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N.D. CA-SAN JOSE

9 Attorneys for Plaintiff  
10 NISENAN MAIDU TRIBE OF THE  
11 NEVADA CITY RANCHERIA

E-filing

12 **IN THE UNITED STATES DISTRICT COURT**  
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
14 **SAN JOSE DIVISION**

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15 NISENAN MAIDU TRIBE OF THE  
16 NEVADA CITY RANCHERIA,

**C 10-00270 HRL**

17 Plaintiff,

**COMPLAINT FOR BREACH OF THE  
RANCHERIA ACT, BREACH OF  
FIDUCIARY OBLIGATION,  
DECLARATORY AND INJUNCTIVE  
RELIEF**

18 v.

19 KEN SALAZAR in his official capacity as  
20 Secretary of the Interior; LARRY ECHO  
21 HAWK in his official capacity as Assistant  
22 Secretary for Indian Affairs of the United  
23 States Department of Interior; Does 1  
24 through 100,

25 Defendants.

26 **NATURE OF THE ACTION**

27 1. This action is brought by NISENAN MAIDU TRIBE OF THE NEVADA CITY  
28 RANCHERIA, individual Tribal members of the Nevada City Rancheria and its members  
(collectively "Tribe" or "Plaintiff") to remedy unlawful agency action wherein the Tribe's  
federal status was illegally terminated and the Tribe's rancheria (formally known as the Nevada  
City Rancheria, locally known as "the Campoodie," and identified in the Federal Register as  
Nevada City Rancheria, 75.48 acres, NE ¼, of the SE ¼ and lot 6 of the SE ¼ of the SE ¼ of  
Section 2, T. 16 N., R. 8 E., M.D.M), was illegally sold and distributed pursuant to the California

1 Rancheria Act of 1958, Pub. Law 85-671, 72 Stat. 619 (“Rancheria Act”).

2 2. Under the Rancheria Act the United States purported to terminate the existence of  
3 41 California Indian tribes, distributing tribal property to individual tribe members  
4 (“distributees”) and abolishing federal programs available to them as a result of their special  
5 status. Upon distribution of tribal property, the tribes ceased to be recognized by the federal  
6 government and Tribal members were stripped of their special status as Indians. Tribal lands,  
7 which had been held in trust and exempted from state taxation and regulatory laws, were  
8 transformed into parcels held in fee simple by the distributees. These lands thus became subject  
9 to state and local laws.

10 3. Acting under color of authority conferred by the Rancheria Act, the United States  
11 took these actions even though it failed to obtain the consent of the requisite number of tribal  
12 members, despite having knowledge of their existence and whereabouts. In addition, the United  
13 States failed to distribute the tribal property to all distributees as required by law. Finally, the  
14 United States failed to discharge its statutory obligations owed to Indian people of the Nevada  
15 City Rancheria prior to the distribution of Nevada City Rancheria Assets, as more fully set forth  
16 below.

17 4. The Tribe seeks an order compelling the Defendants KEN SALAZAR, in his  
18 official capacity as Secretary of the Interior, and LARRY ECHO HAWK, in his official capacity  
19 as Assistant Secretary for Indian Affairs of the United States Department of Interior,  
20 (collectively “Defendants”) to include the Tribe on the list of Federally Recognized Indians  
21 Tribes pursuant to the List Act of 1994, Pub. L. 103-454, 108 Stat. 4791 (codified at 25 U.S.C.  
22 § 479a-1(a)). In addition, the Tribe seeks an order directing the Secretary to take into trust such  
23 lands owned and designated by the Tribe located within an approximate 25-mile radius of the  
24 former site of the rancheria (“Designated Lands”), with such lands to be considered “Indian  
25 country” as defined in 18 U.S.C. 1151 and “restored lands” as defined by 25 U.S.C.  
26 2719(b)(1)(B)(iii) or settlement of a “land claim” as defined by 2719(b)(1)(B)(i) as of the date of  
27 the wrongful acts set forth herein. Finally, the Tribe seeks a court order declaring that the Tribe  
28 is eligible for the protection, services and benefits of the federal government available to Indian

1 tribes by virtue of their status as tribes.

2 5. The basis for seeking such orders and other relief is that, when the United States  
3 undertook such illegal action, it did so in violation of the California Rancheria Act of 1958, Pub.  
4 Law 85-671, 72 Stat. 619, as well as violating the substantive and procedural due process rights  
5 of the Tribe and its members to whom the Bureau of Indian Affairs (“BIA”) owed a fiduciary  
6 obligation.

### 7 JURISDICTION

8 6. This Court has jurisdiction (a) under 28 U.S.C. § 1331 in that this action arises  
9 under the Constitution and laws of the United States; (b) under 28 U.S.C. § 1361 in that Plaintiff  
10 seeks to compel offices and employees of the United States and its agencies to perform duties  
11 owed to Plaintiff; and (c) under 28 U.S.C. § 1362 in that this is an action brought by an Indian  
12 Tribe or band based on claims arising under the Constitution and laws of the United States  
13 including U.S. Const. Art. II, § 8, cl. 3 (Indian Commerce Clause), the Rancheria Act, and  
14 federal common law. Further, jurisdiction to review agency action is invoked pursuant to the  
15 Administrative Procedures Act (“APA”), 5 U.S.C. §§ 702-703. Declaratory relief is sought  
16 pursuant to 28 U.S.C. §§ 2201-2202. The United States has waived its and Defendants’  
17 sovereign immunity to the claims herein by virtue of (without limitation) the APA, and the  
18 United States’ fiduciary and trustee obligations owed to the Nevada City Rancheria and its  
19 members. Defendants have acted beyond their statutory authority by allowing subordinate  
20 officers to violate the laws and Constitution of the United States and thus has no sovereign  
21 immunity.

### 22 VENUE

23 7. Venue is appropriate in the San Jose Division of the Northern District of  
24 California, pursuant to 28 U.S.C. § 1391(e) and (b)(2) because the Secretary resides in this  
25 district and a substantial part of the events or omissions giving rise to the Tribe’s claims occurred  
26 near this district and/or the convenience of the parties and witnesses is best served since venue in  
27 this district will reduce travel and other cost. Moreover, venue is appropriate in this district as  
28 the related matter of *Hardwick v. United States*, Case No. C79-1710 (N.D. Cal.) (“*Hardwick*”)

1 has been pending in this jurisdiction since 1979.

