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5 Attorneys for Plaintiff
TSI AKIM MAIDU OF
6 TAYLORSVILLE RANCHERIA

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12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
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15 TSI AKIM MAIDU OF
TAYLORSVILLE RANCHERIA

17 Plaintiff

18 vs.

19 UNITED STATES DEPARTMENT OF THE
20 INTERIOR; SARAH JEWELL, in her
official capacity as Secretary of the Interior,
21 LAWRENCE S. ROBERTS, in his official
capacity as Principle Deputy Assistant
22 Secretary for Indian Affairs of the United
States Department of the Interior; and DOES
23 1 to 100

24 Defendants

Case No.:

**PETITION FOR WRIT OF MANDAMUS
AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

WEISS LAW, PC
1151 Harbor Bay Parkway, Suite. 134
Alameda, CA 94502

**PETITION FOR WRIT OF MANDAMUS & COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiff challenges Defendants’ determination that as a matter of law Plaintiff lost status as a federally recognized Indian Tribe when the United States sold the Taylorsville Rancheria in 1966 pursuant to Congressional mandate. Plaintiff respectfully petitions this Court for injunctive, declaratory, and mandamus relief to compel Defendants and their subordinates to find as a matter of statutory interpretation that Plaintiff never lost its status as a federally recognized Indian Tribe, and restore to Plaintiff all privileges, titles, and interests that flow from the status of Plaintiff as a federally recognized Indian Tribe.

For its complaint TSI AKIM MAIDU OF TAYLORSVILLE RANCHERIA (“Plaintiff”) by and through its attorneys WEISS LAW, PC avers as follows:

JURISDICTION

1. This Court has jurisdiction (i) under 28 U.S.C. § 1331; (ii) under 28 U.S.C. § 1361; (iii) under 28 U.S.C. § 1362; (iv) Administrative Procedures Act ("APA"), 5 U.S.C. §§ 702-703; (v) the Mandamus Act, 28 U.S.C. §1361; and (v) Declaratory Judgement Act 28 U.S.C. §§ 2201 et. Seq. (declaratory relief)

VENUE

2. Venue is appropriate in this District pursuant to 28 U.S.C. §1391(e)(1) (b) because a substantial part of the events or omissions giving rise to the Plaintiff’s claims occurred near this District and/or the convenience of the parties and witnesses is best served since venue in this District will reduce travel and other cost.

EXHAUSTION

3. There are no administrative remedies available for Plaintiff to exhaust.

4. In 1998, Plaintiff submitted its letter of intent to petition for acknowledgment as an Indian tribe under the Part 83 process and is Petitioner number 202.

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5. On June 9, 2015, Defendants declined to restore to Plaintiff the status of federally recognized Indian Tribe.

PARTIES

6. Plaintiff is a Native American Tribe consisting of Indian members, descendent, and Indian successors in interests, which voted under the Indian Reorganization Act of 1934. Plaintiff has a governing constitution, a board, holds ceremonial events, provides various services to its members, and otherwise holds itself out as a functioning Indian tribe.

7. Defendant the United States Department of Interior is the cabinet level department of the United States government which administered by the Secretary of the United States Department of Interior.

8. Defendant Sarah Jewell is the Secretary of the United States Department of Interior.

9. Defendant Lawrence S. Roberts is the Assistant Secretary for Indian Affairs of the United States Department of Interior.

10. Defendants are officers or employees of the United States and have direct or delegated statutory duties in carrying out the provisions of the Act as amended and for fulfilling the trust responsibilities of the United States toward Indian People.

STATUTORY & REGULATORY BACKGROUND

11. Plaintiff sought clarification from the Defendants about its status as a federally recognized Indian Tribe. On June 9, 2015 Defendants contend that pursuant to California Rancheria Act (the “CRA”) Defendants sold the Taylorsville Rancheria (“Ranch”) and the sale terminated Plaintiff’s status as a federally recognized tribe. Defendants issued a written decision.

12. Nothing in the animus of the CRA indicates that the sale of the Ranch terminates the status of the tribe. Further, nothing in the animus of the CRA indicates that the purchase and designation of Ranch creates the status of the tribe.

13. The CRA states specifically:

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"After the assets of a rancheria or reservation have been distributed pursuant to this Act, the Indians who receive any part of such assets, and the dependent members of their immediate families, shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians, all statutes of the United States for Indians because of their status as Indians shall be inapplicable to them, and the laws of the several States shall apply to them in the same manner as they apply to other citizens or persons within their jurisdiction." Act of Aug. 18, 1958, Pub.L. No. 85-67, 72 Stat. 619, at § 10(b).

14. The Defendants erroneously extend the reasoning of the CRA to conclude that the sale of the Ranch corresponds with the termination of the status of the tribe.

15. The principle of tribal self-determination and self-governance led to the passage of Indian Reorganization Act 48 Stat. 984, 25 U. S. C. § 461 et seq (the "IRA".) Pursuant to the IRA, Plaintiff voted in the IRA election in 1923.

16. Nothing in the CRA purports to nullify or undermine the IRA. Neither does the IRA extend to CRA any basis to vanquish tribal status pursuant to sale of the Ranch.

17. Finally, members of the Plaintiff never received any part of the assets of the sale of the Ranch.

FACTUAL ALLEGATIONS

A. Historical Background

18. California Indian Tribes are classified into linguistic groups. Plaintiff is included in the Northeastern Maidu group (aka Mountain Maidu) in Plumas County. Residence was defined by the name of the valley a group resided. Plaintiff's name refers to the people of Taylorsville and surrounding area. Plaintiff occupied the American, Genesee, and Indian valleys in what is now the Plumas County.

