before  
2 diminishment will be found.”

3  
4  
5 **FOURTH CLAIM**  
6 **AS TO THE COUNTY OF KERN**

7 **EIR Noncompliance with CEQA and NAGPRA**

8  
9 **Public Law 101-601; 25 U.S.C. 3001 et seq., Public**  
10 **Resources Code Section 21167.3 (a), CEQA 21167, 21177, Pub.**  
11 **Res. Code 5024.1, Title 14 CCR, Section 4850, 4852 et seq,**  
12 **Pub. Res. Code 5097.98, Section 21084, 21084.1, Pub. Res.**  
13 **Code 21083, 21083.2, Health and Safety Code Section 7050.5,**  
14 **Water Code Section 12220**

15  
16  
17 Plaintiff repeats and incorporates paragraphs 1  
18 through 18 set forth in the SUMMARY.

19 The EIR for Tejon Mountain Village, LLC does not  
20 comply with the provisions of CEQA and NAGPRA. This project  
21 known as Tejon Mountain Village (TMV) contains historical  
22 resources that meet the definitions of Pub. Res. Code  
23 section 5020.1 (k) and 5024.1 (g), eligible for listing in,  
24 the California Register of Historical Resources, and  
25  
26

1 requires that the Public Agency must treat the resources as  
2 significant. The site is a Federal Indian Reservation  
3 noticed by California State Registered Landmark No. 133  
4 Dedicated on November 28, 1937. The TMV LLC development  
5 fits all four criteria required for such consideration  
6 Section 21084.1: a) associated with events from  
7 California's historical past, b) associated with lives of  
8 important persons in our past, c) embodies the distinctive  
9 characteristics of a period, region and creative and  
10 artistic values, and d) has yielded and is likely to yield  
11 more information important to pre-Columbian history, pre-  
12 California history and history and 21083.2 (without time  
13 and cost limitations) also contains unique archeological  
14 resources and graves 5097.98.

17 15064.5 The TMV LLC project will cause substantial  
18 adverse change in the significance of the many historical  
19 resource sites on the property including destruction,  
20 relocation and alteration which will forever remove  
21 eligibility for inclusion in California Register of  
22 Historic Resources. Primary Cultural Intellectual Property  
23 will be erased. The environmental effects will also be  
24

1 cumulatively considerable. The Secretary of Interiors  
2 standards are not being followed.

3 Pub. Res. Code 5097.98 and Health and Safety Code  
4 Section 7050.5, PRC 21082 contingency funding and time  
5 allotment has not been built into procedures. Additionally,  
6 the mass graves (unmarked cemeteries) have not been  
7 included in the survey and a comprehensive survey of the  
8 property by the Most Likely Descendant has not taken place.  
9 The County of Kern has not asked the project's Native  
10 American Consultants, Monitors and Most Likely Descendants  
11 to provide California CDIB Numbers, which is required to  
12 verify their Lineal Descendancy to qualify them to be on  
13 the site.  
14  
15

16 SB 610 The Water Supply Assessment for this project is  
17 inadequate and does not take into consideration the  
18 aboriginal water rights owned by the Kawaiisu Tribe of  
19 Tejon on all of the Ranchos (a right of occupancy was  
20 guaranteed by Spain, Mexico and the United States forever)  
21 that make up Tejon Ranch Company (United States v.  
22 Washington (1974)).  
23

24 CEQA 21092 and Pub. Res. Code 5097.98 Inadequacy of  
25 Notice to Lineal Descendants and Owners of the Indian  
26



1 Reservation occurred. The Tribe should have been treated as  
2 owner/occupants contiguous to the parcel in 15087(3). The  
3 Kawaiisu Tribe of Tejon was not noticed about this project  
4 in the early stages of Environmental review. No Early  
5 Consultation or Scoping per 15082 and 15083 took place. The  
6 Tribe only found out about the project when seeing a  
7 posting on a County bulletin board while appearing at the  
8 County Chambers for another hearing. This lack of notice on  
9 this project is inexcusable based on past history of notice  
10 to David Laughing Horse Robinson as a Most Likely  
11 Descendant in Indian Country ranging from Death Valley to  
12 San Bernardino to Ventura to Santa Barbara to Delano to  
13 Bakersfield to Sherman Pass and back across the Coso and  
14 Panamint Mountains. Furthermore, as one of the tribes held  
15 in slavery and murdered at the Tejon/Sebastian Reservation  
16 in rises to ethnocide and genocide that the interests and  
17 concerns of the Kawaiisu Tribe of Tejon would be ignored on  
18 this project. The Address Distribution List for the Draft  
19 EIR is 81 pages long with over 2000 people receiving the  
20 document. Somehow the historic Tribe with the oldest  
21 aboriginal claim to the property was excluded from that  
22 mailing list. To make matters worse, the Tribe did not  
23  
24  
25  
26

1 receive the EIR and any planning documents until the end of  
2 the October 5, 2009 hearing, after the vote had been taken.