2 **PARTIES**

3 8. Plaintiff NISENAN MAIDU TRIBE OF THE NEVADA CITY RANCHERIA is  
4 a Native American Tribe consisting of Indian members, and descendants and their Indian  
5 successors in interest, which the United States recognized the Nevada City Rancheria. The Tribe  
6 was a federally recognized Indian Tribe until it was unlawfully terminated on or about  
7 September 22, 1964.

8 9. Defendant KEN SALAZAR is the Secretary of the United States Department of  
9 Interior ("Secretary") having a mandatory statutory duty to carry out the provisions of the  
10 Federally Recognized Indian Tribe List Act of 1994 ("Tribe List Act"). The Secretary is an  
11 officer or employee of the United States and is sued in his official capacity only.

12 10. Defendant LARRY ECHO HAWK is the Assistant Secretary for Indian Affairs of  
13 the United States Department of Interior and is an officer or employee of the United States and is  
14 sued in his official capacity only. The Bureau of Indian Affairs is a subagency within the United  
15 States Department of Interior.

16 11. DOE Defendants are officers or employees of the United States and have direct or  
17 delegated statutory duties in carrying out the provisions of the Rancheria Act as amended and for  
18 fulfilling the trust responsibilities of the United States toward Indian people, including Plaintiff.

19 12. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as  
20 DOES 1 through 100, inclusive, and therefore sues these Defendants by these fictitious names.  
21 Plaintiff will amend or seek leave of this Court to amend this Complaint when those names and  
22 capacities are ascertained.

23 **FACTUAL ALLEGATIONS**

24 **A. Historical Background of the Nevada City Rancheria**

25 13. The recorded history of the Tribe predates California's Gold Rush Era.

26 14. In the early 1800s there were several thousand tribal members living in the area  
27 and residing on a parcel near the former Nevada City Rancheria. They were hunters and  
28 gatherers subsisting on large and small game, fish, acorns, bulbs and roots, and wild fruits and

1 vegetables. In approximately 1859, the Tribe moved to the parcel identified as Nevada City  
2 Rancheria.

3 15. In 1887 Chief Charlie, the tribal chief at that time, obtained a 75-acre allotment,  
4 identified as Indian Allotment No. 1, Sacramento, Cal., Land District. The property was used  
5 and occupied by all Indian of the Tribe within the area. As noted, the Tribe's parcel was known  
6 by local residents as "the Campoodie."

7 16. Unlike other Rancherias, in recognition of the government-to-government  
8 relationship, President Wilson issued an Executive Order on May 6, 1913 covering the property  
9 originally reserved in the 1850's by white settlers to the Tribe. The Presidential order states: "It  
10 is hereby ordered the following described land in Nevada County, California, be and the same  
11 hereby is, withdrawn from entry sale or other disposition and set aside for the Nevada or Colony  
12 tribe of Indians residing near Nevada City," and the 75-acre parcel was so listed.

13 17. As in the past, the United States continued to engage the Tribe on a government-  
14 to-government relationship.

15 18. Over the subsequent 45 years the Campoodie was referred to by the Indian  
16 Service as the "Indian Colony at Nevada City," "Indian Flat," or "Nevada City Rancheria" while  
17 the locals continued to use the term "Campoodie." During that time there were several Indian  
18 Service reports of significant numbers of Indians living on the Rancheria although it varied  
19 giving seasonal work and responses to economic situations.

20 19. The Indian Reorganization Act of June 18, 1934 ("IRA"), P.L. 73-383, 48 Stat.  
21 988, codified at 25 U.S.C. 477, also known as the Wheeler-Howard Act, among other things,  
22 restored to Native Americans the management of their assets and included provisions intended to  
23 create a sound economic foundation for the inhabitants of Indian reservations. Section 18 of the  
24 IRA conditions application of the IRA on a majority vote of the affected Indian nation or tribe  
25 within one year of the effective date of the IRA.

26 20. As with many rancherias, the Tribe voted to organize itself under the IRA, thus  
27 continuing the trust relationship with the United States. As a consequence of that vote, the  
28 United States and Defendants and/or their predecessors-in-interest were on actual and

1 constructive notice of the members of the Tribe from that period forward.

2 21. Prior to the admission of California and continuing after the IRA vote, the Tribe  
3 operated as an autonomous Indian nation maintaining government-to-government relations with  
4 the United States, California and local entities and other Tribes as well as maintaining historical  
5 political influence over its members. In addition, the Tribe maintained social interaction among  
6 the group, sharing economic activity and benefits and sacred ritual activities as most members  
7 resided in the geographic area.

8 **B. Federal Termination Policy and the Rancheria Act**

9 22. During the 1950's, due to pressure from non-Indians who desired to develop tribal  
10 land and resources, the United States pursued a policy of "Termination" in respect to Indian  
11 tribes. On August 1, 1953, Congress adopted House Concurrent Resolution 108 ("HCR 108"),  
12 H.R. Con. Res. 108, 83rd Cong., 1st Sess., 67 Stat. B132 (1953). Although HCR 108 was  
13 merely a general policy statement it set the tone for the federal government's approach to Indian  
14 affairs during the 1950's and 1960's. HCR 108 provided:

15           Whereas it is the policy of Congress, as rapidly as possible, to  
16           make the Indians within territorial limits of the United States  
17           subject to the same laws and entitled to the same privileges and  
18           responsibilities as are applicable to other citizens of the United  
19           States, to end their status as wards of the United States, and to  
20           grant them all of the rights and prerogatives pertaining to  
21           American citizenship, and

22           Whereas the Indians within the territorial limits of the United  
23           States should assume their full responsibilities as American  
24           Citizens: Now, therefore, be it Resolved by the House of  
25           Representatives (the Senate concurring), That it is declared to be  
26           the sense of Congress that, at the earliest possible time, all of the  
27           Indian tribes and the individual members thereof located within the  
28           states of California, Florida, New York and Texas, and all of the  
29           following named Indian tribes and individual members thereof,  
30           should be freed from Federal supervision and control and from all  
31           disabilities and limitations specially applicable to Indians[.]

32 After Congress passed HCR 108, the United States rapidly pursued the stated termination policy  
33 through specific legislative enactments. Tribes strongly opposed termination, however, tribal  
34 consent was often not considered necessary to the implementation of the termination policy.

