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5  
6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF CALIFORNIA  
8

9 FRIENDS OF AMADOR COUNTY, )  
10 BEA CRABTREE, JUNE GEARY, )  
Plaintiffs, )

11 vs. )  
12 )

13 KENNETH SALAZAR, SECRETARY OF )  
14 THE UNITED STATES DEPARTMENT OF )  
INTERIOR, United States )  
15 Department of Interior, THE )  
16 NATIONAL INDIAN GAMING )  
COMMISSION, GEORGE SKIBINE, )  
17 Acting Chairman of the National )  
Indian Gaming Commission, THE )  
18 STATE OF CALIFORNIA, Arnold )  
Schwarzenegger Governor of the )  
19 State of California, )  
Defendants )  
20 )

) No. \_\_\_\_\_  
)  
) COMPLAINT FOR  
) DECLARATORY RELIEF,  
) INJUNCTION AND/OR  
) MANDAMUS OR PROHIBITION

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22 I. JURISDICTION AND VENUE

23 An actual, true and justiciable controversy now  
24 exists between Plaintiffs and Defendants as hereinafter  
25 set out in detail.  
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COMPLAINT FOR DECLARATORY RELIEF, INJUNCTION  
AND/OR MANDAMUS OR PROHIBITION

1 This Court has jurisdiction pursuant to the  
2 Administrative Procedure Act, 5 U.S.C. §§ 701-706,  
3 because this action seeks review of administrative  
4 decisions. This Court also has jurisdiction to enjoin  
5 illegal acts and to declare the rights and duties of  
6 the parties under 25 U.S.C. § 2703, 2714, 2719 and 28  
7 U.S.C. §§ 1331, 1361, and 28 U.S.C. 2201 and 2202 and  
8 to order the requested relief preventing illegal and  
9 ultra vires acts or omissions. This Court also has in  
10 rem jurisdiction over the Buena Vista real property  
11 located within this Judicial District and this court  
12 has authority to render a declaratory judgment and  
13 injunction or any write needed regarding to the status  
14 of that property pursuant to 28 U.S.C. 1651(a).

15 Venue is in this Court pursuant to 28 U.S.C. §  
16 1391 and 1391(e) because the property at issue in this  
17 case, the purported "Indian tribe" and the Defendant  
18 agencies and officers whose determinations are  
19 challenged herein, all reside in or are operating in  
20 this judicial district and the illegal and ultra vires  
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1 acts alleged herein, occurred, or are occurring within  
2 this Judicial District.

3 Plaintiffs have previously exhausted all  
4 administrative remedies available. No other plain,  
5 speedy and adequate remedy at law or in equity is  
6 available or exists to address these issues and the  
7 threatened harm alleged herein is real and eminent.  
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11 II. PARTIES