3 In the Tribes letter to the county dated September 28,  
4 2009 the Tribe alerted Kern County that the County needed  
5 to require the Applicant to provide documentation of  
6 Termination of the Reservation by Congress, otherwise they  
7 were approving a project on Federal Land, outside of their  
8 jurisdiction as a State. By the October 5, hearing the  
9 Applicant had not provided such a document (since it does  
10 not exist) but the County voted to approve the Project  
11 anyway. This development has now been approved on Federal  
12 Indian Trust Land.  
13  
14

15 During the Oct. 5, 2009, Public Testimony other local  
16 Native Americans indicated that gravesites had been  
17 destroyed and scattered on the Tejon Ranch Property some  
18 years before and they had been contacted to assess the  
19 site. This was the first time that the Kawaiisu Tribe of  
20 Tejon had heard about it and even the Lead Kern County  
21 Planner acknowledged that the incident had occurred. No one  
22 gave notice to the Kawaiisu Tribe of Tejon or the Coroner  
23 when this violation occurred. Public Law 101-601; 25 U.S.C.  
24 3001 et seq. Public Law 86-634, July 12, 1960, HR4386, 74  
25  
26

1 Stat. 469: Illegal to destroy, deface, or remove boundary  
2 markers on Indian Reservations or to trespass.

3           21092, 21104 The Trustee for the Kawaiisu Tribe of  
4 Tejon, the Department of Interior, was not noticed about  
5 the Project being developed on Federal Lands, the first  
6 Indian Reservation in California. The Department of  
7 Interior is Trustee representing Kawaiisu Tribal interests  
8 in this project and for the required NEPA review.

9           Pub. Res. Code Section 21083 The State Clearinghouse  
10 in concert with a Metropolitan area council of governments  
11 did not review the EIR which they should have because this  
12 project meets five of the criteria: Changes the General  
13 Plan, will cause significant environmental effects such as  
14 traffic, air quality and climate change, will result in the  
15 cancellation of Williamson Act acreage, will take Water  
16 from the Sacramento-San Joaquin Delta (WCS 12220) and  
17 substantially affects sensitive and endangered wildlife  
18 habitat (Section 15380). It is a project that affects an  
19 Indian Reservation and it is a project that is placed in an  
20 earthquake zone that in the 1850's shook for 30 days  
21 straight.  
22  
23  
24  
25  
26

1           The US Department of Defense maintains a low-level  
2 flight path over the project and was not noticed. CEQA  
3 21098, 21080.4, 21092

4  
5           CEQA Section 21167 and 21108 (a) The Oct 5, 2009 vote  
6 by the Board of Supervisors initiates the firsts step in  
7 comprehensive zoning changes and general plan approvals  
8 based on information contained in the various environmental  
9 review documents submitted by Tejon Ranch Company, Tejon  
10 Mountain Village LLC and Kern County Planning. This  
11 Complaint is timely filed within the 30 day filing  
12 requirement for public agency decisions. Furthermore, some  
13 of the land is even still under the Williamson Act for two  
14 more years and is being included in the zoning and General  
15 Plan overhaul, even though that technically cannot happen.  
16 Foremost, the land in contention has been and is still open  
17 space, and has been that way since before Europeans arrived  
18 in this country.  
19

20           CEQA Section 21177(15112 (C)(5)) The Tribe exhausted  
21 it's administrative remedies by delivering a 50 page  
22 bindered document to the Planning Department on August 13,  
23 2009, five weeks before the Kern County Planning Commission  
24 met on the project. In that document the Tribe lodged its  
25  
26

1 objections and indicated the various reasons why the  
2 project should not be approved. Among the contentions were  
3 that the Tribe had not been noticed on the Project, that  
4 Most Likely Descendant regulations had been ignored and  
5 that the Project is being developed on land that is Federal  
6 Land, the Indian Reservation of the Kawaiisu Tribe of  
7 Tejon. The Tribe delivered the document by way of the  
8 Public Comment period during a Planning Commission Hearing  
9 and gave the Clerk audibly the Tribes Mailing Address. The  
10 Planning Department did not follow through and mail a copy  
11 of the EIR and Planning documents for the project to the  
12 Tribe. The EIR should have been mailed to the Tribe, and a  
13 walking survey of the acreage should have been scheduled  
14 and the review period extended for 90 days as requested.

