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WILLIAM L. WHITTAKER
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 TILLIE HARDWICK, JOSEPH MYERS, SMITH WILLIAMS,) NO. 1710 SW
12 MARIE POLLOCK, EVANGELINE DUNCAN, ESTHER)
13 RAMIREZ, NANCY RAMOS, FLORENCE RODRIQUEZ,) COMPLAINT FOR
14 ALBERTA GARCIA, CHRISTINE POSH, JOSEPHINE) DECLARATORY AND
15 WOLFEN, on their own behalf and on behalf of) INJUNCTIVE RELIEF,
16 all others similarly situated,) AND DAMAGES

17 Plaintiffs,)

18 v.)

19 UNITED STATES OF AMERICA: CECIL ANDRUS, as)
20 Secretary of the Interior; FORREST GERARD,)
21 as Assistant Secretary of the Interior for)
22 Indian Affairs; JOSEPH CALIFANO, JR., as)
23 Secretary of Health, Education and Welfare;)
24 GEORGE BLUESPRUCE, Area Director, Phoenix)
25 Area Office, U.S. Public Health Service,)
26 Department of HEW; DON MYERS, as Chief,)
27 Office of Environmental Health, Phoenix)
28 Area Office, U.S. Public Health Service;)
29 ROBERT McSWAIN, Director of the California)
30 Program Office, U.S. Public Health)
31 Service; WILLIAM FINALE, Area Director,)
32 Bureau of Indian Affairs, Saramento Area)
Office; RICHARD BURSELL, Superintendent,)
Central California Agency, Bureau of)
Indian Affairs, Sacramento Area Office;)

IRENE LANG, Tax Collector for Mendocino)
County; CORA TAYLOR, Tax Collector for)
Lake County, and all others similarly)
situated,)

Defendants.)

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1 distributee of the Pinoleville Rancheria who alienated his land
2 shortly after receiving title thereto; he currently resides in
3 Alameda County, California.

4 13. Plaintiffs Evangeline Duncan and Esther Ramirez
5 are distributees of the Redwood Valley Rancheria, located in
6 Redwood Valley, Mendocino County, California. At all times
7 material hereto they were and are residents of the parcels of land
8 to which they received fee simple title as a result of the pur-
9 ported termination of the Redwood Valley Rancheria.

10 14. Plaintiffs Nancy Ramos, Florence Rodriguez, and
11 Alberta Garcia are distributees of the Big Valley Rancheria in
12 Lake County, California, and Christine Posh is the daughter and
13 heir of Vivian Posh, a distributee of said Rancheria. At all
14 times material hereto they were and are residents of the Big
15 Valley Rancheria as it existed prior to the purported termination.

16 15. Plaintiff Josephine Wolfin is the daughter and heir
17 of Harris Holmes, a distributee of the Big Valley Rancheria.
18 She resides in Finley, Lake County, California.

19 16. Defendant Cecil Andrus is the Secretary of the
20 Interior. Defendant William E. Finale is the Area Director,
21 Sacramento Area Office, Bureau of Indian Affairs (hereafter "BIA").
22 Defendant Richard Burcell is the Superintendent of the Central
23 California Agency, Bureau of Indian Affairs. Defendant Forrest
24 Gerard is the Assistant Secretary of the Interior for Indian
25 Affairs. Defendant Joseph Califano is the Secretary of Health
26 Education and Welfare (hereafter "HEW"). Defendant George
27 Bluespruce is the Area Director, Phoenix Area Office, U.S. Public
28 Health Service, Department of HEW. Defendant Don Myers is the
29 Chief, Office of Environmental Health, Phoenix Area Office, U.S.
30 Public Health Service, Department of HEW. Defendant Robert
31 McSwain is the Director of the California Program Office, Indian
32 Health Service, U.S. Public Health Service, HEW. All the defen-

1 dants are officers or employees of the United States and have
2 direct or delegated statutory duties in carrying out the provi-
3 sions of the Rancheria Act, Act of August 18, 1958 (72 Stat. 619),
4 as amended by the Act of August 11, 1964 (78 Stat. 390), and ful-
5 filling the trust responsibilities of the United States to Indian
6 people. They are referred to hereafter as the "federal defendants."

7
8 PLAINTIFF CLASS ALLEGATIONS

9 17. Plaintiffs bring this action on their own behalf
10 and on behalf of a class of similarly situated persons. The
11 class consists of all distributees of the Rancherias listed in
12 Exhibit "A," nay heirs or legatees of said distributees and any
13 Indian successors in interest to such lands.

14 18. Members of the class are so numerous that their
15 joinder is impracticable and individual litigation by each would
16 necessarily and substantially burden the operation of the
17 judicial system. There exist questions of law and/or fact common
18 to all members of the class, all of whom share a common right to
19 relief and a common interest in the case. This interest is
20 typified by the interests of the plaintiffs named herein and can
21 be fairly and adequately represented and protected by these named
22 plaintiffs. Defendants have acted or refused to act on grounds
23 generally applicable to the class as a whole, making appropriate
24 final injunctive and corresponding declaratory relief with respect
25 to the class as a whole. The members of the class can be readily
26 identified, since the names of most Rancheria distributees appear
27 on the Termination Notices or Proclamations contained in Exhibit
28 "A," and the names of their Indian heirs and successors can be
29 readily obtained from public records. Plaintiffs and the class
30 that they represent are therefore entitled to have this action
31 certified as a class action under Fed. R. Civ. P. 23(b)(1) and
32 (2).

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DEFENDANT CLASS ALLEGATIONS

19. Defendants Lang and Taylor are the Tax Collectors for Mendocino and Lake Counties, respectively, and as such are charged with the collection of real property taxes levied within said counties. Plaintiffs bring this action against them in their official capacities and as representatives of a class of similarly situated persons. The class consists of all California county tax collectors in counties containing one or more of the subject Rancherias. All members of the class have acted under color of California law, and are sued in their official capacities.