12 1. Plaintiffs Bea Crabtree and June Geary are the  
13 Indian persons who are now or were entitled to organize  
14 a tribe of Indians and to seek acknowledgement and  
15 recognition by Defendants as an Indian tribe, if such a  
16 right to organize or re-organize a tribe was, in fact  
17 and law, created by the judgment entered in the case of  
18 Tillie Hardwick v. Secretary of The Interior et.al.  
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20 entered in the U.S. District Court for the Northern  
21 District of California in 1983, case #C-79-1710-CW.  
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23 2. Plaintiffs, The Friends of Amador County  
24 [hereinafter simply F.O.A.C.], is a large non-profit  
25 public interest corporation made up of citizens and  
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1 residents of Amador County who are aggrieved by the  
2 erroneous, arbitrary, capricious and illegal decisions  
3 of the Defendant Secretary Kenneth Salazar and  
4 Department of Interior [hereinafter simply the D.O.I.],  
5 Defendant George Skibine is the acting chairman and  
6 Commissioner of the National Indian Gaming Commission  
7 [hereinafter simply the N.I.G.C.] and those actions and  
8 inactions of the N.I.G.C. challenged herein.  
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11       Plaintiff F.O.A.C. has members which include  
12 residents of the County of Amador who live and do  
13 business adjacent to or near the proposed class III  
14 gambling casino to be constructed on ineligible Indian  
15 fee lands, at the Buena Vista site, which is the  
16 subject of this lawsuit. They are and will be  
17 irreparably and negatively impacted, injured and  
18 damaged by the increases in traffic, noise, vision and  
19 light pollution, crime and other significant impacts  
20 arising from the proposed operation of a class III  
21 gambling casino in the rural setting at Buena Vista in  
22 Amador County, Plaintiffs F.O.A.C. and its members will  
23 further suffer increased demands placed upon public  
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1 services and infrastructure which must paid for by  
2 Plaintiff's members because Defendant's authorizing a  
3 class III Indian casino and businesses at Buena Vista  
4 amounts to a de facto granting of an illegal tax  
5 exemption and an unlawful ceding of local governmental  
6 jurisdiction, authority and control over all businesses  
7 located on that property, giving the property owners an  
8 unfair business advantage over other non-Indian  
9 businesses in the area.  
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12 4. The Defendant D.O.I. in conjunction with the  
13 N.I.G.C. are the federal agencies responsible to make  
14 "Indian Land" eligibility determinations under the  
15 Indian Gaming and Regulatory Act of 1988, 25 U.S.C.  
16 2703 and 2719 [hereinafter simply the I.G.R.A.].  
17 Defendant Ken Salazar is the United States Secretary of  
18 Interior [hereinafter simply the Secretary] who is  
19 responsible to make all final Indian Land  
20 determinations himself and approve or disapprove all  
21 Indian gaming activity including gaming ordinances and  
22 tribal-state compacts when lawfully authorized by the  
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1 I.G.R.A. and also to record all such decisions in the  
2 National Register when lawfully determined.

3 5. The defendant George Skibine is the Acting  
4 Chairman of the N.I.G.C. [hereinafter simply the  
5 Chairman] and is the person and represents the agency  
6 charged with regulating certain aspects of Indian  
7 tribes operating or seeking to operate class II gaming  
8 activity and also are responsible for the licensing,  
9 approval and construction of class III gaming casinos  
10 when authorized by the I.G.R.A. The N.I.G.C. has a  
11 regional office in Sacramento, California.  
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15 6. The Defendant Arnold Schwarzenegger is the  
16 elected Governor of the State of California with the  
17 Constitutional authority and duty to negotiate tribal-  
18 state compacts with bona fide Indian tribes and to do  
19 so in a lawful manner. Such compacts must then be  
20 ratified by the State Legislature when such tribes  
21 proposed gaming activity is located on eligible "Indian  
22 lands" in accordance with Art. 4, section 19 of the  
23 California State Constitution authorizing class III  
24 gambling on "Indian Lands" as such lands are defined by  
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1 federal law 25 U.S.C. 2703. In addition Defendant  
2 Governor is sworn to enforce the laws and Constitution  
3 of the State of California including the California  
4 Penal Code prohibiting casino gambling in California  
5 except that which is lawfully authorized by the  
6 I.G.R.A. and by Art. 4 section 19 of the California  
7 Constitution.  
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11 III. INTRODUCTION

12 7. The Defendants Secretary has the statutory  
13 duty to insure that any gaming by a recognized Indian  
14 tribe is only permitted and conducted on Indian Lands  
15 as defined by the I.G.R.A., 25 U.S.C. 2703. That  
16 statute defines Indian Lands that are eligible for  
17 gaming operations.  
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20 Any gaming activity on land acquired by an Indian  
21 tribe after October 1988 is only permitted on such  
22 after acquired land as an exception to the provisions  
23 of 25 U.S.C. 2703. Those exceptions are set out in 25  
24 U.S.C. 2719. Land acquired by an Indian tribe after  
25 October 1988 is not eligible for any gaming unless  
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1 entitled to one of those specified exceptions and also  
2 is Indian trust lands.

