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Agua Caliente Band of Cahuilla Indians

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO

FAIR POLITICAL PRACTICES)
COMMISSION, a state agency,)

Plaintiff,)

vs.)

AGUA CALIENTE BAND OF)
CAHUILLA INDIANS, a federally-)
recognized Indian tribe; and DOES)
I-XX,)

Defendants.)

Civil case no. 02AS04545

DECLARATION OF RICHARD M.
MILANOVICH IN SUPPORT OF
MOTION OF SPECIALLY-APPEARING
DEFENDANT AGUA CALIENTE BAND
OF CAHUILLA INDIANS TO QUASH
SERVICE FOR LACK OF PERSONAL
JURISDICTION

[C.C.P. §418.10]

Hearing: January 8, 2003
2:00 p.m.
Dept. 53
Honorable Loren E. McMaster

1 Richard M. Milanovich declares as follows

2 1. I am the duly elected and serving Chairman of the Agua Caliente Band of Cahuilla
3 Indians, a federally-recognized Indian tribe (the "Tribe") and a specially-appearing defendant in
4 this action. I make this declaration in support of the Tribe's pending motion to quash service for
5 lack of personal jurisdiction. I make this declaration based on my own personal knowledge,
6 information, and belief. If called as a witness, I could and would competently testify as to the
7 matters stated herein.
8

9 2. According to the Tribe's Constitution, the governing body of the Tribe is its five-
10 member elected Tribal Council. Three of these Councilmembers are the Tribe's officers: the
11 Chairman, the Vice-Chairman, and the Secretary-Treasurer, each of whom serves a term of two
12 years. The other two Councilmembers are not officers, and are members at large, each serving
13 terms of one year. Under the Constitution, the Tribal Council exercises extensive powers on
14 behalf of and in the name of the Tribe. The Tribal Government consists of the Tribal Council
15 plus the various committees, commissions, agencies, and other bodies established by the Tribal
16 Council, as well as the Tribal staff. As the ultimate elected policy-making body for the Tribe,
17 the Tribal Council initiates and supervises all actions and activities of the Tribe, except for those
18 functions which the Tribal Council has delegated, to varying degrees, to its various committees,
19 commissions, other subordinate bodies, and staff. However, as to those subordinate committees,
20 commissions, bodies, and staff, the Tribal Council still has ultimate authority and responsibility.
21

22 3. I have served the Tribe as its Chairman continuously since 1984 and, in that capacity,
23 am personally very familiar with all of the Tribal Government's policy-making activities during
24 that period. I am also very familiar with the location and status of the various parcels of land
25 which make up the Agua Caliente Indian Reservation. In particular, I am familiar with the
26 location and status of Section 14, T. 4 S., R. 4 E., S.B.M., which has been a part of the Agua
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1 Caliente Indian Reservation since the establishment of the Reservation by the Executive Order of
2 President U.S. Grant on May 15, 1876.
3

4 4. Before and throughout the 19 years that I have served as Chairman, the primary
5 method of the Tribal Government for relating to non-members of the Tribe has been on a
6 government-to-government basis. In this regard, the Tribal Council has negotiated and entered
7 into numerous agreements, as a government, with other non-Indian governments on many
8 subjects of mutual interest. Some of these agreements have been with the following municipal,
9 county, state, and federal agencies and governments on the following subjects:
10

11	<i>Government</i>	<i>Subject</i>
12	U.S. Bureau of Land Management	Land exchanges
13		Cooperative land use management for Santa Rosa
14		Mountains National Monument
15	U.S. Forest Service, National Park Service,	Publication of comprehensive recreational
16	U.S. Bureau of Land Management,	guide to Coachella Valley area
17	California State Parks, Riverside	
18	County Regional Park and Open	
19	Space District	
20	State of California	Compact for conduct of class III gaming on
21		Agua Caliente Indian Reservation
22	California Department of Parks and	Cooperative land use management for
23	Recreation	Indian Canyons Park
24	County of Riverside, City of Rancho	Agreement regarding road improvements
25	Mirage, and Coachella Valley	
26	Association of Governments	
27	County of Riverside and Coachella Valley	Agreement for further road improvements
28	Association of Governments	
	County of Riverside and City of Palm	Agreement for flood control facilities, land
	Springs	conveyance, visitors center, and
		construction of bridge

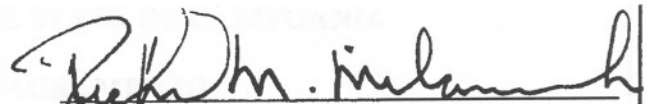
1	County of Riverside	Land use agreement regarding development and
2		use of lands of Agua Caliente Indian
3		Reservation in unincorporated areas
4		Cooperative agreement for management of Indian
5	City of Palm Springs	Canyons Heritage Park
6		Land use agreement regarding development and
7		use of lands of Agua Caliente Indian
8		Reservation within City of Palm Springs
9		Consultation agreement for Tribal projects in
10	City of Rancho Mirage	City of Palm Springs
11		Consultation agreement for redevelopment
12		projects
13		Land use agreement regarding development and
14		use of lands of Agua Caliente Indian
15		Reservation within City of Rancho Mirage
16	City of Cathedral City	Land use agreement regarding development and
17		use of lands of Agua Caliente Indian
18		Reservation within City of Cathedral City

15 In all of these agreements, the Tribe's goal has been to enter into mutually-beneficial and
 16 respectful relationships with non-Indian governments on a government-to-government basis.

17 5. The Tribal Council has always been willing to discuss a similar government-to-
 18 government relationship with any other non-Indian government or agency, including the Fair
 19 Political Practices Commission. However, we have been informed that the only basis on which
 20 the Fair Political Practices Commission would enter into a relationship with the Tribe is simply
 21 to regulate the Tribe, the same as an ordinary non-governmental private party, under all the
 22 provisions of the Political Reform Act, without any deviation, and without recognition of the
 23 Tribe's status as a sovereign or a government. This we are unwilling to do. The Tribe is a
 24 government. It will relate to other governments on a government-to-government basis. The
 25 Tribe will not simply submit to regulation by an agency of the state government. Our
 26 sovereignty is subordinate to that of the United States, but not to that of the State of California.

1 6. The Tribal Council conducts its business, and takes formal action, only in formal
2 | meetings. These meetings are open to all members of the Tribe and are usually, but not always,
3 |
4 | held on Tuesdays and take place at the Tribal Office. Since 1998, the Tribal Office has been
5 | located first at 110 North Indian Canyon Way, Palm Springs, California, and later at its current
6 | location of 600 East Tahquitz Canyon Way, Palm Springs, California. Both of these locations
7 | are within the above Section 14, which has been part of the Agua Caliente Indian Reservation
8 | since its establishment in 1876. The Tribal Office staff is employed and carries out the
9 | directions of the Tribal Council primarily at these locations. The U.S. Post Office that serves the
10 | Tribal Office is also located within this Section 14, about 3 blocks away from the Tribal Office.
11 |

12 7. I declare under penalty of perjury of the laws of the State of California that the above
13 | statements are true and correct to the best of my personal knowledge, information, and belief.
14 | Executed this 9th day of December, 2002, at the Agua Caliente Indian Reservation, City of Palm
15 | Springs, State of California.
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18 | Richard M. Milanovich

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