20. Members of the class are so numerous that their joinder is impracticable, and bringing suit against them individually would substantially burden this Court. Questions of law and fact are common to all members of the class inasmuch as all are subject to a mandatory duty to collect real property taxes on all land within their respective counties which is neither immune to nor exempt from such taxation. Their interests are typified by the interests of defendants Lang and Taylor and can be fairly and adequately represented and protected by them, and the members of the class can be readily identified by reference to county records. Common questions of law and fact predominate over individual questions and a defendant class action is the superior method for fair and efficient adjudication of the controversy respecting these defendants. Plaintiffs are therefore entitled to have this class of defendants certified pursuant to Fed. R. Civ. P. 23(b)(3). The defendant class is referred to hereafter as the "defendant tax collectors."

FACTUAL ALLEGATIONS

21. As more particularly alleged hereafter, the subject Rancherias were purchased by the United States for the benefit

1 of designated Indian people, living in the respective areas, and
2 were held in trust for them by the United States, until the,
3 purported distribution of the lands under the Rancheria Act.

4 22. Purportedly acting under the authority of §2 of the
5 Rancheria Act, the Secretary of the Interior gave final approval
6 to distribution plans for each of the subject Rancherias. As
7 approved, the distribution plans called for conveyance of each
8 Rancheria's lands, in severalty, to named distributees who
9 received fee simple patents to the land distributed to them. The
10 Secretary of the Interior purported to terminate the trust status
11 of the lands of the subject Rancherias and plaintiffs' rights and
12 status as Indians under the laws of the United States by publish-
13 ing in the Federal Register Termination Proclamations or Termi-
14 nation Notices pursuant to the existing administrative regulations
15 invalidly modified in 1965, at 28 C.F.R. §242.10. The dates
16 of publication and the termination Proclamations are shown in
17 in Exhibit "A."

18 PINOLEVILLE

19
20 23. Between 1911 and 1927 the Interior Department in
21 three separate transactions purchased a total of approximately
22 99 acres near Ukiah, California, for the use and benefit of the
23 Indians of Pinoleville Rancheria. Prior to its purported termi-
24 nation in 1961, approximately 120 Indian persons resided on the
25 Rancheria. Through a process first begun in 1935 as a response
26 to the passage of the Indian Reorganization Act, the residents
27 in 1947 finally formed the Pinoleville Improvement Association.
28 To do so they adopted and obtained Secretarial approval of a
29 Constitution and By-laws, as well as a Land and Property Code.

30 24. Plaintiff Tillie Myers Hardwick was born on the
31 Pinoleville Rancheria in approximately 1924. Under the distribu-
32 tion Plan for the Pinoleville Rancheria, plaintiff Hardwick

1 received conveyance of purported fee simple title to a parcel of
2 approximately 3.55 acres on the Rancheria. Plaintiff Smith
3 Williams was born in 1911 and also received conveyance of a
4 purported fee title to a parcel of Rancheria land under the
5 Pinoleville Distribution Plan. Plaintiff Marie Pollock born on
6 the Pinoleville Rancheria in 1923, likewise received conveyance
7 of a purported fee title to 4.55 acre parcel of Rancheria land.
8 Prior to the vote of the tribe on the distribution plan, the dis-
9 tribution of the deeds, and publication of the termination procla-
10 mations, as shown in Exhibit "A," the federal defendants, through
11 their agents, told these plaintiffs and other Rancheria residents
12 that termination was mandatory under the Act, that marketable
13 title would be provided upon termination, and that new plumbing
14 would be installed in Rancheria homes to ensure the receipt of
15 adequate water and sanitation services. In fact, the Act did not
16 make termination mandatory but rather required as a condition
17 precedent thereto approval by a majority vote of the adult
18 Rancheria residents. But for the failure of the federal defendants
19 to accurately inform plaintiffs of the true nature and consequences
20 of termination, the termination plan would not have been approved.
21 Plaintiff Hardwick was unable to obtain a loan on her property
22 because no title insurance company would insure title, despite the
23 requirements of the Act that marketable title be conveyed. New
24 plumbing was never installed in plaintiffs' homes, and plaintiffs
25 Hardwick, Williams and Pollock are still using the inadequate and
26 deteriorated plumbing that existed prior to the purported termina-
27 tion. Moreover, the federal defendants, acting through their
28 agents, never adequately explained the significance of the fact
29 that plaintiffs would become liable for local property taxes and
30 would no longer be recognized by the defendants as Indians.
31 Plaintiff Hardwick has been unable to pay taxes on her property
32 for several years and is currently in danger of losing title to

1 her land through an auction sale for delinquent taxes.

2 25. Plaintiff Joseph Myers was listed on the distribu-
3 tion plan of the Pinoleville Rancheria despite the fact that he
4 was a minor who had no guardian, in violation of the terms of the
5 Act which required distributees to be adult heads of households.
6 During 1978, plaintiff Myers applied for and was appointed to
7 the position of Judge of the Hoopa Reservation Court of Indian
8 Offenses. Although he was the most qualified Indian applicant
9 for the position, defendant Finale revoked plaintiff's appoint-
10 ment on the ground that plaintiff Myers status as an Indian had
11 been terminated, and, because defendant's statutory "Indian
12 preference" policy precluded employment of a non-Indian in said
13 position unless a qualified Indian could be found. Thus, said
14 defendant was required to seek out an unterminated Indian for the
15 position. Plaintiff Joseph Myers suffered substantial damages
16 as a result of this denial, including but not limited to lost
17 income.