35 23. On August 18, 1958, as part of the United States' general termination policy,

1 Congress enacted the California Rancheria Act (“Rancheria Act”), P.L. 85-671, 72 Stat. 619,  
2 amended by the Act of August 1, 1964, P.L. 88-419, 78 Stat. 390. Section 1 of the Rancheria  
3 Act provided that the assets of 41 named Rancherias (including the Nevada City Rancheria)  
4 “shall be distributed in accordance with the provisions of this Act.” Section 2(a) of the  
5 Rancheria Act required that either the Indians of each Rancheria or the Secretary of the United  
6 Stated Department of the Interior, after consultation with the Indians, prepare a distribution plan  
7 for each Rancheria.

8 24. Section 2 of the Rancheria Act provided for a referendum on distribution of  
9 rancheria assets with specific procedural protections afforded to individual Tribal members who  
10 feel they may be “unfairly treated” but such a distribution.

11 25. Section 3 of the Rancheria Act required the Secretary to undertake certain actions  
12 with respect to each Rancheria prior to distributing the land pursuant to the distribution plans and  
13 removing them from trust status. Pursuant to Section 3, the Secretary of the Interior was  
14 required to, *inter alia*:

- 15 A. Survey Rancheria boundaries to ensure marketable title to individual  
16 parcels (California Rancheria Act § 3(a));  
17 B. Bring Indian Bureau roads serving the Rancheria up to comparable  
18 standards for similar county-maintained roads (*id.* § 3(b)); and  
19 C. Install or rehabilitate irrigation and domestic water systems as the  
20 Secretary of the Interior and Rancheria residents agreed upon (*id.* § 3(c)).

21 26. Section 8 of the Rancheria Act required that, prior to the termination of a  
22 Rancheria, the Secretary of the Interior was to “protect the rights of individual Indians who are  
23 minors, *non compos mentis*, or in the opinion of the Secretary in need of assistance in conduct of  
24 their affairs, by causing the appointment of guardians for such Indians in courts of competent  
25 jurisdiction, or by such other means as he may deem adequate, without application from such  
26 Indians . . . .”

27 27. Section 9 of the Rancheria Act required that prior to the termination of a  
28 rancheria, the Secretary of the Interior was to implement education and vocational training

1 programs for the benefit of the Rancheria Indians.

2 28. Section 11 of the Rancheria Act allowed for revocation of the Tribal constitution  
3 or corporate charter only after “a plan is approved by the majority of the adult Indians” of a  
4 given Tribe.

5 29. Pursuant to the Rancheria Act, once the Secretary of the Interior had satisfied his  
6 duties under Section 3 and after the “plan for distribution of the assets of a Rancheria or  
7 reservation” was approved and the distribution plan was final, Section 10(b) of the Rancheria  
8 Act provided:

9 the Indians who receive any part of such assets, and the dependent  
10 members of their immediate families who are not members of any  
11 other tribe or band of Indians, shall not be entitled to any of the  
12 services performed by the United States for Indians because of  
13 their status as Indians all restrictions and tax exemptions applicable  
14 to trust or restricted land or interests therein owned by them are  
15 terminated, all statutes of the United States which affect Indians  
16 because of their status as Indians shall be inapplicable to them, and  
17 the laws of the several States shall apply to them in the same  
18 manner as they apply to other citizens or persons within their  
19 jurisdiction.

20 30. The Rancheria Act was amended on August 11, 1964. (Pub.L.No. 88-419, 78  
21 Stat. 390.) Specifically, Section 3 was amended to direct that the Secretary of Interior was to  
22 “construct, improve, install, extend, or otherwise provide, by contract or otherwise . . . irrigation  
23 facilities for Indian homes, communities and lands” prior to distributing title to Rancheria lands.

24 31. The 1964 amendments to the Rancheria Act also specified that the Secretary of  
25 Health, Education, and Welfare was to “construct, improve, install, extend or otherwise  
26 provide . . . sanitation facilities (including domestic and community water supplies and facilities,  
27 drainage facilities, and sewage and waste disposal facilities, together with necessary  
28 appurtenances and fixtures) . . . 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).”

29 **C. Ultra Vires Termination of Plaintiff Nevada City Rancheria**

30 32. In the case of the Nevada City Rancheria and its members, none of the substantive  
31 actions required under the Rancheria Act were undertaken by the United States or Defendants or  
32 their subordinates in the BIA as regards the Nevada City Rancheria or its Tribal members.



1           33.     In 1958 representatives of the BIA visited the Rancheria for the purposes of  
2 disposing of the property pursuant to the Rancheria Act. Historical documentation demonstrates  
3 that, rather than consult with the several Indians living in the vicinity who were actually known  
4 from the IRA vote and implicated by the Rancheria Act, the BIA spoke only to the Rancheria  
5 occupants at that time, Peter and Margaret Johnson. Neither was represented by legal counsel.  
6 Both were in their later years and both acquiesced to Defendants' plan of distribution that they  
7 should receive any benefits of sale of the Rancheria. However, at this time neither Mr. nor  
8 Mrs. Johnson was the Rancheria's tribal leader. The Tribe's Chief was Louis Kelly. Louis Kelly  
9 lived less than a mile away from the Johnsons and his home could be seen from the Rancheria.  
10 In similar fashion the BIA also turned a blind eye to the several other Rancheria members living  
11 in the area.

12           34.     BIA records demonstrate that BIA officials knew Chief Kelly was the leader of  
13 the tribe. For example, BIA correspondence from two years prior evidenced this fact. Further,  
14 one of the termination worksheets used to identify distributees mentioned that Chief Kelly was  
15 an assignment holder to the Rancheria.

16           35.     Despite having this knowledge and the records of the members voting under the  
17 IRA, as well as owing a fiduciary obligation to the Tribe, the BIA did not consult with Chief  
18 Kelly or any of the other Tribal members. Consultation was required by the BIA to carry out the  
19 terms of the Rancheria Act and fulfilling the fiduciary obligation owed to the Tribe and its  
20 members.

21           36.     The BIA did not consult with any other tribal members known to live in the  
22 vicinity. For example, BIA records indicate that Frank and Quila Jones sought and received an  
23 assignment of land on the Rancheria from Peter Johnson just a few years before, but BIA never  
24 contacted the Joneses regarding disposition. Neither did BIA contact the Yemie family who  
25 were documented Tribal members living in the area. Tragically, the BIA did not even consult  
26 the Johnsons' own living descendants who could have, at the very least, benefitted from the  
27 educational training required by the Rancheria Act.