3 8. Gaming classifications under the I.G.R.A.  
4 relevant to this case, are divided into two categories,  
5 class II and class III which are defined in 25 U.S.C.  
6 2703. The eligibility of "Indian Lands" required by  
7 the IGRA applies to both class II and class III gaming  
8 activities. Any tribe seeking to engage in class III,  
9 casino gambling, must also enter into a tribal-state  
10 compact with the state in which the tribe's eligible  
11 Indian Lands are situated as set out in 25 U.S.C. 2710  
12 d. That compact must be lawfully in effect according to  
13 that State's own laws, 25 U.S.C. 2710 d(3).  
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17 9. In the present case, the Defendant Secretary  
18 has approved class III gaming to be conducted in Amador  
19 County on approximately 67.5 acres of land commonly  
20 called Buena Vista which is owned in fee simple. That  
21 land is not eligible for either class II or class III  
22 gaming. That land is owned by a putative and improperly  
23 recognized or acknowledged "tribe" of Indian claimants  
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1 calling themselves the "Buena Vista Rancheria of Me-Wuk  
2 Indians."

3 10. The actions of the Defendant Secretary of the  
4 D.O.I. and the defendant Chairman of the N.I.G.C.  
5 approved the operation of class III gaming on that  
6 ineligible fee land at Buena Vista to be conducted by  
7 and for this "Buena Vista Rancheria of Me-Wuk Indians,"  
8 [hereinafter simply referred to from time to time as  
9 B.V.R.M.I.]. Such approval was and is illegal and ultra  
10 vires and, as hereinafter set out, was an arbitrary,  
11 capricious decision, contrary to law. The Friends of  
12 Amador County and the other named Plaintiffs challenge  
13 that action herein as illegal under the I.G.R.A. and  
14 also one that is in violation of the Administrative  
15 Procedures Act [hereinafter simply the A.P.A.] 5 U.S.C.  
16 701 et. seq. In addition Plaintiffs herein challenge  
17 the approval of any class II or class III gaming by  
18 B.V.R.M.I. at the Buena Vista site as being illegal and  
19 unconstitutional under the California State  
20 Constitution Article 4, section 19 and other applicable  
21 State and Federal laws and Regulations required to be  
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1 complied with by the Code of Federal Regulations,  
2 [hereinafter simply C.F.R.] including 25 C.F.R. part  
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6 IV. FACTS ENTITLING PLAINTIFF TO RELIEF

7 A. The origin of the Buena Vista Rancheria land.

8 11. The approximately 67.5 acre site at Buena  
9 Vista, California is land that was purchased in 1927  
10 from two non-Indian fee owners named Louis Alpers and  
11 Marjory Alpers. After being purchased the land was  
12 then owned in fee by the United States, not in trust  
13 and never brought into trust for any particular Indian  
14 tribe pursuant to 25 U.S.C. 467. Rather it was always  
15 fee lands purchased by the United States to be used for  
16 the residence, use and occupation of any individual or  
17 community of unaffiliated homeless or itinerant Indians  
18 of no particular tribe who might be in need of a place  
19 of residence and who had obtained an assignment to live  
20 there, occupy and use that land with the permission of  
21 the United States. Once such unaffiliated Indian  
22 person(s) received an assignment they could continue to  
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1 use and occupy that federally owned fee land until that  
2 assignment was terminated by the United States or the  
3 assignees and occupants left, surrendered or abandoned  
4 their assignment.  
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6 12. During the period from 1927 through 1934 and  
7 up to 1959 that land was occupied by Louie Oliver and  
8 his wife Annie Oliver, Johnnie Oliver and his sister  
9 Josie Rey. In 1934 these four adult occupants and  
10 assignees residing on the Buena Vista lands were  
11 approved by the Secretary as being eligible to vote for  
12 or against the Indian Reorganization Act of 1934 [5  
13 U.S.C. 465 et.seq.] [hereinafter simply the I.R.A.].  
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15 These four persons all voted in favor of the I.R.A. in  
16 1935. Subsequently their children Enos Oliver, Lucille  
17 Lucero and John Fielder also resided on the Buena Vista  
18 property with them from time to time. These occupants  
19 and assignees did not organize as an Indian tribe as  
20 provided for in the I.R.A. anytime after their 1934 vote  
21 of approval and acceptance of that Act. These occupants  
22 and assignees were not under the jurisdiction or  
23 superintendence of the B.I.A. but were conceded to have  
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1 an "informal assignment" to live on and occupy the Buena  
2 Vista land because of their long-term occupancy and use  
3 of that land.