18 REDWOOD VALLEY

19
20 26. The Redwood Valley Rancheria was acquired by the
21 United States in 1909 and consisted of approximately eighty acres
22 prior to its purported termination in 1961. Approximately six
23 families lived on the Rancheria at that time. Due to its small
24 size, it did not have a formal tribal structure. Rather, the
25 group made decisions at community meetings by majority vote or
26 consensus.

27 27. Plaintiff Evangeline Duncan was born in Ukiah in 1928.
28 She and her husband were joint distributees of parcel #10 consist-
29 ing of approximately 5.2 acres on the Redwood Valley Rancheria.
30 Prior to the approval of the Redwood Valley distribution plan by
31 the Indians of the Rancheria, federal defendants represented
32 to said Indians that the Act made termination mandatory

1 and that a scheduled referendum on the question was merely a
2 formality to make termination "more democratic." He promised
3 that she would receive a paved driveway to her house and an
4 adequate water system. Plaintiff reasonably and in good faith
5 relied upon said representations in assenting to termination. The
6 agent failed to disclose that plaintiff's home would be subject
7 upon termination to local building and health codes. Defendants'
8 statements were untrue in that the Act was not mandatory, plain-
9 tiff's driveway was not and has not been paved, and the "water
10 system" installed consisting of a shallow well without a pump, was
11 inadequate to meet her reasonable needs. After only a few years
12 this well became useless and had to be replaced at plaintiff's
13 expense. Moreover, in 1962, the County Health Department required
14 plaintiff to install an adequate waste disposal system at a total
15 cost to her of approximately \$6,200, including \$2500 for the
16 plumbing and fixtures and \$3700 for sewage facilities, including
17 a septic tank. To pay for taxes and improvements required by
18 county health and building codes plaintiff and her husband had to
19 sell 2.7 acres of their original 5.2 acre parcel; because this
20 sale was made by necessity, plaintiff was not able to realize
21 the full market value of the property.

22 28. Plaintiff Esther Ramirez was born in Ukiah in 1926
23 and had lived there all her life. As a result of the purported
24 termination of the Redwood Valley Rancheria, she received title
25 to parcel #7, consisting of approximately 4.9 acres. Prior to
26 the approval of the distribution plan by the Indians of the
27 Rancheria, agents of the federal defendants made representations
28 to her substantially similar to those made to plaintiff Duncan
29 in an attempt to procure her assent to the Redwood Valley
30 Rancheria termination. As a result of the purported termination,
31 she received only a shallow well. Plaintiff Ramirez at her own
32 expense had to install pumps, indoor plumbing, and a septic system.

1 Indians of the Rancheria, agents of the federal defendants had
2 falsely represented to her that termination would not disadvantage
3 her since she was already ineligible for BIA services because her
4 husband was non-Indian. They further represented that the Act
5 made termination mandatory, and that the government would improve
6 the houses of Rancheria residents as part of the termination
7 process. Plaintiff Ramos reasonably relied upon these represen-
8 tations in assenting to termination.

9 32. Plaintiff Josephine Wolfin is the daughter and heir
10 of Harris Holmes, who received title to parcel 30 under the Big
11 Valley distribution plan. She and her Indian co-heirs have been
12 unable to pay the county property taxes levied against said land,
13 and thus have been forced to borrow approximately \$1000 in order
14 to do so.

15 33. Plaintiff Florence Rodriquez, whose name at the
16 time of the distribution of deeds was Florence Ponce, was the
17 distributee of parcel 62 on the Big Valley Rancheria under the
18 Big Valley distribution plan. Plaintiff Alberta Garcia, whose
19 name at the time of distribution of deeds was Alberta Guzman, was
20 the distributee of Parcel No. 68 on said Rancheria under said
21 distribution plan. Prior to the approval of the plan by the
22 Indians of the Rancheria, agents of the federal defendants
23 promised said plaintiffs that if they agreed to termination, they
24 would be provided with a better water system and housing assis-
25 tance, including rehabilitation of existing substandard housing.
26 Relying on said representations, said plaintiffs agreed to
27 termination. Said agents failed to inform plaintiffs that liens
28 could be placed on their land as a condition of receiving public
29 assistance. A lien was in fact placed on plaintiff Rodriquez'
30 land as a condition of receiving public assistance for her
31 crippled son.

32 34. Plaintiff Christine Posh is the daughter and heir

1 of Vivian Posh, who received title to parcel 16 and 18 on the Big
2 Valley Rancheria as a result of forced tax sales due to delinquent
3 property taxes. Plaintiff is informed and believes and thereupon
4 alleges that agents of the federal defendants failed to disclose
5 to Vivian Posh, inter alia, that taxes would have to be paid
6 subsequent to the purported termination and that the land could
7 be sold by the county for failure to pay said taxes.

8 35. Referring to the existing water system on the Big
9 Valley Rancheria, the Big Valley Distribution Plan in its one
10 relevant reference states that the water system "furnishes all of
11 the existing homes with an ample supply of domestic water from
12 Clear Lake." However, the Plan fails to state the basis for such
13 an assertion, nor does it contain assurances that such water
14 system was adequate to meet the year-round domestic needs of the
15 Rancheria's residents, that the system served all distributees,
16 or that the water was fit for human consumption, none of which in
17 fact were or are true.

18 ALL RANCHERIAS

19
20 36. The Secretary of the Interior, acting through a
21 delegate, gave final approval to the Distribution Plan for each
22 of the subject rancherias on the date shown in Exhibit "A."
23 Termination notices were published for each of the subject
24 Rancherias on the date shown in Exhibit "A," and thereafter
25 defendants denied plaintiffs' eligibility for federal benefits
26 and services exclusively available to members of federally
27 recognized Indian tribes.