28           37.     The BIA's failure to contact any Tribal members other than the Johnsons before

1 disposing of the Rancheria property violated the fiduciary duty owed to the Tribe as evidenced  
2 by the BIA's actions in the termination of other rancherias. For example, in the case of other  
3 Rancherias the BIA engaged in substantial outreach both on and off the Rancheria to ensure that  
4 any termination took place with due process protections in place. Particular attention was paid to  
5 ensuring participation by all those having an interest in the Rancheria:

6           At each of the meetings Public Law 85-671 was discussed entirely,  
7 section by section. Generally speaking, the Indians concerned  
8 were very anxious to receive title to the lands they are occupying.  
9 It was explained that we wanted them to make their own plans and  
10 to include in the plan those people whom they thought had rights  
11 on their Rancheria. We found that there were different situations  
12 that called for different conclusions and it would be hard to issue a  
13 regulation governing membership. It is our hope, and we tried to  
14 explain this to each group, that they will not exclude anyone who  
15 has a right on the Rancheria.

16 Progress Report No. 4 - Public Law 85-671 (September 26, 1958).

17           38. However, when undertaking the termination of the Nevada City Rancheria, the  
18 BIA failed to follow its own advice or policies, procedures and practices. In addition, the BIA  
19 failed to research and consult Tribal members regarding voting and, ultimately, distribution of  
20 tribal assets. When put on notice of its failure to follow constitutional and statutory  
21 requirements, the BIA nonetheless rejected participation by anyone not found to be residing on  
22 the Rancheria proper at that time including the tribal Chief Louis Kelly. In short, the BIA took  
23 advantage of the Johnsons to the detriment of the Johnsons and all members and other  
24 beneficiaries of the Nevada City Rancheria.

25           39. These failures by the BIA are unlike the safeguarding actions it undertook to  
26 protect tribal members of other terminated rancherias. By failing to honor its statutory  
27 obligations to the Nevada City Rancheria, Defendants through the BIA avoided the cost of  
28 provide infrastructure and the like through the simple expedient of reaching a deal with Mr.  
Johnson, who, according to public information contained within press clippings at the time,  
never wanted to leave the Rancheria in the first place. The BIA's Approved Distribution Plan  
demonstrates the cost-avoidance result as it included only Peter and Margaret Johnson as  
distributees. Defendants avoided such costs of providing educational and vocational training,

1 construction roads and sanitation and water systems, to the detriment and prejudice of Plaintiff.

2 40. Thus, contrary to the intentions of Charlie Cully when he obtained his original  
3 allotment and contrary to the Executive Order of President Wilson, the property was ultimately  
4 sold for the benefit of a single Indian, Peter Johnson (Margaret Johnson having died shortly after  
5 voting to liquidate the Rancheria).

6 41. The United States, acting through the Secretary of Interior, "has charged itself  
7 with moral obligations of the highest responsibility and trust. Its conduct, as disclosed in the acts  
8 of those who present in dealings with the Indians, should therefore be judged by the most  
9 exacting fiduciary standards." (*Seminole Nation v. United States*, 316 U.S. 286, 297 (1942).)

10 42. Under the California Rancheria Act, and as a trustee of the Indians subject  
11 thereto, the Secretary of the Interior was obligated to enter into whatever agreement or  
12 agreements with Indians of a given Rancheria electing to terminate thereunder as might be  
13 necessary to ensure that upon distribution of the Rancheria assets, the Rancheria's water supply,  
14 water distribution, sanitation and other facilities would be adequate to meet the reasonable  
15 present and foreseeable needs of all the people of the Rancheria.

16 43. The Secretary of the Interior was also obligated to provide tribal members such  
17 accurate and adequate information as to the relative advantages and disadvantages of accepting  
18 termination, the options available to them under the California Rancheria Act, and the legal  
19 consequences of exercising those options.

20 44. The BIA's breach of fiduciary obligations is amplified by the myopic view of its  
21 obligations under the Rancheria Act. Less than a month after the public notice period regarding  
22 the termination of the Rancheria ran in 1959, a member of the Yemie family contacted the BIA  
23 requesting information regarding the Rancheria's termination status and distributee plan. That  
24 Tribal member was told that the time to object to termination had passed so no information  
25 would be provided.

26 45. The BIA's breach of fiduciary obligations is further exemplified by the fact that  
27 although the public notice period had closed, the property was not actually sold for four more  
28 years.

1           46.     Moreover, although required by the Rancheria Act, the BIA took no actions to  
2 protect the rights of individuals, including the many minor Tribal members.

3           47.     Under the Rancheria Act, prior to seeking approval of the distribution plan by the  
4 members of a given Rancheria, the Secretary of the Interior was obligated to provide to tribal  
5 members such accurate and adequate information, advice and assistance as reasonably required  
6 by them in order that the members of the Rancheria could understand their individual rights and  
7 the obligations of the United States under the Rancheria Act.

8           48.     The Secretary of the Interior was also obligated to provide tribal members such  
9 accurate and adequate information as to the relative advantages and disadvantages of accepting  
10 termination, the options available to them under the California Rancheria Act, and the legal  
11 consequences of exercising those options.

12           49.     At no time did the Defendants advise Tribal members of their rights under the  
13 Rancheria Act.

14           50.     On September 22, 1964, then Interior Secretary Stewart L. Udall published the  
15 Federal Register the following notice of termination of the Nevada City Rancheria:

16                   Notice is hereby given that the Indians named under the  
17 Rancherias listed below are no longer entitled to any of the  
18 services performed by the United States for Indians because of  
19 their status as Indians, and all statutes of the United States which  
20 affect Indians because of their status as Indians, shall be  
21 inapplicable to them, and the laws of the several States shall apply  
22 to them in the same manner as they apply to other citizens or  
23 persons within their jurisdiction. Title to the lands on the  
24 Rancherias has passed from the United States Government under  
25 the distribution plan of each Rancheria.

26                   ...

27                   The Nevada City Rancheria, 75.48 acres, NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  and lot  
28 6 of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 2 T. 16 N., R. 8E., M.D.M.:

*Name, date of birth, and address:* Mr. Peter W. Johnson, July 2,  
1881. Nevada City, California.

This notice is issued pursuant to the Act of August 18, 1958 (72  
Stat. 619), and becomes effective as of the date of publication in  
the FEDERAL REGISTER.

Stewart L. Udall, Secretary of the Interior.