17 CEQA Section 21177 The Tribe additionally exhausted  
18 it's administrative remedies by filing another letter and  
19 video with the Board of Supervisors the week before their  
20 hearing and appearing in person and submitting one more  
21 written record of the Tribal comments on October 5, 2009.  
22 In this manner the tribe again lodged its objections to the  
23 project indicating violations with regard to the Sacred  
24 Sites on the property, Most Likely Descendant Notice and  
25

1 that the Project cannot be developed on the Federal Land  
2 that is the Tribe's Indian Reservation.

3 It should be noted that there were only 13 days between  
4 the Kern County Planning Commission hearing (3 to 2 vote)  
5 and the Board of Supervisors hearing on this project. This  
6 shortened time made it impossible for an internal County  
7 Appeal.  
8

9 Violation of CEQA 21091, 30 Day Review Period.  
10 The Kawaiisu Tribe of Tejon was not given a copy of the EIR  
11 and Planning Department documents until after the October  
12 5, 2009 Board of Supervisor hearing finished at 4:30pm and  
13 the vote had already been concluded in support of the  
14 Project.  
15

16 21157.6 Violation of EIR five year limit; Kern County  
17 approved the EIR for thirty years.

18 County of Kern, State of California is using Native  
19 American Consultants, Monitors and Most Likely Descendants  
20 for Kern County EIR/EIS projects who do not hold a  
21 California Certified Degree of Indian Blood (CDIB)  
22 certificate issued by the Department of Interior and do not  
23 meet the legal geneology requirements to serve in the  
24 official capacities for CEQA and NAGPRA. This violation  
25  
26

1 makes the Cultural Resources portion of the TMV LLC EIR  
2 null and void.

3 County of Kern is not in compliance with the EIR legal  
4 Standards for the treatment of Sacred Sites and Indigenous  
5 Intellectual Property. The County's Cultural Resources  
6 treatment in the TMV LLC EIR rises to Genocide and  
7 Ethnocide. Sacred Sites are equal to Intellectual Property  
8 for Indigenous Peoples and are to be completely avoided and  
9 not covered with dirt, textile matting or erased from  
10 existence in any way. The EIR is not in compliance with  
11 legal standards for Cemetery remains and Indigenous remains  
12 of a Federally Recognized Tribe on a Federal Indian  
13 Reservation. Applicant does "not" own the "remains" of the  
14 Kawaiisu Tribal people or the artifacts found in and around  
15 the graves, that the sum of those items will be repatriated  
16 to the Kawaiisu Tribe of Tejon when discovered. The County  
17 of Kern must remove the phrase about Applicant "owning"  
18 Native American graves and archaeological materials.

19  
20  
21 104 STAT. 3048, Public Law 101-601

22  
23 Public Law 86-634, July 12, 1960, HR4386, 74 Stat. 469  
24  
25  
26

**FIFTH CLAIM**  
**AS TO THE COUNTY OF KERN**

**Violation of the Equal Protection Clause of the Fourteenth**  
**Amendment**

1  
2  
3  
4  
5  
6 Plaintiff repeats and incorporates paragraphs 1  
7 through 18 set forth in the SUMMARY.

8 Defendant Kern County discriminated against the  
9 Kawaiisu Tribe by denying, on account of religion, equal  
10 protection under the law.

11 Many of the rights Tejon Ranch Corporation and TMV LLC  
12 enjoy today in the State of California and the United  
13 States derive from the same Fourteenth Amendment yet those  
14 two Corporations and an assortment of Not-for-Profit  
15 Corporations were deferred to and treated preferentially  
16 rather than treated equally in the project approval and  
17 CEQA process.  
18

19 In the case of meeting the standard for equal  
20 protection when undertaking a resort development as wide  
21 reaching as the development in question, the public agency,  
22 in this case Lead Agency Kern County, must show no  
23 favoritism. The public agency must exhaustively research,  
24  
25  
26



1 give Notice, deliver documentation and give thirty day  
2 revue to all interested parties equally.

3 In this case, adjacent property owners, many Agencies  
4 and Corporations were noticed about the development and  
5 brought in for consultation. The Kawaiisu Tribe was not  
6 brought in as a consultant. The Kawaiisu Tribe did not  
7 receive the notices required under CEQA and NAGPRA. The  
8 Kawaiisu Tribe did not get a thirty day review of the CEQA  
9 EIR document and in fact the Kawaiisu Tribe was only  
10 delivered the EIR and supporting documents at the October  
11 5, 2009 Board of Supervisors meeting, after the vote by the  
12 Board of Supervisors had occurred, even though the Tribe  
13 had alerted the Kern County Planning Department and Kern  
14 County Planning Commission to the oversight in person and  
15 by letter on August 13, 2009.