28 37. At all time pertinent hereto, the majority of the
29 residents of each subject Rancheria had received minimum formal
30 education and were unsophisticated and inexperienced in handling
31 even simple business or legal affairs. At the time of the
32 Secretary's approval of the Distribution Plans they were not

1 represented by counsel, and were given no advice by impartial or
2 even partial experts as to either the adequacy of, inter alia,
3 existing water systems or their right to insist upon the provision
4 of such services and facilities under §3 of the Act.

5 38. As a direct and proximate result of the wrongful
6 termination of the subject Rancherias, and the resulting treatment
7 of plaintiffs as "terminated Indians," plaintiffs have been
8 greatly damaged, including but not limited to the following
9 losses:

- 10 (a) Plaintiffs were forced to pay property
11 taxes they would not have incurred but
12 for the wrongful termination;
- 13 (b) Many plaintiffs, unable to pay such
14 taxes, lost their land through tax
15 sales, or were forced to sell their
16 land at a fraction of its value to
17 avoid tax foreclosure sales;
- 18 (c) Others were forced to take out loans
19 at high interest rates to pay back
20 taxes;
- 21 (d) Plaintiffs' land became a resource
22 considered by public assistance
23 programs and an available asset
24 subject to creditor process. Many
25 lost eligibility for such programs
26 or were forced to sell or encumber
27 their lands in order to retain such
28 eligibility. Many lost their land
29 to satisfy creditor's claims;
- 30 (e) Plaintiffs, denied access to BIA
31 programs and grants, had to either do
32 without or seek other loans to secure

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- training or higher education;
- (f) Plaintiffs residing on the subject Rancherias were, because of their status, ineligible for housing grants and loans provided to Indians because of their status as Indians, and were forced to do without or borrow funds at high rates for housing construction and repair;
 - (g) Plaintiffs were forced to comply with local building and sanitary codes due to their land being removed from trust status, resulting in expensive alterations, license fees, inspection, condemnation, etc.;
 - (h) Plaintiffs have not had the benefit of adequate water, sanitation or irrigation systems, or housing, and have lived on the subject Rancherias under unhealthful and unsanitary conditions, suffering damage to their physical and mental health;
 - (i) Plaintiffs have paid state income tax on income earned on the reservations which should have been non-taxable.

FIRST CLAIM FOR RELIEF

[Individual Violations of Rancheria Act]

39. Plaintiffs reallege and incorporate herein by reference the allegations contained in paragraphs 1 to 38.

40. Section 3 of the Rancheria Act as originally enacted directed the Secretary of Interior to take certain actions

1 to prepare the Rancherias for termination before making the
2 conveyances of individual deeds authorized by the Act. Specifi-
3 cally, the Secretary was to, inter alia:

4 a. Survey Rancheria boundaries to ensure market-
5 able title to individual parcels (§3);

6 b. Bring Indian bureau roads serving the
7 Rancherias up to comparable standards for similar county main-
8 tained roads (§3b); and

9 c. Install or rehabilitate irrigation and
10 domestic water systems as the Secretary and Rancheria residents
11 agreed upon (§3c).

12 41. As alleged in paragraphs 24, 25, 27 - 29 and 31 -
13 34 the federal defendants conveyed deeds to plaintiffs Hardwick,
14 Williams, Pollock, Myers, Duncan, Ramirez, Ramos, Rodriquez,
15 Garcia, Posh and Wolfin before and/or without negotiating for or
16 providing irrigation and domestic water systems adequate to meet
17 the needs of said plaintiffs for such domestic water and irriga-
18 tion.

19 42. Accordingly, the distribution plans were void,
20 except to the extent that they created vested beneficial interests
21 in the distributees. The resulting conveyances were beyond the
22 authority conferred upon the Secretary by the Rancheria Act and
23 were thus ultra vires and voidable. Because of the invalidity
24 of the termination plans, the resulting loss of Indian status was
25 void and without legal effect.

26 43. As a direct and proximate result of such wrongful
27 termination plaintiffs and each of them have suffered damages as
28 alleged in paragraphs 24, 25, 27 - 29, 31 - 34, and 38.

29 WHEREFORE, plaintiffs pray for relief as set forth
30 below.

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1
2 SECOND CLAIM FOR RELIEF

3 [Individual claims for breach of trust,
4 misrepresentation and nondisclosure of
5 material facts]

6 44. Plaintiffs reallege and incorporate herein by
7 reference the allegations contained in paragraphs 1 to 38.

8 45. At all times material hereto the federal defendants
9 owed a trust duty to plaintiffs which include the obligation to
10 make full, complete and accurate disclosure of all material facts
11 relating to termination. They owed a further fiduciary duty to
12 plaintiffs to approve distribution plans only if they adequately
13 provided for water and sanitation needs of the Rancherias.

14 46. The statements and omissions of fact described in
15 paragraphs 24, 25, 27 - 29 and 31 - 34, and the actions of the
16 federal defendants in approving distribution plans that failed
17 to adequately provide for the water and sanitation needs of the
18 Rancherias, constitute willful and/or negligent breaches of the
19 fiduciary duty of loyalty and due care that defendants owed
20 plaintiffs Hardwick, Williams, Pollock, Myers, Duncan, Ramirez,
21 Ramos, Rodriguez, Garcia, Posh and Wolfin. Plaintiffs and each
22 of them reasonably relied to their detriment on these representa-
23 tions and omissions of fact.

24 47. As a direct and proximate result of the federal
25 defendants' breach of their trust obligations as described
26 herein plaintiffs and each of them suffered damages as described
27 in paragraphs 24, 25, 27 - 29, 31 - 34 and 38.