29 Fed. Reg. 13,146 (Sept. 22 1964).

1           51.     The immediate effect of the termination of the Tribe and distribution of the assets  
2 of the Nevada City Rancheria were that: 1) the land was sold by the federal government on  
3 behalf of only one Tribal member, Peter Johnson; 2) the trust relationship between the United  
4 States and the Tribe, and the United States and the reservation lands, was terminated; 3) state and  
5 local legislative jurisdiction was imposed; 4) state judicial authority was imposed; 5) exemptions  
6 from state and local taxing authority ended; 6) federal programs to the Tribe and its individual  
7 members were terminated; 7) tribal sovereignty and tribal jurisdiction prerogatives were  
8 effectively, though not technically, ended as elements of tribal sovereignty generally cannot be  
9 practically implemented by tribes that do not have a land base over which to service sovereignty.

10           52.     The long term effect of the termination under the Rancheria Act, in addition to  
11 those effects set forth in paragraph 48 was that a significant portion of tribal lands in California  
12 were transferred out of tribal and Indian ownership as non-Indians purchased the land through  
13 direct purchases, or through foreclosure actions and tax sales. In regard to the Tribe specifically,  
14 the long term effect of the Rancheria Act has been that approximately the majority, if not all, of  
15 the Tribe's land has passed out of tribal and Indian ownership into non-Indian ownership.

16     **D.     The Hardwick Litigation**

17           53.     On July 10, 1979, in a case directly related to the instant action, a number of  
18 distributees from the rancheria that were terminated by the Rancheria Act brought suit against  
19 the United States and county tax assessors and collectors for counties where Rancheria lands  
20 were located, in the United States District Court for the Northern District of California. In  
21 *Hardwick*, the plaintiffs asserted that the United States violated the Rancheria Act in its efforts to  
22 rapidly terminate 41 Rancherias (including the Nevada City Rancheria) under the Rancheria Act.  
23 Specifically, the plaintiffs in *Hardwick* asserted that the United States failed to properly inform  
24 the distributees of the legal effect of termination and that the distributees' lands would be subject  
25 to state and local taxation and regulation and that the distributees would no longer have access to  
26 federal programs and protections. In addition, the plaintiffs in *Hardwick* asserted that the United  
27 States misrepresented to the distributees that termination was mandatory when in fact the  
28 Rancheria Act required the agreement of the distributees who could maintain the status quo if they

1 voted to do so. Additionally, the plaintiffs asserted that the United States further violated the  
2 Rancheria Act because the United States did not satisfy its obligations under Section 3 of the  
3 Rancheria Act before terminating the tribes and distributing tribal lands and assets by conveying  
4 them to the distributees.

5 54. Despite the fact that the United States was aware of the similar actions and  
6 treatment afforded Plaintiff, the tribal members and those few distributees of the Nevada City  
7 Rancheria were never apprised of the *Hardwick* litigation and thus were unable to participate.

8 55. The plaintiffs' purpose in the *Hardwick* litigation was to undo all of the effects of  
9 the unlawful application of the Rancheria Act and to fully restore the tribes and the tribal  
10 reservations to the status they held before the unlawful termination. Thus, the plaintiffs sought a  
11 declaration stating that:

- 12 1. The tribes and the tribal reservations were not lawfully  
13 terminated;
- 14 2. The Termination Proclamation of each of the subject  
15 Rancherias was unlawfully published and that the Secretary  
16 of the Interior was under an obligation to declare the  
17 notices to be unlawful and rescind them;
- 18 3. The Secretary of the Interior was under a duty to  
19 "unterminate" each of the subject Rancherias, and to offer  
20 to repurchase at fair market value the lands originally  
21 conveyed to Indian distributees that had passed into non-  
22 Indian ownership and to return all such lands into trust for  
23 the benefit of the tribes;
- 24 4. The United States had a duty to treat the restored  
25 Rancherias as Indian reservations in all respects and to  
26 afford the tribes and individual tribal members of the  
27 Rancherias all of the rights and privileges and immunities  
28 ordinarily accorded to Indian tribes, bands and  
communities;
5. That the subject Rancheria were to be treated as Indian  
reservations in all respects;
6. That all of the lands of the subject Rancherias were not  
subject to the jurisdiction of counties where the lands were  
situated, and further that the lands would not be subject to  
county regulation and taxation until such time as the lands  
were lawfully conveyed to individual distributees and  
removed from trust in full compliance with all of the  
provisions of the Rancheria Act.

1           56.     The plaintiffs in the *Hardwick* litigation also sought to void the distribution plans,  
2 restore the federal government's trust obligations to the plaintiffs, and to declare null and void  
3 the purported termination of the Rancherias.

4           57.     On January 31, 1986, the *Hardwick* plaintiffs amended their complaint. The  
5 amendment allowed a number of tribes that had reconstituted their formal federally recognized  
6 governments to intervene directly in the *Hardwick* litigation. In addition the amendment  
7 dropped as defendants a number of counties that had voluntarily resolved their issues with the  
8 tribes located in the specific counties.

9           58.     Ultimately, the plaintiff class in *Hardwick* consisted of all distributees who  
10 received assets of the named rancheria, including their heirs and legatees and all Indian  
11 successors in interest to the real property distributed under the Rancheria Act, pursuant to the  
12 distribution plans prepared pursuant to the Rancheria Act.

13           59.     Both prior to and subsequent to the filing of the *Hardwick* litigation, federal  
14 courts in California and the District of Columbia resolved disputes identical to those raised in the  
15 *Hardwick* litigation. (See, e.g., *Smith v. United States*, 515 F.Supp. 56 (N.D. Cal 1975); *Knight*  
16 *v. Kleppe*, Civ. No. C-74-005 WTS (N.D. Cal. 1976); *Duncan v. Andrus*, 517 F.Supp 1 (N.D.  
17 Cal. 1977); *Duncan v. United States*, 667 F.2d 36 (Ct.Cl. 1981).) In those actions, the courts  
18 ruled that the termination of rancherias and reservations was unlawful. The courts further ruled  
19 that the Rancheria reservation lands were never lawfully subjected to state and local regulation.  
20 The courts ordered the tribes and certain lands to be designated as reservation lands restored to  
21 the status they held immediately before the unlawful termination and directed that such  
22 reservation lands were to be treated as Indian country, subject to all of the privileges and  
23 protections afforded under federal law prior to the unlawful termination.