19. Plaintiff claims membership based on the June 30, 1923 BIA "Census of the Digger Indians of the Greenville Agency, Calif." Membership requires descendency from those listed at Taylorsville or Genesee and the ancestors of those persons listed on the 1923 census. Thus, tribal membership is inclusive of all person of the same tribal ancestry.

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20. 80 of the 336 people on the 1923 census were resident in the Taylorsville/Genesee vicinities and these 80 people constituted the ancestral base for the Plaintiff.

B. Federal Historical Termination

21. On August 18, 1958, Congress enacted the California Rancheria Act, P.L. 85-671, 72 Stat. 619, amended by the Act of Aug. 1, 1964, P.L. 88-419, 78 Stat. 390 (the "CRA".) Section 1 of the CRA provides that the assets of 41 named Rancherias "shall be distributed in accordance with the provisions of this Act." Section 2(a) required that either the Indians of each Rancheria or the Secretary of the United States Department of the Interior, after consultation with the Indians, prepare a distribution plan for each Rancheria. Section 3 required the Secretary to undertake certain actions with respect to each Rancheria prior to distributing the land pursuant to the distribution plans and removing them from trust status.

22. Plaintiff was not specifically named as one of the 41 Rancherias to be sold.

23. Section 10(b) stated:

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

24. Members of the Plaintiff never received any assets from the sale of the Ranch.

C. The Denial

25. On June 9, 2015, Assistant Secretary of Indian Affairs Kevin K. Washburn wrote to Plaintiff's counsel that the [Defendants] sold the Ranch on November 4, 1966 to Plumas County for \$36,000 pursuant to Section 5(d) of the amended California Rancheria Act, as a vacant rancheria. In the letter, Defendants claim that the sale of the Ranch is equivalent to Congressional termination of the Federal relationship with the Plaintiff.

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CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

26. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 25 above.

27. Plaintiff consists of individual Indians and their descendent who never partook in the sale of the Ranch.

28. Plaintiff’s status as an Indian tribe was never created because of the purchase of the Ranch nor was terminated because of the sale of the Ranch.

29. The members of the Plaintiff are Indian whose status as Indians was never terminated because they never partook in the sale or proceeds of the sale of the Ranch.

30. Defendants violated Plaintiff’s statutory rights by refusing to recognize Plaintiff’s members as Indians.

SECOND CAUSE OF ACTION

31. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 30 above.

32. Plaintiff suffered a legal wrong or have been adversely affected or aggrieved by agency action for which there is no other adequate remedy in a Court.

33. Defendants unlawfully interpreted the CRA and used the unlawful interpretation to deny that Plaintiff’s members are Indians whose status has never been terminated.

34. Defendants’ actions are in direct violation of the Congressional intent.

THIRD CAUSE OF ACTION

35. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 34 above.

36. Defendants owe Plaintiff a clear and certain duty to consider Plaintiff’s application for recognition as Federal tribe within the clear and pristine definition of the law and not to misinterpret the CRA and make unlawful determination.

37. Defendants denied the status of the Plaintiff as a federally recognized tribe because of the unlawful misinterpretation of the CRA. Plaintiff has no other adequate remedy.

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PRAYER FOR RELIEF

1. Assume jurisdiction over this action
2. Declare that Plaintiff is a federally tribe
3. Declare that Plaintiff’s members are Indians whose status have not been vanquished pursuant to the CRA
4. Issue an injunction prohibiting the Defendants from misinterpreting the CRA
5. Issue a writ of mandamus compelling Defendants to rescind its unlawful decision of June 9, 2015 and instead to interpret the CRA according to congressional intent
6. Award Plaintiff reasonable costs and attorney’s fees under the Equal Access to Justice Act; and
7. Award such further relief as the Court deems just and appropriate.

Dated: December 15, 2016

WEISS LAW, PC



By: _____
Mogebe Weiss Attorneys for Plaintiff
TSI AKIM MAIDU OF TAYLORSVILLE
RANCHERIA

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17 Seq. (declaratory relief)
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20 2. Venue is appropriate in this District pursuant to 28 U.S.C. §1391(e)(1) (b) because a
21 substantial part of the events or omissions giving rise to the Plaintiff’s claims occurred near this
22 District and/or the convenience of the parties and witnesses is best served since venue in this
23 District will reduce travel and other cost.
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25 **EXHAUSTION**

26 3. There are no administrative remedies available for Plaintiff to exhaust.

27 4. In 1998, Plaintiff submitted its letter of intent to petition for acknowledgment as an
28 Indian tribe under the Part 83 process and is Petitioner number 202.

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5. On June 9, 2015, Defendants declined to restore to Plaintiff the status of federally recognized Indian Tribe.

PARTIES

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17. Finally, members of the Plaintiff never received any part of the assets of the sale of the Ranch.

FACTUAL ALLEGATIONS

A. Historical Background

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22. Plaintiff was not specifically named as one of the 41 Rancherias to be sold.

23. Section 10(b) stated:

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24. Members of the Plaintiff never received any assets from the sale of the Ranch.

C. The Denial

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6. Award Plaintiff reasonable costs and attorney’s fees under the Equal Access to Justice Act; and
7. Award such further relief as the Court deems just and appropriate.

Dated: December 15, 2016

WEISS LAW, PC



By: _____
Mogeeb Weiss Attorneys for Plaintiff
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