16 By omitting the Kawaiisu Tribe from Notice,  
17 Consultation and 30 day review of the EIR, Defendant Kern  
18 County "is enforcing" the unequal treatment of the Kawaiisu  
19 Tribe when prospective development occurs on their  
20 aboriginal lands.

21 That the Tribe has established a long history with the  
22 property is not in question: the Tribes Aboriginal claim to  
23

1 the property was acknowledged by Spain and reinforced by  
2 the Diseno produced by Father Francisco Garces. When Mexico  
3 replaced Spain, all Ranchos issued for the same territory  
4 included a right of habitation clause. When the United  
5 States replaced Mexico, the US Government made a Treaty  
6 (June 10, 1851) with the Kawaiisu Tribe that was signed on  
7 the property at Camp Persifer Smith. When the United States  
8 established Indian Reservations in California, the first  
9 Indian Reservation in the State of California was on the  
10 property in question and the Kawaiisu Tribe were gathered  
11 there by California Volunteers using the California Indian  
12 Slavery law of April 22, 1850 (Chapter 133, Statutes of  
13 California, An Act for the Government and Protection of  
14 Indians). When the Civil War ravaged the Country, in 1863  
15 California Volunteers gathered hundreds of Kawaiisu in the  
16 Owens Valley, Coso and Panamint Mountains, Mohave Desert  
17 and Kern River Valley and marched the Kawaiisu to Sebastian  
18 Tejon Indian Reservation and imprisoned Tribal members  
19 there using the California Indian Slavery Law.  
20  
21  
22

23 When the Kawaiisu Tribe found out by accident that  
24 defendants were moving forward on a development project on  
25 the Tribes Aboriginal and Reservation land, the Kawaiisu  
26

1 Tribe produced a ten minute video to provide an easy to  
2 understand historical summary of the property and the  
3 Kawaiisu Tribal claim to the property and posted it on the  
4 internet on September 30, 2009.  
5

6 Defendant retaliated in two ways that Plaintiff knows  
7 of: 1) by calling Plaintiff, Chairman David Laughing Horse  
8 Robinson's place of work, the California State University,  
9 Bakersfield and trying to get him fired. Additionally, on  
10 Thursday, October 1, 2009, a Kern County Planning  
11 Department employee was quoted in the primary County paper  
12 (EXHIBIT #5) as follows saying, "the land was never a  
13 formal reservation for the Kawaiisu tribe but only a shared  
14 habitation area for several tribes of native people." By  
15 these actions Defendants attempted to suppress the Kawaiisu  
16 Tribes free exercise and free speech rights and not treat  
17 the Tribe equally as an interested Agency or Corporation.  
18

19 The Kawaiisu Tribe has several thousand years of  
20 expertise as a Government - to - Government agency and  
21 consultant on the Cultural Resources on their aboriginal  
22 lands. Defendants recurring policy of not noticing the  
23 Kawaiisu Tribe about projects on the Tribe's aboriginal  
24 land exhibits prejudice and demonstrates an ethnocentric  
25  
26

1 approach to applying the laws of the United States and the  
2 State of California. Public Law 86-634, July 12, 1960,  
3 HR4386, 74 Stat. 469  
4

5 It should be noted that testimony at the Oct. 5, 2009  
6 hearing indicated that four of the five Kern County  
7 Supervisors received political donations from Tejon Ranch  
8 during the project development process.

9 The undisputed material facts demonstrate that  
10 Defendants have violated the Equal Protection clause of the  
11 Fourteenth Amendment by impinging on Plaintiff's free  
12 exercise and free speech rights and by intentionally  
13 discriminating against the Tribe because of the Tribe's  
14 religion and ethnicity.  
15

16 **FIFTH CLAIM AUTHORITIES**

17 Yick Wo v. Hopkins, 118 U.S. 356 (1886)[1], United  
18 States Supreme Court ruled that a law that is race-neutral  
19 on its face, but is administered in a prejudicial manner,  
20 is an infringement of the Equal Protection Clause in the  
21 Fourteenth Amendment. Justice Stanley Matthews wrote:  
22 "These provisions are universal in their application, to  
23 all persons within the territorial jurisdiction, without  
24 regard to any differences of race, of color, or of  
25  
26

1 nationality; and the equal protection of the laws is a  
2 pledge of the protection of equal laws." He also noted that  
3 the court had previously ruled that it was acceptable to  
4 hold administrators of the law liable when they abused  
5 their authority.  
6