4       13. In accordance with federal law, [the  
5 subsequently enacted "Rancheria Act,"] this parcel of  
6 federal fee land at Buena Vista was then deeded in fee  
7 simple, on the 6<sup>th</sup> day of October 1959, to the two (2)  
8 remaining Indian persons still occupying that land,  
9 Louie and Annie Oliver, doing so under the informal  
10 assignment they had from D.O.I. The deed to them was  
11 conveyed by the United States in fee simple as husband  
12 wife, joint tenants. As hereinbefore set out, they had  
13 been living on that land for at least the preceding 25  
14 years along with Johnnie Oliver and Josie Rey his  
15 sister. Although the Olivers maintained they were of  
16 Indian descent, they were not a federally acknowledged  
17 Indian tribe, band or community of Indians nor were  
18 they enrolled members of any federally acknowledged or  
19 recognized Indian tribe during that time between 1934  
20 and 1983 but were possibly descendants of a Miwok  
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1 Indian community or Indian band formerly inhabiting the  
2 region.

3 B. **The Tillie Hardwick Case & Stipulated Judgment.**

4 14. Twenty years later in 1979, after the Olivers  
5 were deeded the Buena Vista land, litigation ensued in  
6 a class action case entitled Tillie-Hardwick versus The  
7 United States et.al. [U.S.D.C. Northern Dist. of  
8 Calif.] case number C-79-1710 SW, alleging certain  
9 unlawful conduct on the part of the United States in  
10 evading promises made to certain Indians who were  
11 living on 16 different California Rancherias as  
12 assignees. These promises were to be performed by the  
13 United States prior to or immediately after the agreed  
14 upon termination and distribution of the particular  
15 Rancherias as authorized by the Rancheria Act. These  
16 promises generally included improvements to certain  
17 Rancherias to be made by the United States generally  
18 including water and sewer systems, roads, dwellings and  
19 other physical improvements located on the various  
20 Rancheria lands. No such unfulfilled promises existed  
21 for the Buena Vista Rancheria although that former  
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1 Rancheria was named individually, as one of the class  
2 Plaintiffs. The owners of fee lands, the Olivers were  
3 not named however the terminated Buena Vista Rancheria  
4 was named. A stipulated judgment was ultimately  
5 entered in that case on 19 July 1983 confirming that  
6 all of the land that had been deeded to named  
7 individual grantee Indians, such as the 67.5 acre Buena  
8 Vista parcel granted to Louie Oliver and Annie Oliver  
9 in 1959, was their own land and remained their land in  
10 fee simple absolute as conveyed. Notices were given to  
11 such grantees by Defendant Secretary informing them  
12 that their respective Rancheria lands were confirmed to  
13 them as their sole property in fee as it had been  
14 deeded and would remain so. Further the Secretary  
15 informed them that they were free to do what they  
16 wished with the entire property, however, as provided  
17 for in the 1983 stipulated judgment, if they chose to  
18 do so they had the right to convey or re-convey that  
19 fee land back to the United States to then be held in  
20 trust, as long as they did so within a two year period  
21 or made a formal motion to the court to extend that  
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1 time to make the election. The opportunity to convey  
2 or reconvey title to their fee owned land back to the  
3 United States government was ordered by the court under  
4 the statutory authority and processes of the I.R.A. If  
5 the Olivers or other grantees elected to re-convey the  
6 land to trust, then they were to do so in accordance  
7 with the established procedures for the transfer of all  
8 fee lands into federal Indian trust as set out in the  
9 I.R.A. 25 U.S.C. sections 465 et. seq. and pursuant to  
10 the rules and regulations for such transfers set out in  
11 25 C.F.R. part 151 et. seq. The Tillie-Hardwick court  
12 directed B.I.A. to assist anyone seeking to convey  
13 their fee land into trust. That right to convey the  
14 land into federal trust within the 2 year period  
15 provided was, personal to the Olivers as two of the  
16 affected individual Indians deeded fee land as referred  
17 to in the judgment. The Olivers did not elect to  
18 convey or reconvey that land back to the United States  
19 during that 2-year period, to be held in trust  
20 thereafter, nor did they ask for any extension of time  
21 to convey that land into federal Indian trust at any  
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1 time before their death and to this date that land is  
2 not now, and never has been held or transferred into  
3 federal Indian trust status.