28 WHEREFORE, plaintiffs pray for relief as set forth
29 below.

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THIRD CLAIM FOR RELIEF

[Class claim for breach of trust]

48. Plaintiffs reallege and incorporate herein by reference the allegations contained in paragraphs 1 to 38.

49. The federal defendants owed plaintiffs the trust obligations described in paragraph 45.

50. Despite the duty of loyalty and due care and despite the clear language of the Act, the federal defendants breached said duty to Plaintiffs as a whole in the following respects:

a. Acting through their agents and employees, the federal defendants interpreted the Act to require the termination of the federal relationship with the Rancherias named in the Act. Through various means, including regulations promulgated by the Secretary of Interior to implement the Act, see, for instance, fn. 1 to 25 C.F.R. 242.4, the federal defendants conveyed this interpretation of the Act to plaintiffs.

b. Defendants failed to disclose that in order to secure passage of the Act Interior Department officials had agreed that they would never seek the appropriation of funds authorized under section 13 of the Act to provide the various services described in section 3 of the Act and that as a result said department did not have sufficient funds to completely fulfill the defendants' trust obligations when implementing section 3.

c. In working to secure the plaintiffs' approval of termination, the federal defendants and their duly authorized agents and employees engaged in a pattern and practice designed to advocate termination rather than to provide plaintiffs with a full, complete, and accurate understanding of the negative as well as the positive consequences of termination, and, in

1 particular, they purposefully did not disclose the high risk that
2 plaintiffs would lose title to land once it was conveyed to them
3 in fee, which risk was or should have been known by said defen-
4 dants.

5 51. Plaintiffs reasonably and detrimentally relied
6 upon these false representations and omissions of material fact,
7 and as a direct and proximate result thereof suffered damages
8 as alleged in paragraph 38.

9 WHEREFORE, plaintiffs pray for relief as set forth below.

10 FOURTH CLAIM FOR RELIEF

11 [Class claim for breach of
12 the Rancheria Act]
13

14 52. Plaintiffs reallege and incorporate herein by
15 reference the allegations contained in paragraphs 1 to 38.

16 53. The Rancheria Act imposed the obligations upon the
17 federal defendants described in paragraph 40.

18 54. At all times pertinent to this action, the Secretary
19 of the Interior and the other federal defendants, or their
20 respective predecessors in office, knew or should have known that
21 each subject Rancheria's existing water system was inadequate
22 because of its inability to serve all of the distributees and
23 their lands and because of the sanitary inadequacies of existing
24 wells. At the time of the approval of the Distribution Plans,
25 it was the policy of the Department of the Interior that all
26 California Indians should be terminated as rapidly as possible,
27 thereby curtailing the operations of the BIA in California.
28 Approval of these Distribution Plans in their existing form was
29 motivated primarily by this desire of the federal defendants to
30 relieve themselves of any and all obligations to plaintiff
31 Indians at the earliest possible time, and thereby to
32 facilitate the winding up of the BIA operations in California.

1 Accordingly, approval of the Distribution Plans was sought in
2 great haste, and without prudent, careful assessment of the clear
3 needs of the plaintiff Indians for operable water systems and
4 adequate water sources.

5 55. In furtherance of the policy described in paragraph
6 54 the defendants:

7 a. Failed to inform said Indians that each
8 distributee was entitled under the Act to insist upon adequate
9 water services prior to distribution of Rancheria assets;

10 b. Failed to investigate fully the adequacy of the
11 water sources of the subject Rancherias prior to approval of the
12 Plans;

13 c. Failed to seek or obtain Congressional appro-
14 priations, or funding from other sources, for the installation
15 of adequate water systems and supply sources, and in fact agreed
16 not to seek such funding from Congress;

17 d. Approved the Distribution Plans without express-
18 ly providing therein for installation of water systems and sources
19 fully adequate to meet the needs of all distributees and all
20 resident Indians;

21 e. Limited water service under the Distribution
22 Plans, as approved, to those distributees who were fortunate
23 enough to have residents already built or under construction;

24 f. Failed actually to install or secure for the
25 subject Rancherias water systems and sources fully adequate to
26 meet the needs of all Indian residents and distributees for the
27 foreseeable future, prior to conveyance of the Rancherias' assets
28 in fee to the distributees.

29 56. The federal defendants conveyed deeds to plaintiff
30 distributees and published Termination Proclamations before
31 adequately satisfying the requirements of section 3 of the Act.
32 Said conveyances and the termination of Indian status were thus

1 unauthorized by the Act and were invalid and void.

2 57. As a direct and proximate result of such invalid
3 and void termination plaintiffs and each of them were damaged as
4 alleged in paragraph 38.

5 WHEREFORE, plaintiffs pray for relief as set forth below

6 FIFTH CLAIM FOR RELIEF

7 [Class claim for breach of
8 Rancheria Act as amended]
9

10 58. Plaintiffs reallege and incorporate herein by
11 reference the allegations contained in paragraphs 1 to 38.

12 59. In 1964 Congress amended section 3(c) of the
13 Rancheria Act as follows:

14 "To construct, improve, install,
15 extend, or otherwise provide, by
16 contract or otherwise, sanitation
17 facilities (including domestic and
18 community water supplies and
19 facilities, drainage facilities
20 and sewage - and waste-disposal
21 facilities, together with
22 necessary appurtenances
23 (fixtures) and irrigation
24 facilities for Indian homes, com-
25 munities, and lands) as he and the
26 Indians agree, within a reasonable
27 time, should be completed by the
28 United States Provided, That with
29 respect to sanitation facilities,
30 as hereinbefore described, the
31 function specified in this para-
32 graph, including agreements with
Indians with respect to such
facilities shall be performed by
the Secretary of Health, Education
and Welfare in accordance with the
provisions of section 7 of the Act
of August 4, 1954 (58 Stat. 674),
as amended (42 U.S.C. 2004a)."