7 Hirabayashi v. United States (320 US 81, 1943) Court  
8 recognized that "Distinctions between citizens solely based  
9 because of their ancestry are by their very nature odious  
10 to a free people whose institutions are founded upon the  
11 doctrine of equality. For that reason, legislative  
12 classification or discrimination based on race alone has  
13 often been held to be a denial of equal protection."  
14

15 Shelley v. Kraemer, 334 U.S. 1, (1948) The Court found  
16 that, although a discriminatory private contract could not  
17 violate the Equal Protection Clause, the courts'  
18 enforcement of such a contract could: after all, because  
19 the courts were part of the state.  
20

21 (CEQ), 40 C.F.R. pts. 1500-1508. CEQ regulations  
22 require agencies to contact Indian tribes and provide  
23 opportunities for tribes to be become involved at several  
24 steps in the preparation of an EIS, including: Cooperating  
25 agencies - When the effects of a proposed action may occur  
26

1 "on a reservation" an Indian tribe, by agreement with the  
2 lead federal agency, may become a cooperating agency and  
3 have a direct role in the preparation of the EIS. 40  
4 C.F.R. §§ 1501.6, 1508.5. Scoping – The lead agency must  
5 invite "any affected Indian tribe" to participate in the  
6 scoping process for an EIS. Id. § 1501.7. Commenting on an  
7 EIS – The lead agency must invite comments on a draft EIS  
8 from Indian tribes "when the effects may be on a  
9 reservation." Id. § 1503.1(a)(2). Environmental  
10 consequences – When an agency prepares an EIS for a  
11 proposed action, the analysis of environmental consequences  
12 in the EIS must include discussions of possible conflicts  
13 between the proposed action and the objectives of Federal,  
14 regional, State, and local (and in the case of a  
15 reservation, Indian tribe) land use plans, policies and  
16 controls for the area concerned. Id. § 1502.16(c). Public  
17 involvement – Whenever an agency provides public notice of a  
18 NEPA-related hearing, public meeting, or the availability  
19 of environmental documents, the notice shall include notice  
20 to Indian tribes "when effects may occur on reservations."  
21 Id. § 1506.6(b)(3). In addition, if the proposed federal  
22 agency action is in response to an action planned by a  
23  
24  
25  
26

1 private or other non-federal entity, and the federal agency  
2 knows that its involvement is reasonably foreseeable, the  
3 CEQ regulations direct federal agencies to promptly consult  
4 with state and local agencies and Indian tribes. Id. §  
5 1501.2(d). This requirement applies whether NEPA  
6 compliance involves an EIS or and EA and FONSI.

7 Article 1, Section 8, Clause 3, U.S. Constitution, Indian  
8 Commerce Clause

9 June 24, 1924 Indian Citizenship Act

10 January 12, 1891, I 26 Stat., 712. Trust Continued

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4 Solem v. Bartlett, 465 U.S. 463 (1984) U.S. Supreme Court  
5 held "(a) Only Congress can divest an Indian reservation of  
6 its land and diminish its boundaries. But Congress must  
7 clearly evince an intent to change boundaries before  
8 diminishment will be found."  
9

10  
11 **SIXTH CLAIM**  
12 **AS TO THE DEPARTMENT OF THE INTERIOR**

13 **Violation of the Equal Protection Clause of the Fourteenth**  
14 **Amendment**

15 Plaintiff repeats and incorporates paragraphs 1  
16 through 18 set forth in the SUMMARY.

17  
18 The Department of Interior has not treated the  
19 Kawaiisu Tribe of Tejon in an equal manner to other  
20 historic federally-recognized Tribes in the United States.

21 The Department of Interior violated their  
22 Constitutional Responsibilities by listing other Tribes as  
23 Historic Federally-Recognized Tribes and not listing the  
24  
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1 Kawaiisu Tribe of Tejon as an Historic Federally-Recognized  
2 Tribe, with all the protections, rights, and services.

3         The Kawaiisu Tribe of Tejon is forced to bring this  
4 case forward when it is the legal, fundamental  
5 responsibility of the Department of Interior set forth by  
6 the U.S. Congress as a fiduciary responsibility. In this  
7 gross negligence by the Department of Interior, the  
8 Kawaiisu Tribe of Tejon has experienced loss of life,  
9 education, health services, religious freedom and has to  
10 act as its own legal trustee.

11         The injury to the Tribe includes the deliberate  
12 destruction, use without permission, and unlawful claim of  
13 the Kawaiisu Tribe of Tejon's Intellectual Property Rights.  
14 Our paintings and calendar sites are defaced and published  
15 without our permission.