24           60.     On July 15, 1983, with knowledge of the decisions rendered in *Smith v. United*  
25 *States*, 515 F.Supp. 56 (N.D. Cal 1975) and *Duncan v. Andrus*, 517 F.Supp 1 (N.D. Cal. 1977),  
26 and the pendency of similar actions in *Duncan, et al. v. United States*, No. 19-75 (Ct.Cl.), and  
27 *Table Bluff Band, et al. v. Andrus*, No. C-75-2525 (N.D. Cal.), the remaining parties in the  
28 *Hardwick* litigation entered into a Stipulated Judgment. The Stipulation for Entry of Judgment,

1 entered August 8, 1983 ("1983 Judgment"), restored the remaining class member tribes to their  
 2 former tribal status by providing in paragraph 4 that:

3 The Secretary of the Interior shall recognize the Indian Tribes,  
 4 Bands, Communities or groups of the seventeen Rancherias listed  
 5 in paragraph 1 as Indian entities with the same status as they  
 6 possessed prior to the distribution of the assets of those Rancherias  
 7 under the California Rancheria Act and said Tribes, Bands,  
 8 Communities, or groups shall be included on the Bureau of Indian  
 9 Affairs Federal Register list of recognized tribal entities pursuant  
 10 to 25 C.F.R. section 83.6(b). Said Tribes, Bands, Communities, or  
 11 groups shall be relieved of section 11 of the California Rancheria  
 12 Act and shall be deemed entitled to any of the benefits or services  
 13 provided or performed by the United States for Indian Tribes,  
 14 Bands, Communities, or groups because of their status as Indian  
 15 Tribes, Bands, Communities, or groups.

16 Pursuant to Paragraph 12 of the Stipulation for Entry of Judgment, the parties agreed that  
 17 that United States District Court for the Northern District of California would retain jurisdiction  
 18 over the *Hardwick* case and the Secretary of the Interior could not assert any laches defense in  
 19 any subsequent action.

20 61. The Order Approving Entry of Final Judgment in Action was entered on  
 21 December 27, 1983. Because the Nevada City Rancheria and its members were not been  
 22 apprised of the *Hardwick* litigation and therefore were not a party thereto, Plaintiff Nevada City  
 23 Rancheria was not included in the list of Rancherias whose tribal status was restored pursuant to  
 24 the stipulated judgment entered in that case.

25 E. **Nevada City Rancheria Was Erroneously Omitted From the *Hardwick* Restoration**  
 26 **Judgment**

27 62. Despite having knowledge of the similar factual circumstances of the unlawful  
 28 termination of the Nevada City Rancheria, the United States failed to provide notice to the Court  
 or to the known members/descendants of the Nevada City Rancheria.

63. Such failure constitutes further breach of the fiduciary obligation owed to the  
 Nevada City Rancheria and has unduly prejudiced the rights of the Nevada City Rancheria  
 members and descendants from that time to the present.

F. **The Tribe List Act.**

64. In 1994, Congress enacted the "Federally Recognized Indian Tribe List Act of



1 1994,” Pub. L. 103-454, 108 Stat. 4791, 4792, codified at 25 U.S.C. §§ 479a and 479a-1 (“Tribe  
2 List Act”). The Tribe List Act was in response to a “growing and disturbing trend” on the part of  
3 the BIA to “capriciously and improperly withdraw[] federal recognition from a native group or  
4 leader.” (H.R. Rep. No. 103-781, at 3 (1994), *as reprinted in* 1994 U.S.C.C.A.N. 3768, 3769  
5 (footnotes omitted).)

6 65. The Tribe List Act requires the Secretary to “publish in the Federal Register a list  
7 of all Indian tribes which the Secretary recognizes to be eligible for the special programs and  
8 services provided by the United States to Indians because of their status as Indians.” (Tribe List  
9 Act § 104(a).)

10 66. In enacting the Tribe List Act, Congress made several findings. For example,  
11 Congress found that the “list published by the Secretary should be accurate, regularly updated,  
12 and regularly published, since it is used by the various departments and agencies of the United  
13 States to determine the eligibility of certain groups to receive services from the United States.”  
14 (Tribe List Act § 103(7) (codified at 25 U.S.C. § 479a note).) Congress also found that the “list  
15 of federally recognized tribes which the Secretary publishes should reflect all of the federally  
16 recognized Indian tribes in the United States which are eligible for the special programs and  
17 services provided by the United States to Indians because of their status as Indians.” (Tribe List  
18 Act § 103(8) (codified at 25 U.S.C. § 479a note).)

19 67. The Tribe List Act commands the Secretary to publish the list of tribes every year  
20 on or before January 30. (Tribe List Act § 104(b) (codified at 25 U.S.C. § 479a-1(b)).)

21 68. The Secretary is currently in breach of the annual publication requirement having  
22 last caused a list to be published on April 4, 2008. (*See* 73 Fed. Reg. 66, at pg. 18553.) The  
23 Secretary is also in breach for failing to include Plaintiff on that list.

24 69. The Secretary has delegated responsibility for publishing the list to the Assistant  
25 Secretary for Indian Affairs. (*See id.*) However, as the officer of the United States specifically  
26 named in the Tribe List Act, the Secretary retains ultimate responsibility for ensuring compliance  
27 with the Tribe List Act.

28 ///

1 **G. Nevada City Rancheria Has Been Working For Many Years to Restore Its Federal**  
2 **Recognition**

3 70. For many years Tribal members sought support for the Tribe's restoration. Tribal  
4 members contacted their federal, state and local representatives and other California tribes  
5 seeking restoration, culminating in discussions with staff to discuss restoration of the unlawfully  
6 Nevada City Rancheria. The Nevada City Rancheria has continued to seek and to receive support  
7 from the local community, the state and federal officials for its restoration efforts.

8 71. The strain and impact of the termination left the Tribe struggling for many years  
9 to continue and maintain its governance. This was extremely difficult and time consuming  
10 because the Tribe has few resources and no recognized tribal lands. Plaintiff is one of a handful  
11 of terminated California tribes that remains in existence, governing its numbers, yet  
12 unrecognized by the federal government. See Status of California Rancherias Terminated  
13 Pursuant to the Rancheria Act.