33 Prior to its amendment section 3(c) read as follows:

34 To install or rehabilitate such
35 irrigation or domestic water
36 systems as he and Indians affected
37 agree, within a reasonable time,
38 should be completed by the United
39 States.

1 60. The effect of the 1964 amendments was to substitute
2 the phrase "sanitation facilities" for the phrase "irrigation
3 or domestic water systems," thereby expanding the services
4 required by the section to include, inter alia, . . . drainage
5 facilities and sewage - and waste-disposal facilities . . ." and
6 shifting the authority for negotiations and implementation to the
7 Secretary of Health, Education and Welfare.

8 61. Following enactment of the 1964 amendments to the
9 Rancheria Act, the federal defendants or their predecessors in
10 office breached their statutory and fiduciary duties by not
11 informing plaintiff Indians of their rights under the amended
12 law, and failed to take steps to renegotiate the provisions of
13 the Distribution Plans pertaining to water sources and systems.
14 At the effective date of the 1964 amendments, the subject
15 Rancherias' terminations were invalid since the mandates of §3(c)
16 as it read prior to the 1964 amendments had not been met, and a
17 trust relationship continued to exist between the United States
18 and plaintiffs, as alleged above. Following enactment of the
19 1964 amendments, HEW had funding available which would have been
20 adequate to secure adequate sanitation facilities as defined
21 therein for all of the subject Rancherias' residents.

22 62. Notwithstanding their obligations as alleged in
23 paragraph 45 the defendants did not renegotiate with plaintiffs
24 to provide the services mandated by the 1964 amendments to
25 section 3(c) of the Act. Consequently, the conveyances of deeds
26 and the publication of Termination Proclamations were unauthorized
27 by the Act and were voidable at the option of said distributees.

28 63. As a direct and proximate result of the invalid
29 terminations plaintiffs have been damages as alleged in paragraph
30 30.

31 WHEREFORE, plaintiffs pray for relief as set forth
32 below.

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SIXTH CLAIM FOR RELIEF
[Class claim for deprivation
of constitutional rights]

64. Plaintiffs reallege and incorporate herein by reference as though fully set forth the allegations contained in paragraphs 1 to 38.

65. Plaintiffs, as federally recognized Indians residing on federal trust land, had vested rights, privileges, and immunities with respect to the federal and local governments, including the right to Indian health, education, and welfare benefits and freedom from local taxes and land-use controls. Plaintiffs' status as Indians was protected from arbitrary extinguishment by the United States Constitution.

66. The actions and course of conduct of the federal defendants, and their failure to follow the express requirements of the Rancheria Act in the termination process, as alleged above, constitute arbitrary and capricious actions that are not rationally related to a legitimate governmental interest and which go beyond the authority vested by the Act in said defendants. Plaintiffs were thus deprived of their Fifth amendment Constitutional rights of equal protection and due process, and as a direct result suffered damages as alleged in paragraphs 38.

WEHREFORE, plaintiffs pray for relief as set forth below.

SEVENTH CLAIM FOR RELIEF
[County tax collector defendants]

67. Plaintiffs reallege and incorporate herein by reference as though fully set forth the allegations contained in paragraphs 1 to 38.

68. At all times pertinent hereto, defendant tax

1 collectors have collected, and continue to collect, real property
2 taxes levied upon Rancheria lands which are now held by Indian
3 distributees or their successors. Certain Rancheria lands owned
4 by plaintiffs individually or in common with others are imperiled
5 by the prospect of tax auctions to satisfy delinquent real
6 property taxes.

7 69. As a direct and proximate result of the actions of
8 the defendant tax collectors plaintiffs have either lost their
9 land through tax sales to collect delinquent taxes, sold their
10 land to avoid threatened involuntary tax sales or, under threat
11 of foreclosure for nonpayment, have paid property taxes claimed to
12 be due on the lands.

13 70. Due to the acts and omissions of the federal
14 defendants as alleged herein, the parcels of land distributed to
15 plaintiffs, including interest in trust allotments, never lost
16 the status of tax immune federal land, and were and are immune to
17 state property taxation. Therefore, the defendant tax collectors
18 do not have and never had the legal right to levy taxes upon said
19 lands, to impose liens, or to sell said lands to collect delinquent
20 taxes.

21 71. Plaintiffs have been greatly and irreparably
22 injured as a result of the defendant tax collectors' actions as
23 alleged herein and lack an adequate remedy at law in that they
24 have lost or are threatened with the loss of their land.

25 WHEREFORE, plaintiffs pray for relief against the
26 defendant tax collectors as set forth below.

27 ACTUAL CONTROVERSY
28

29 72. An actual controversy exists between plaintiffs
30 and the defendants in that plaintiffs contend, as is more particu-
31 larly alleged in the seven claims for relief set forth above,
32 that the federal defendants breached statutory and fiduciary

1 obligations owed by said defendants to plaintiffs which renders
2 the purported termination of the subject Rancherias and the
3 distributees of said Rancherias invalid and void, giving plain-
4 tiffs the right to the relief prayed for below. Defendants dispute
5 these contentions and plaintiffs' right to relief. Unless and
6 until the Court declares the rights and obligations of the
7 parties, the illegal actions of the federal defendants in refusing
8 to recognize plaintiffs as eligible for the benefits and services
9 available to Indian people and in refusing to restore federal
10 trust status to their lands, will continue, and the defendant
11 tax collectors will continue to tax said lands.

12 INADEQUATE REMEDY AT LAW

13
14 73. Plaintiffs lack an adequate remedy at law in that
15 this action concerns real property that has been lost or which
16 may in the future be lost, as well as eligibility for B.I.A.
17 services which profoundly affect the quality of plaintiffs' lives.