16         The Tribe is not being noticed for Repatriation.  
17 NAGPRA regulations are not applied to our Tribe because of  
18 the Department of Interior's actions. Even though our  
19 75,000 acre Tejon/Sebastian Indian Reservation (EX. 1 - Map  
20 #311) was reduced to 25,000 acres, we have not been given  
21 just compensation as guaranteed under the 5<sup>th</sup> Amendment.  
22  
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1           When the County of Kern hires Native American  
2 Consultants, Monitors and brings in Most Likely  
3 Descendants, the Department of Interior is not providing  
4 the oversight to discover that most of the people used in  
5 Kern County for these activities do not have California  
6 CDIB Numbers issued by the Department of Interior.  
7

8           The Federal Regulations are not being followed because  
9 of the actions of the Department of Interior and the  
10 Kawaiisu Tribe of Tejon is being injured as a result.

11           To make is worse, the County of Kern writes in their  
12 EIR that the Applicant "owns" the remains of our Ancestors.  
13 104 STAT. 3048, Public Law 101-601  
14

15           The Department of Interior is guilty of Genocide,  
16 Ethnocide, and Theft of Tribal Economic Resources without  
17 due process. The Kawaiisu Tribe of Tejon needs housing for  
18 our homeless tribal members, mental health and regular  
19 health care, a drug and alcohol abuse program and a TANF  
20 program. Many of our single parents are refused a higher  
21 education. We have a high rate of dyslexia which leads many  
22 to drop out of school because they are hands on learners.  
23 We are a traditional tribe and often have to practice our  
24 religion, language and other cultural practices in secret.  
25  
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1 These conditions increase the rate of depression in the  
2 community.

3 The actions of the Department of Interior keeps us at  
4 a poverty level that makes it impossible to address the  
5 needs of our tribal community in the way that they should  
6 be.  
7

8 **SIXTH CLAIM AUTHORITIES**

9 United States v. Sioux Nation of Indians, 448 U.S. 371  
10 (1980) Public Law 101-601; 25 U.S.C. 3001 et seq.

11 Fifth Amendment 25 U.S.C.S. Sub. Sec. 1291-1297

12 **United States v. Washington (1974)**

13 Article 1, Section 8, Clause 3, U.S. Constitution, Indian  
14 Commerce Clause

15 June 24, 1924 Indian Citizenship Act

16 January 12, 1891, I 26 Stat., 712. Trust Continued

17 18 USC Sec. 1091 Genocide Law

18 18 USC Sec. 1151 Indian Country defined

19 General Assembly Resolution 217 A (III) International Bill  
20 of Human Rights, 10 December 1948

21 Mattz v. Arnett 412 U.S. 481 (1973).  
22  
23  
24  
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26

1 Statutes at Large 24, 388-91 General Allotment Act or Dawes  
2 Act) divided up reservation lands into individual land  
3 holdings for tribal members

4 (10 Stat. 226 238) March 3, 1853 Session II, Thirty-Second  
5 Congress established Tejon/Sebastian Indian Reservaton and  
6 Appropriated \$250,000 "to defray the expense of subsisting  
7 the Indians...and removing them to said reservations for  
8 protection"

9  
10 (10 Stat. 686, 699) March 3, 1855

11 **United States v. Washington (1974)**

12 Indian Tucker Act 28 U.S.C. Sub. Sec. 1505

13 Indian Trust Doctrine

14 Trust at Common Law

15 Reserved Rights Doctrine

16 Congress Plenary Power

17 Fifth Amendment Trust property must not be taken without  
18 "just compensation"

19 Section 702 of the Administrative Procedure Act. Waives  
20 sovereign immunity of federal officials for actions  
21 "seeking relief other than money damages" involving a  
22 federal official's action or failure to act.  
23  
24  
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1 Indian Trust Fund Management Reform Act of 1994. Secretary  
2 of Interior must provide adequate accounting.

3 US v. Mitchell, 463 U.S. 206, 219 (1983) (Mitchell II)

4 Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1 (1831)

5 Tribes are "denominated domestic, dependant nations."

6 Worcester v. Georgia, 31 U.S. (6 Pet.) 515 (1832)

7 United States v. Mitchell, 463 U.S. 206, 219 (1983)

8 Mitchell II)

9 United States v. White Mountain Apache 537 U.S. 465 (2003)

10 Solem v. Bartlett, 465 U.S. 463 (1984) U.S. Supreme Court

11 held "(a) Only Congress can divest an Indian reservation of

12 its land and diminish its boundaries. But Congress must

13 clearly evince an intent to change boundaries before

14 diminishment will be found."