4 C. **The chain of title to the Buena Vista Land**  
5 **post 1985.**  
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7 15. Over the years between 1986 and 1996 the 67.5  
8 acre property, originally owned by Louie and Annie  
9 Oliver in fee and confirmed to them by the Tillie-  
10 Hardwick judgment, was subsequently broken up by a  
11 series of fee simple grant deeds, a Will and by  
12 intestate probate proceedings that were conducted before  
13 the California State Superior Court for Amador County.  
14 The Amador County Superior Court entered final orders of  
15 distribution of those portions of the Buena Vista parcel  
16 subject to probate proceedings. The probate court then  
17 issued fee simple deeds for those affected portions of  
18 the fee land conveying them to certain named devisees or  
19 legatees. Neither the D.O.I. or the B.I.A. participated  
20 in these transfers.  
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25 D. **The creation of a putative new tribe.**  
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1           16.   Until at least 1994 there was no official  
2 B.I.A. or D.O.I. record of, or any proper  
3 acknowledgement or federal recognition of, any "tribe,"  
4 "band" or "community" of Indians known as the "Buena  
5 Vista Rancheria of Me-Wuk Indians."  
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7           17.   On or about the period from 1986 to 1988  
8 Donna-Marie Potts, who was not a member or tribal  
9 officer of any "Buena Vista Rancheria of Me-Wuk  
10 Indians" and was not a descendant of any of the  
11 original 4 occupants of the Buena Vista Rancheria, made  
12 application to the B.I.A. to have an entity she called  
13 the Buena Vista Rancheria of Me-Wuk Indians [BVRMI]  
14 acknowledged and recognized by the B.I.A. Donna-Marie  
15 Potts was a person of partial Maidu Indian heritage and  
16 an enrolled member of that tribe. The creation of this  
17 "tribe" was done by her apparently in order to take  
18 advantage of casino gaming opportunities developing in  
19 California at that time. Initially the B.I.A.  
20 questioned the authenticity of the purported "base  
21 enrollment roll" she had submitted with her application  
22 because it did not contain any descendants of the  
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1 original occupants and assignees of the previously  
2 dissolved Buena Vista Rancheria, that is, the Oliver  
3 family. The B.I.A. also questioned the legality of the  
4 proposed tribal constitution submitted by Donna-Marie  
5 Potts and the manner of its enactment. Eventually and  
6 without clear explanation in the record, the B.I.A.  
7 accepted these organizational efforts and acknowledged  
8 existence of this purported tribal entity of Donna-  
9 Marie Potts sometime after 2000. This acknowledgement  
10 was done without any notification to Plaintiffs Bea  
11 Crabtree and June Geary, the lawful descendants of one  
12 of the four original assignee occupants Johnnie Oliver.  
13 This acknowledgement was also accomplished without  
14 complying with Defendant Secretary's own criteria and  
15 procedures for acknowledgement of an Indian tribes as  
16 required by 25 C.F.R. part 83 et. seq. This putative  
17 "tribe" owned no land at that time in 1988 when the  
18 part Maidu Indian, Donna-Marie Potts, initially sought  
19 tribal acknowledgment and recognition for BVRMI.  
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25 18. While these unlawful organizational efforts  
26 were underway, on 28 August 1996 Donna Marie Potts  
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1 acquired in fee the last parcel of the previously split  
2 up Buena Vista land consisting of approximately 17  
3 acres of the former 67.5 acre Buena Vista tract. At  
4 that point in time, she had acquired all of the pieces  
5 of that land in fee simple and therefore unified title  
6 in her name. That last 17 acre parcel was acquired  
7 through a probate distribution and settlement of the  
8 estate of Lydia Oliver conducted in California Superior  
9 for Amador County Probate Case #5498 and was approved  
10 by settlement with the only remaining heir of Lydia  
11 Oliver, John Fielder.  
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15 19. On or about August 1, 1996 Donna-Marie Potts  
16 as then owner of the entire Buena Vista fee land  
17 purported to convey the entire 67.5 acre parcel by a  
18 grant deed made by her to this fictitious "Buena Vista  
19 Rancheria of Me-Wuk Indians." That deed was numbered  
20 006858 and recorded in the Amador County Recorder's  
21 Office. Within moments thereafter Donna Marie Potts  
22 then purported to convey this entire 67.5 acre parcel of  
23 land from this fictitious "Buena Vista Rancheria of  
24 Mewuk Indians" to the United States of America, signing  
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1 that deed as "tribal spokesperson," in an attempt to  
2 deed the land to the United States "in trust" for this  
3 purported tribe. She marked that deed with the legend  
4 "In trust for the Buena Vista Rancheria of Me-Wuk  
5 Indians." [Amador County Recorder, deed number 006859  
6 (the very next in order).] No proper application to the  
7 Department of Interior to transfer this land into trust  
8 pursuant to 25 U.S.C. sec. 465 & 25 C.F.R. Part 151  
9 et. seq. was submitted to B.I.A. At the time of this  
10 attempted conveyance of the Buena Vista land, no  
11 acknowledgement or recognition by the B.I.A. for this  
12 putative tribe had as yet occurred. In fact subsequently  
13 the B.I.A. rejected the deed Donna-Marie Potts had made  
14 and submitted, and did so as an improper attempt to  
15 convey land into federal Indian trust without authority.  
16 That rejection was evidenced by letter, dated 18  
17 November 1996 from Harold M. Bradford, Superintendent of  
18 the United States Department of Interior.