18 PRAYER FOR RELIEF

19
20 WHEREFORE, plaintiffs pray for judgment against defen-
21 dants and each of them as follows:

22 1. This Court certify the Third through Seventh Claims
23 for Relief as a class action. The class consists of all
24 distributees of the Rancherias listed on Exhibit "A," and any
25 heirs or legatees of said distributees, or other Indians who have
26 succeeded them in interest to Rancheria lands.

27 2. As to the First and Second Claims for Relief that
28 this Court declare null and void the purported termination of the
29 Pinoleville, Redwood Valley and Big Valley Rancherias and declare
30 null and void the Termination Proclamations published with
31 respect to the distributees of said Rancherias.

32 3. As to the Third Claim for Relief this Court declare

1 that the federal defendants breached the fiduciary duty owed to
2 plaintiffs and their class by misrepresenting that termination
3 was mandatory and by failing to disclose their secret agreement
4 with Congress not to seek appropriations authorized by section 13
5 of the Act and to adequately explain the significance and con-
6 sequences of termination in such a way that plaintiffs and the
7 class they represent could make a knowing and intelligent
8 decision to retain or terminate their relationship with the
9 federal government.

10 4. As to the Second and Fourth Claims for Relief this
11 Court declare that:

12 a. All of the subject Rancherias were unlawfully
13 terminated and their assets were unlawfully distributed, in
14 violation of §3(c) of the Rancheria Act;

15 b. Prior to such distribution of assets, the
16 federal defendants failed to enter into agreements for the
17 provision of adequate water sources and distribution systems;

18 c. Prior to such distributions of assets the
19 federal defendants unlawfully, in breach of trust in abuse of
20 discretion, approved Distribution Plans without first assuring
21 that said Plans would require the development of water sources
22 and distribution systems fully adequate to meet the needs of the
23 plaintiffs for the foreseeable future;

24 d. The deeds conveyed to the individual Indian
25 distributees to lands on the subject Rancherias and other trust
26 allotments are voidable, and the Secretary of the Interior is
27 under a duty to notify each distributee of this fact and offer
28 to take said lands back into federal trust status at the option of
29 each distributee;

30 e. The Termination Proclamation of each of the
31 subject Rancherias was unlawfully published, and the Secretary
32 of the Interior is under an obligation to so declare the notices

1 unlawful and to rescind the same;

2 f. The Secretary of the Interior is under a duty
3 to "unterminate" each of the subject Rancherias, and to offer to
4 repurchase at fair market value the lands originally conveyed to
5 Indian distributees which have passed into non-Indian ownership,
6 and to hold the same in trust for the benefit of the Indians of
7 the original Rancheria;

8 g. The Secretary of the Interior is under a duty
9 to treat all of the subject Rancherias as Indian reservations
10 in all respects, and to afford to the Indians thereof all rights,
11 privileges and immunities ordinarily accorded to Indian tribes,
12 bands, and communities;

13 h. The Secretaries of the Interior and HEW are
14 under a continuing duty to obtain adequate sources of water, and
15 adequate distribution systems, for all Indians of the subject
16 Rancherias; and

17 i. The Secretary of the Interior and the other
18 federal defendants are under a duty: (1) to rescind the water
19 provisions of the Distribution Plans; (2) to renegotiate with the
20 plaintiffs and the other distributees of the subject Rancherias
21 at their option water agreements fully adequate to meet the needs
22 of the Indians of each Rancheria for the foreseeable future; (3)
23 to rescind the Termination Proclamations for each of the subject
24 rancherias; and (4) to treat the Rancherias and their Indians as
25 unterminated in all respects.

26 5. As to the Fifth Claim for Relief this Court declare
27 that the federal defendants breached the requirements of the 1964
28 amendments to the Act that required them to install irrigation
29 systems and "satisfactory waste disposal facilities" for the
30 Indians of each of the subject Rancherias; that said defendants
31 are under a continuing duty to provide such systems and facilities
32 prior to termination pursuant to §3(c) of the Rancheria Act, as

1 amended; and that the Termination Proclamations for each of the
2 subject Rancherias were unlawfully published in the Federal
3 Register, so that all Indians of the subject Rancherias remain
4 eligible for federal Indian services and benefits, despite the
5 provisions of §10(b) of the Act.

6 6. As to the Sixth Claim for Relief this Court declare
7 that the actions and omissions of the federal defendants as
8 alleged herein were arbitrary and capricious and violated
9 plaintiffs' rights to equal protection and due process under the
10 United States Constitution.

11 7. As to the First, Second, Third, Fourth, Fifth and
12 Sixth claims for relief that this Court issue preliminary and
13 permanent injunctive relief restraining and enjoining the federal
14 defendants, their agents and employees, and all persons acting by,
15 through, or under them or in concert with them:

16 a. from treating plaintiffs or members of their
17 class as "terminated Indians" under §10(b) of the Act, thereby
18 denying them BIA and other governmental benefits and services
19 to which they are entitled as Indians;

20 b. to treat the deeds provided to plaintiffs as
21 voidable and to notify each distributee of this fact, and to
22 offer to take said land back into federal trust status at the
23 option of each distributee for themselves or their designee;

24 c. to publish a notice in the Federal register
25 declaring invalid and void the Termination Proclamations
26 previously published with respect to each plaintiff and subject
27 Rancheria;

28 d. to repurchase at fair market value the lands
29 originally conveyed to plaintiffs which have passed into non-
30 Indian ownership or, if the same lands are unavailable, substan-
31 tially similar parcels, and hold title to such repurchased lands
32 in trust for the benefit of the Indians of each subject Rancheria;