14 72. As a result of the Tribe's purported termination, the Tribe and its membership  
15 have been greatly damaged, including but not limited to the following losses:

16 a. The Tribe has been prevented from participating in government programs  
17 specifically intended for American Indian Tribal Governments; and

18 b. The Tribe's ability to govern itself and exercise its sovereignty and  
19 domination had been compromised; and

20 c. The Tribe's members' land became taxable under the laws of the State of  
21 California but for the wrongful termination of the Tribe; and

22 d. The Tribe's members, few if any of whom received any training in  
23 financial management completed by the Act, were unable to pay said property taxes and were  
24 forced to sell their land at a fraction of its true value to avoid foreclosure sales; and

25 e. The Tribe's members trust and land became an available asset subject to  
26 credit process; and

27 f. The Tribe's members lost their land to satisfy creditors' claims; and

28 g. The Tribe's members were denied access to BIA programs and grants and

1 had to go without training or higher education opportunities; and

2 h. The Tribe's members residing on the Rancheria, following the wrongful  
3 termination of their status as Indians, were forced to comply with local building and sanitary  
4 codes due to their land being removed from federally held status, resulting in expensive  
5 alterations, license fees, inspections, condemnations, etc.; and

6 i. Without the benefit of adequate water, sanitation facilities, irrigation  
7 systems, or housing, as contemplated by the California Rancheria Act, the Tribe's members were  
8 forced to live under injurious and unsanitary conditions, suffering damages to their physical and  
9 mental health.

10 j. These living conditions also prevented the Tribe from developing any self-  
11 sustaining, economic developments of any kind.

12 73. Upon information and belief, which is likely to have evidentiary support after a  
13 reasonable opportunity for further investigation or discovery, the Secretary did and should  
14 recognize that the Tribe's termination was unlawful and that the Tribe satisfies all requirements  
15 for being eligible to participate in the special programs and services provided by the United  
16 States to Indians because of their status as Indians belonging to an Indian tribe.

17 74. At no time since the enactment of the Tribe List Act has the Tribe been listed as a  
18 federally recognized tribe even though the Secretary, as noted above, has conceded on numerous  
19 occasions that the termination of the Tribe's recognition under federal law--purportedly  
20 accomplished by the California Rancheria Act--was unlawful.

21 **FIRST CLAIM FOR RELIEF**

22 **(Breach of Rancheria Act Against All Defendants)**

23 75. Plaintiff realleges paragraphs 1 through 74 and incorporates those paragraphs  
24 herein as if set forth in full.

25 76. Under Section 2(a) of the Rancheria Act, the Secretary of the Interior was  
26 required to develop a distribution plan with all Rancheria distributees prior to terminating the  
27 Rancheria and its members.

28 77. Despite these specific obligations, Defendants wrongfully terminated Plaintiff by

1 failing to develop a valid distribution plans and failing to convey deeds to parcels of the  
2 Rancheria before and/or without consulting and obtaining consent by the Nevada City Rancheria  
3 distributees.

4 WHEREFORE, the Plaintiff prays for relief as set forth below.

5 **SECOND CLAIM FOR RELIEF**

6 **(Breach of Rancheria Act Against All Defendants)**

7 78. Plaintiff realleges paragraphs 1 through 77 and incorporates those paragraphs  
8 herein as if set forth in full.

9 79. Under Section 8 of the Rancheria Act, the Secretary of the Interior was required,  
10 prior to termination of a rancheria, to “protect the rights of individual Indians who are minors,  
11 *non compos mentis*, or in the opinion of the Secretary in need of assistance in conduct of their  
12 affairs, by causing the appointment of guardians for such Indians in courts of competent  
13 jurisdiction, or by such other means as he may deem adequate, without application from such  
14 Indians . . . .”

15 80. Despite these specific obligations, Defendants wrongfully terminated Plaintiff by  
16 failing to protect the rights of minors, failing to cause the appointment of guardians and failing to  
17 take any substantive actions to protect those minors.

18 WHEREFORE, the Plaintiff prays for relief as set forth below.

19 **THIRD CLAIM FOR RELIEF**

20 **(Breach of Rancheria Act Against All Defendants)**

21 81. Plaintiff realleges paragraphs 1 through 80 and incorporates those paragraphs  
22 herein as if set forth in full.

23 82. Under Section 9 of the Rancheria Act, the Secretary of the Interior was required,  
24 prior to termination of a rancheria, to implement education and vocational training programs for  
25 the benefit of the Rancheria Indians.

26 83. Despite these specific obligations, Defendants wrongfully terminated Plaintiff by  
27 developing distribution plans and conveying deeds to parcels of the Rancheria before and/or  
28 without implementing education and vocation training programs for the benefit of the Rancheria

1 Indians.

2 WHEREFORE, the Plaintiff prays for relief as set forth below.

3 **FOURTH CLAIM FOR RELIEF**

4 **(Breach of Rancheria Act Against All Defendants)**

5 84. Plaintiff realleges paragraphs 1 through 83 and incorporates those paragraphs  
6 herein as if set forth in full.

7 85. In passing the Rancheria Act into law, Congress intended that termination would  
8 be the result of a voluntary process by which designated Indian communities would choose to  
9 accept termination in exchange for the provision of a number of government services which  
10 would aid those communities in becoming economically sound.

11 86. Congressional intent behind the Rancheria Act, as well as the fiduciary duty owed  
12 by the Defendants to the Plaintiff, required the BIA to accomplish the congressional policy of  
13 termination in a manner calculated to advance the interests of said Indians. The Defendants  
14 breached their trust duty to the Plaintiff under the Rancheria Act in the following ways:

- 15 a. Defendants failed to seek and obtain the votes of all eligible Tribal  
16 members in regards to the IRA vote.
- 17 b. Defendants failed to distribute the proceeds and land of the Nevada City  
18 Rancheria to all distributives.
- 19 c. Defendants failed to provide services as required by the Rancheria Act.

20 WHEREFORE, the Plaintiff prays for relief as set forth below.

21 **FIFTH CLAIM FOR RELIEF**

22 **(Breach of Fiduciary Duty)**

23 87. The Tribe realleges paragraphs 1 through 86 and incorporates those paragraphs  
24 herein as if set forth in full.

25 88. The Secretary, acting on behalf of the United States, owes a fiduciary duty to the  
26 Tribe because the Tribe's termination was not effectuated in conformance with the requirements  
27 of the California Rancheria Act, thereby rendering the Tribe's termination void and of no legal  
28 effect.