15 (CEQ), 40 C.F.R. pts. 1500-1508. CEQ regulations require

16 agencies to contact Indian tribes and provide opportunities

17 for tribes to be become involved at several steps in the

18 preparation of an EIS, including: Cooperating agencies -

19 When the effects of a proposed action may occur "on a

20 reservation" an Indian tribe, by agreement with the lead

21 federal agency, may become a cooperating agency and have a

22 direct role in the preparation of the EIS. 40 C.F.R. §§

23  
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1 1501.6, 1508.5.Scoping – The lead agency must invite “any  
2 affected Indian tribe” to participate in the scoping  
3 process for an EIS. Id. § 1501.7.Commenting on an EIS –  
4 The lead agency must invite comments on a draft EIS from  
5 Indian tribes “when the effects may be on a reservation.”  
6 Id. § 1503.1(a)(2).Environmental consequences – When an  
7 agency prepares an EIS for a proposed action, the analysis  
8 of environmental consequences in the EIS must include  
9 discussions of possible conflicts between the proposed  
10 action and the objectives of Federal, regional, State, and  
11 local (and in the case of a reservation, Indian tribe) land  
12 use plans, policies and controls for the area concerned.  
13 Id. § 1502.16(c).Public involvement – Whenever an agency  
14 providespublic notice of a NEPA-related hearing, public  
15 meeting, or the availability of environmental documents,  
16 the notice shall include notice to Indian tribes “when  
17 effects may occur on reservations.” Id. § 1506.6(b)(3). In  
18 addition, if the proposed federal agency action is in  
19 response to an action planned by a private or other non-  
20 federal entity, and the federal agency knows that its  
21 involvement is reasonably foreseeable, the CEQ regulations  
22 direct federal agencies to promptly consult with state and  
23  
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1 local agencies and Indian tribes. Id. § 1501.2(d). This  
2 requirement applies whether NEPA compliance involves an EIS  
3 or and EA and FONSI.  
4

5 **RELIEF REQUESTED**

6 Plaintiff respectfully requests that this Court:

7 Grant an injunction or stay prohibiting the TMV LLC  
8 Development Project from being carried out until the claims  
9 of this case are determined. Hecton v. People of the State  
10 of California, 58 Cal. App. 3d 653

11 Order Department of Interior (DOI) to reaffirm formal  
12 recognition of the Kawaiisu Tribe of Tejon, by publishing  
13 the Tribes name in the Federal Register as an Indian Entity  
14 Recognized and Eligible To Receive Services From the United  
15 States Bureau of Indian Affairs. Order DOI to include in  
16 the Federal Register an acknowledgment that an  
17 administrative oversight had occurred and that the Kawaiisu  
18 Tribe of Tejon shall be considered a Historic Federally-  
19 Recognized Tribe and shall be entitled to the privileges  
20 and immunities available to other federally-recognized  
21 historic tribes by virtue of their government-to-government  
22 relationship with the United States. Order DOI to produce  
23  
24  
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26



1 a copy of the Federal Register stating such in 60 days to  
2 this court.

3 Order DOI to include in the Federal Register a  
4 statement of the Kawaiisu Tribe of Tejon's "Indian Country"  
5 as defined by Library of Congress California Cession Map  
6 #286.  
7

8 Order DOI to restore the 75,000 acre Tejon/Sebastian  
9 Indian Reservation as Trust lands of the Kawaiisu Tribe of  
10 Tejon.

11 Order DOI to restore the Tejon/Sebastian Indian  
12 Reservation School Building and land as Trust property of  
13 the Kawaiisu Tribe of Tejon. (Public Law 85-31, May 16,  
14 1957, S. 998, 71 Stat. 29)  
15

16 Order DOI to restore to Trust status the Kawaiisu  
17 allotments that were sold without approval and other  
18 illegal means of transfer of Tribal Indian land.