1 e. to treat the subject Rancherias as Indian
2 Réservations in all respects and to afford to the Indians thereof
3 all rights, privileges and immunities ordinarily accorded to
4 Indians and Indian tribes, bands, and communities;

5 f. to obtain adequate water and irrigation sources
6 and distribution systems for all of the subject Rancherias and
7 their Indian residents;

8 g. to obtain satisfactory waste disposal systems
9 and facilities for each of the subject rancherias and their
10 Indian residents;

11 h. to notify each class member that they have a
12 right to submit to the federal defendants all claims for damages
13 resulting from the Acts and omissions of said defendants as
14 alleged herein including, but not limited to:

15 (1) back taxes assessed against land or
16 interests in allotments distributed as a result of the termina-
17 tion of the subject Rancherias;

18 (2) the value of land lost through forced tax
19 sales, other nonconsensual sales or sales to avoid the involuntary
20 loss of title; and

21 (3) damages resulting from lost eligibility
22 for federal benefits and services available to members of
23 federally recognized Indian tribes;

24 i. to establish a procedure for processing
25 damages claims, including a time limitation for acting on claims
26 and an efficient appeal procedure for resolving disputed claims,
27 which procedure must be approved by this Court; and

28 j. to submit a return to this Court within 9
29 months after entry of judgment herein showing what the federal
30 defendants have done to comply with the terms of the judgment,
31 the number of damage claims processed, the disposition of each
32 and the amount of money paid to claimants, which return shall be

1 reviewed by this Court at a hearing for the purpose of determin-
2 ing what if any supplemental relief shall be ordered to fully
3 implement the Court's judgment.

4 8. As to the Seventh Claim for Relief that this Court:

5 a. Declare that the tax collector defendants
6 lack the authority to impose real property taxes on Indian
7 lands held in trust by the United States, or upon Rancheria lands
8 undergoing termination, until such time as: (a) said lands have
9 been lawfully conveyed in fee to individual distributees and
10 removed from trust; (b) the Rancheria has been completely and law-
11 fully terminated; and (c) a valid termination proclamation has
12 been lawfully published in the Federal Register and declaring
13 that because none of said preconditions to taxation have been met
14 for lands of the subject Rancherias, and such lands were pre-
15 maturely and unlawfully deeded to the distributees, and the
16 Termination Proclamations prematurely and unlawfully published in
17 the Federal Register, such lands were and are immune from local
18 property taxation; and

19 b. Issue preliminary and permanent injunctive
20 relief restraining defendant tax collectors and their successors,
21 and all persons acting in concert with them or under their
22 direction or control, from collecting taxes on, attempting to
23 collect taxes on, selling at tax auction or attempting to sell at
24 tax auctions, any lands of the subject Rancherias which now
25 stand in the ownership of Indians until one year after all Indians
26 have been notified of their option to return their lands to trust
27 status.

28 9. For reasonable attorneys fees and the costs of
29 maintaining this action; and

30 10. For such other and further relief as this Court
31 deems just and proper.

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DATED: July 10, 1979

CALIFORNIA INDIAN LEGAL SERVICES

By: David Rappert
Attorney for Plaintiffs

EXHIBIT A

SUMMARY SHEET

TERMINATED RANCHERIAS

RANCHERIA	COUNTY	ACREAGE	NUMBER OF DISTRIBUTEES	DATE TERMINATION NOTICE PUBLISHED
Potter Valley	Mendocino	16	9	8/1/61
Redwood Valley	Mendocino	80	16	8/1/61
North Fork	Madera	80	1	2/18/66
Picayune	Madera	80	3	2/18/66
Graton	Sonoma	15.45	3	2/18/66
Pinoleville	Mendocino	99.53	17	2/18/66
Scotts Valley	Lake	56.68	12	9/3/65
Robinson	Lake	168	19	9/3/65
Guidiville	Mendocino	244.12	12	9/3/65
Strawberry Valley	Yuba	0.32	1	4/11/61
Cache Creek	Lake	160	2	4/11/61
Buena Vista	Amador	67.5	2	4/11/61
Paskenta	Tehama	260	2	4/11/61
Ruffeys	Siskiyou	441	3	4/11/61
Mark West	Sonoma	35.13	1	4/11/61
Table Bluff	Humboldt	20	19	4/11/61
Alexander Valley	Sonoma	54	2	8/1/61
Chicken Ranch	Tuolumne	40	4	8/1/61
Lytton	Sonoma	50	5	8/1/61
Mooretown	Butte	80	3	8/1/61
Redding (Clear Creek)	Shasta	30.89	17	6/20/62
Indian Ranch	Inyo	560	3	9/22/64
Nevada City	Nevada	75.43	1	9/22/64
Wilton	Sacramento	38 81/100	12	9/22/64
Big Valley	Lake	129	69	11/11/65

EXHIBIT A

SUMMARY SHEET

TERMINATED RANCHERIAS

RANCHERIA	COUNTY	ACREAGE	NUMBER OF DISTRIBUTEES	DATE TERMINATION NOTICE PUBLISHED
Cloverdale	Sonoma	27.50	5	12/30/65
Elk Valley	Del Norte	100 more/ less	25	7/16/66
Rohnerville	Humboldt	15 more/ less	11	7/16/66
El Dorado	El Dorado	80	2	7/16/66
Greenville	Plumas	275	10	12/8/66
Quartz Valley	Siskiyou	640	26	1/20/67
Chico	Butte	26	45	6/2/67
Smith River	Del Norte	163.96	44	7/29/67
Auburn	Placer	40	25	8/18/67
Mission Creek	Riverside	2,555.98	5	7/14/70
Blue Lake	Humboldt	26	5	9/22/66