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24 E. **The efforts to obtain an Indian gambling**  
25 **casino.**  
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1           20. On or about September 1999 Donna Marie Potts,  
2 along with at least 58 other California Indian tribes,  
3 groups or Bands, submitted tribal-state class III  
4 gambling compacts to the then Governor Gray Davis for  
5 approval pursuant to an amendment to the California  
6 Government Code [Proposition 5] enacted in November 1998  
7  
8 to allow casino gambling on Indian lands in California.  
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10           21. In August 1999 the California Supreme Court,  
11 in a case entitled Hotel and Restaurant Employees Union  
12 International v. Gray Davis [1999] 21 Al.4<sup>th</sup> 585, 88  
13 Cal.Rptr.2d 56, 981 P.2d 990 held that these enacted  
14 sections of California Government Code were  
15 unconstitutional because the prohibition against casino  
16 style gambling by everyone in the state of California  
17 was established by the California Constitution Art. 4  
18 section 19. The California Supreme Court further held  
19 in that case, that Proposition 5 only amended the  
20 Government Code and therefore did not amend the State  
21 Constitution and was unconstitutional.  
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25           22. California's then Governor Gray Davis executed  
26 these 59 compacts anyway in September and October 1999,  
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1 including one for Donna-Marie Potts and for this  
2 purported "Buena Vista Rancheria of Me-Wuk Indians"  
3 which tribe did not legally exist and the State of  
4 California made no attempt to determine the authenticity  
5 of these 59 tribes or the eligibility of the site  
6 specific lands upon which these tribes sought to operate  
7 class III gaming casinos. Governor Davis then, without  
8 statutory authority, had the State Legislature ratify  
9 these 59 purported tribal-state compacts en masse in  
10 October 1999.  
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14 23. To avoid the impacts of the prior Supreme  
15 Court decision of August 1999 the State Legislature  
16 then crafted a legislative initiative, entitled  
17 Proposition 1A, which was placed on the March 2000  
18 ballot to, in effect, have the voters ratify the 59  
19 executed tribal-state compacts already existing, fully  
20 executed and legislatively approved 6 months earlier  
21 and without disclosure of that fact to the voters and  
22 after Proposition 5 was declared unconstitutional. The  
23 Proposition 1A legislative initiative contained  
24 provisions to amend Article 4 section 19 of the State  
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1 Constitution to allow the Governor to negotiate future  
2 compacts with eligible Indian tribes who held eligible  
3 Indian Lands, subject to legislative ratification and  
4 approval. Proposition 1A contained no reference to the  
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6 59 previously executed compacts.