1           89.     The Secretary's fiduciary duty to the Tribe imposes upon the Secretary "moral  
2 obligations of the highest responsibility and trust," *Seminole Nation*, 316 U.S. at 297, and his  
3 conduct must be judged "by the most exacting fiduciary standards." (*Id.*)

4           90.     The Secretary's fiduciary duty is further evidenced by the numerous federal  
5 statutes in which Congress has made express findings regarding the existence of such a duty.  
6 *See, e.g.*, Native American Housing and Self-Determination Act, 25 U.S.C. § 4101(2)-(4)  
7 (finding that "there exists a unique relationship between the Government of the United States and  
8 the governments of Indian tribes;" the United States has "undertaken a unique trust responsibility  
9 to protect and support Indian tribes," and "Congress . . . has assumed a trust responsibility for the  
10 protection and preservation of Indian tribes"); Indian Health Care Improvement Act, 25 U.S.C.  
11 § 1601(a) (finding that "Federal health services to maintain and improve the health of the Indians  
12 are consonant with and required by the Federal Government's historical and unique legal  
13 relationship with, and resulting responsibility to, the American Indian people"); Indian Child  
14 Welfare Act, 25 U.S.C. § 1901(2) (finding that "Congress, through statutes, treaties, and the  
15 general course of dealing with Indian tribes, has assumed the responsibility for the protection and  
16 preservation of Indian tribes and their resources").

17           91.     The Secretary breached his fiduciary duty to the Tribe by failing to include the  
18 Tribe on the statutorily mandated list of federally recognized tribes, despite the fact that the  
19 Secretary currently recognizes that the Tribe's purported termination was unlawful and that the  
20 Tribe satisfies all requirements for being eligible to participate in the special programs and  
21 services provided by the United States to Indians because of their status as Indians.

22           92.     As a direct and proximate result of the Secretary's failure to include the Tribe on  
23 the statutorily mandated list of federally recognized tribes, the Tribe has been and continues to be  
24 ineligible for the "protection, services and benefits of the Federal government available to Indian  
25 tribes by virtue of their status as tribes" pursuant to 25 C.F.R. § 83.2.

26           WHEREFORE, the Tribe prays for relief as set forth below.

27     ///

28     ///

**SIXTH CLAIM FOR RELIEF**

**(Agency Action Unlawfully Withheld or Unreasonably Delayed)**

1  
2  
3 93. The Tribe realleges paragraphs 1 through 92 and incorporates those paragraphs  
4 herein as if set forth in full.

5 94. The Administrative Procedure Act (“APA”) authorizes judicial review for those  
6 suffering legal wrong because of agency action. (5 U.S.C. § 702.)

7 95. An agency’s “failure to act” constitutes “agency action.” (*Id.* § 551(13).) The  
8 APA therefore authorizes a reviewing court to “compel agency action unlawfully withheld or  
9 unreasonably delayed.” (*Id.* § 706(1).)

10 96. The Secretary’s failure to publish a list of federally recognized tribes that includes  
11 the Tribe’s name constitutes “agency action.”

12 97. Upon information and belief, which is likely to have evidentiary support after a  
13 reasonable opportunity for further investigation or discovery, the Secretary currently recognizes  
14 that the Tribe’s purported termination was unlawful and that the Tribe satisfies all requirements  
15 for being eligible to participate in the special programs and services provided by the United  
16 States to Indians because of their status as Indians.

17 98. As a direct and proximate result of the Secretary’s failure to include the Tribe on  
18 the statutorily mandated list of federally recognized tribes, the Tribe has been and continues to be  
19 ineligible for the “protection, services and benefits of the Federal government available to Indian  
20 tribes by virtue of their status as tribes” pursuant to 25 C.F.R. § 83.2.

21 WHEREFORE, the Tribe prays for relief as set forth below.

**PRAYER FOR RELIEF**

22  
23 WHEREFORE Plaintiff demands judgment and requests the following legal and  
24 equitable relief:

25 1. That this Court declare:

26 i. The Nevada City Rancheria was unlawfully terminated, and its assets  
27 distributed, in violation of the Rancheria Act and the government’s trust policy;

28 ii. The Secretary of the Interior is under a duty to take Designated Lands into

1 federal trust for the use and benefit of the Tribe and afford all such rights and benefits  
2 attributable to Indian lands;

3           iii. The Termination Proclamations for the Rancheria were unlawfully  
4 published, and the Secretary of the Interior is under an obligation to rescind the same;

5           iv. The Nevada City Rancheria is not a terminated Tribe within the meaning  
6 of Section 10(b) of the Rancheria Act, and the Defendants are under an obligation to treat them  
7 as a federally-recognized Tribe;

8           v. The Constitution and Bylaws of the Nevada City Rancheria, as amended,  
9 are now restored and in effect;

10           vi. The Secretary of the Interior is under a duty to afford the Nevada City  
11 Rancheria all rights, privileges and immunities ordinarily accorded to a federally-recognized  
12 Indian Tribe existing on Indian lands;

13           vii. The lands comprising the Nevada City Rancheria were and still are  
14 "Indian country" and such lands now or in the future to be acquired by the Tribe are immune  
15 from local property taxation, assessment or other civil regulatory jurisdiction and shall be  
16 restored to the same status as before termination;

17           viii. The lands comprising the Nevada City Rancheria are not subject to the  
18 jurisdiction of Nevada County, and further the land would not be subject to county regulation  
19 and taxation until such time as the lands were lawfully conveyed to individual distributees and  
20 removed from trust in full compliance with all of the provisions of the Rancheria Act;

21           ix. The Secretary of the Interior is under a duty to acquire and take land into  
22 trust for the benefit of the Nevada City Rancheria pursuant to the Indian Recognition Act, 25  
23 U.S.C. § 465;

24           x. The Secretary of the Interior is under a duty to take into trust land base for  
25 the benefit of the Tribe, which such land to be considered "Indian country" as defined in 18  
26 U.S.C. § 1151.

27           2. That this Court issue preliminary and permanent injunction relief compelling the  
28 Defendants to afford the Nevada City Rancheria all rights, privileges and immunities ordinarily



1 accorded to a federally-recognized Indian Tribe.

2 3. That this Court order Defendants to pay Plaintiff the cost of bringing this action  
3 and reasonable attorneys' fees.

4 3. An award of monetary damages to be determined at trial.

5 4. That this Court order such further relief as it shall deem appropriate.

6 Dated: January 19, 2010

SCHARFF, BRADY & VINDING

7  
8 By: 

9 MICHAEL V. BRADY  
10 Attorneys for Plaintiff  
11 Nisenan Maidu Tribe of the Nevada City  
12 Rancheria  
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