

FILED

UNITED STATES COURT OF APPEALS

JUN 07 2010

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

RINCON BAND OF LUISENO MISSION  
INDIANS OF THE RINCON  
RESERVATION, AKA Rincon San  
Luiseno Band of Mission Indians, AKA  
Rincon Band of Luiseno Indians,

Plaintiff - Appellee,

v.

ARNOLD SCHWARZENEGGER,  
Governor of California and STATE OF  
CALIFORNIA,

Defendants - Appellants.

No. 08-55809

D.C. No. 3:04-cv-01151-WMC  
Southern District of California,  
San Diego

RINCON BAND OF LUISENO MISSION  
INDIANS OF THE RINCON  
RESERVATION, AKA Rincon San  
Luiseno Band of Mission Indians, AKA  
Rincon Band of Luiseno Indians,

Plaintiff - Appellee - Cross-  
Appellant,

v.

ARNOLD SCHWARZENEGGER,  
Governor of California; et al.,

Defendants - Appellants -  
Cross-Appellees.

No. 08-55914

D.C. No. 3:04-cv-01151-WMC  
Southern District of California,  
San Diego

ORDER

Before: T.G. NELSON, BYBEE and M. SMITH, Circuit Judges.

Judge M. Smith has voted to deny the petition for rehearing en banc, and Judge T.G. Nelson so recommends. Judge Bybee has voted to grant the petition.

The full court has been advised of the petition for rehearing en banc and no judge of the court has requested a vote on it. Fed. R. App. P. 35.

The petition for rehearing en banc is therefore DENIED.