19 Order DOI to provide an accounting of accrued revenues  
20 from resources extracted from the Tejon/Sebastian Indian  
21 Reservation (oil, minerals, water, agricultural, leases).  
22

23 Order DOI to provide compensation for services not  
24 rendered by the BIA \$150,000,000.  
25  
26

1           Order DOI to provide compensation for accrued revenues  
2 from resource extraction on the Tejon/Sebastian Indian  
3 Reservation \$1,500,000,000.  
4

5           Order DOI to provide compensation for pain and  
6 suffering \$3,000,000,000.

7           Order County of Kern, State of California to establish  
8 and incorporate a policy into their County General Plan and  
9 County Statutes requiring that all Native American  
10 Consultants, Monitors and Most Likely Descendants working  
11 on Kern County projects must present a California Certified  
12 Degree of Indian Blood (CDIB) certificate issued by the  
13 Department of Interior and registered with the National  
14 Parks Service and Native American Heritage Commission.  
15

16           Order DOI to remove jurisdiction from the Native  
17 American Heritage Commission to determine California Most  
18 Likely Descendants and return that jurisdiction to the  
19 National Parks Service. Require DOI to work with the  
20 National Parks Service to establish and incorporate a  
21 policy requiring all California Native American  
22 Consultants, Monitors and Most Likely Descendants working  
23 on California projects to present a California Certified  
24 Degree of Indian Blood (CDIB) certificate from the DOI.  
25  
26

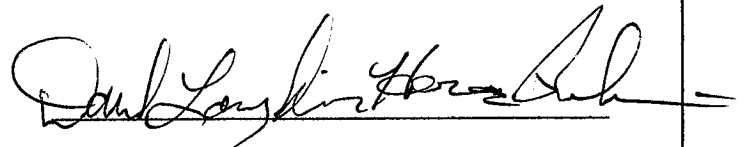
1 Require that the new policy incorporate training and  
2 oversight, before previous authorities or jurisdictions are  
3 returned by the National Parks Service to the California  
4 Native American Heritage Commission. Require DOI to enforce  
5 that the California Native American Heritage Commission  
6 maintains the required five (of nine) California Indians on  
7 the Commission, verified by California CDIB at time of  
8 nomination.  
9

10 Order County of Kern to adopt the Federal Standards  
11 for the treatment of Sacred Sites and Indigenous  
12 Intellectual Property; that Sacred Sites are equal to  
13 Intellectual Property and are to be completely avoided and  
14 not covered with dirt or textile matting. That the County  
15 of Kern acknowledge, in writing, that the Tejon Mountain  
16 Village Applicant does "not" own the "remains" of the  
17 Kawaiisu Tribal people or the artifacts found in and around  
18 the graves, that the total of those items will be  
19 repatriated to the Tribe when discovered. Order that County  
20 of Kern will revise the Tejon Mountain Village EIR and also  
21 adopt a County-wide policy adopting new procedures.  
22  
23

24 Order a Federal Court Review of the proceedings of the  
25 1924 TITLE INSURANCE & TRUST CO. case as it pertains to the  
26

1 existence of an Indian Reservation, the fact that the  
2 Kawaiisu Tribe of Tejon signed a Treaty on the property and  
3 made a claim to the property within the deadline of the  
4 California Land Claims Commission and the five rancho  
5 disenos presented that make up Tejon Ranch.  
6

7  
8 Dated: November 8, 2009 Respectfully Submitted,  
9

10  
11 

12 David Laughing Horse Robinson  
13 P.O. Box 1547  
14 Kernville, CA 93238  
15 Telephone: (661) 378-1085

16 Attorney for Plaintiff, Pro Se  
17 Kawaiisu Tribe of Tejon

18 **LIST OF EXHIBITS TO SUPPORT THE CLAIMS**

- 19 EX. 1: Map #311 (75,000 Acre Tejon/Sebastian Reservation)  
20 EX. 2: Map #286 (20 Million Acre Kawaiisu Indian Country)  
21 EX. 3: Fr. Francisco Garces Diseno Map for the Kawaiisu  
22 EX. 4: Kawaiisu Tribe names, 1905 Handbook/American Indians  
23 EX. 5: Bakersfield Californian article, Oct. 1, 2009  
24 EX. 6: 1905 Handbook of American Indians Cover Page  
25  
26

Kawaiisu Tribe of Tejon v. Department of Interior and County of Kern, CA

- 1 EX. 7: Bureau of Ethnology Congressional Transmittal Page  
2 EX. 8: Fr. Francisco Garces Full Size Map  
3 EX. 9: Treaty D, June 10, 1851  
4 EX. 10: 1877 Map  
5 EX. 11: Reservation Historical Landmark #133  
6 EX. 12: March 3, 1853 Reservation Approved  
7 EX. 13: Oct. 19, 1857 Congressional Globe—Five Reservations  
8 EX. 14: Letter to Planning Department August 13, 2009  
9 EX. 15: Letter to Board of Supervisors September 28, 2009  
10 EX. 16: Letter/Statement read at BOS hearing Oct. 5, 2009  
11  
12  
13  
14 EX. 17: Ten Minute VIDEO ON DVD (and YOU TUBE)

KAWAIISU HISTORY  
EX. 17 10 MINUTE VIDEO