7       24. On or about March 3rd, 2000 the voters of the  
8 State of California adopted and enacted Proposition 1A  
9 amending Art. 4 section 19 of the California  
10 Constitution authorizing the negotiation of future  
11 tribal-state compacts for casinos on Indian lands. The  
12 state then submitted the 59 existing previously  
13 executed and approved tribal-state gaming compacts to  
14 the Secretary of D.O.I. pursuant to the IGRA, 25 U.S.C.  
15 2710 d for the Secretary's required approval or  
16 disapproval which approval occurred in May 2000. The  
17 purported compact which was executed on behalf of BVRMI  
18 was executed and submitted by Donna-Marie Potts  
19 purporting to then be acting on behalf of this  
20 putative, unauthorized, as yet unacknowledged and  
21 fictitious Indian "tribe."  
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1           25. On or about December 7<sup>th</sup>, 2001 Rhonda  
2 Morningstar Pope filed suit in U.S. District Court  
3 Eastern District of California case No. 01-CV-2255 FCD  
4 DAD against the Secretary [Donna Marie Potts was the  
5 real party defendant in interest] alleging, among other  
6 things, that Donna Marie Potts was not and never was a  
7 member of any "Buena Vista Rancheria of Me-Wuk  
8 Indians," nor was she even a descendant of those  
9 occupants and assignees who had resided on the Buena  
10 Vista land when it was a federally fee owned Rancheria  
11 prior to its distribution by fee deed to Louie Oliver  
12 and Annie Oliver in 1959, the lawful occupants and  
13 assignees at the time.  
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17           26. The District Court imposed a preliminary  
18 injunction against the defendant Donna Marie Potts  
19 restraining her from taking any further steps toward  
20 constructing, opening or operating any class III  
21 gambling casino at the Buena Vista site.  
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24           27. On or about the month of March 2004 the  
25 preliminary injunction was lifted by court order for  
26 one day to allow Rhonda Morningstar Pope, Plaintiff in  
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1 that case, to execute a new "amended" tribal-state  
2 compact between her, purporting to then be acting for  
3 and on behalf of this putative "Buena Vista Rancheria  
4 of Me-Wuk Indians" and Governor Schwarzenegger then  
5 approved that amended compact. It is under the  
6 auspices of that amended compact that Rhonda  
7 Morningstar Pope and her two children, as well as  
8 Donna-Marie Potts and possibly a few other relatives,  
9 are now claiming to be BVRMI. They now assert they are  
10 entitled to construct and operate a class III gambling  
11 casino on the fee simple real property now owned in fee  
12 by this putative "tribe" of Indians. In addition,  
13 using that status as a purported "Indian tribe" Rhonda  
14 Morningstar Pope and Donna-Marie Potts and their  
15 relatives have been collecting over one million dollars  
16 [\$1,000,000.00] a year from the California Tribal  
17 Gaming Revenue Sharing Trust Fund and other federal and  
18 state welfare and grant monies that rightfully belong  
19 to Plaintiffs Bea Crabtree and June Geary and who were  
20 not parties to that federal lawsuit and had no notice  
21 of it. Defendant Governor Schwarzenegger made no  
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1 effort either, to determine whether BVRMI was entitled  
2 to receive these monies or was a valid tribal entity or  
3 that the Buena Vista land was eligible Indian lands.

4 28. On or about the 17<sup>th</sup> of December 2004 or  
5 thereafter and without determining the federal lawful  
6 status of this putative tribe or the eligibility for  
7 gaming on the Buena Vista fee lands, that pending  
8 lawsuit between Pope, the Secretary (Potts as real party  
9 in interest), the gambling investors who were backing  
10 the casino development project as well as the federal  
11 government agencies involved therein, settled that  
12 lawsuit by making or approving a substantial payment of  
13 many millions of dollars to Defendant Donna-Marie Potts,  
14 a Maidu Indian tribal member, from funds provided by a  
15 non-Indian shopping center developer named Wilmot from  
16 New York, who was financing the gambling casino  
17 development at Buena Vista for this putative "tribe"  
18 under the name and style of his New York company called  
19 the "Buena Vista Development Company L.L.C.", which was  
20 established in the State of New York. A consent  
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1 judgment was then entered pursuant to the stipulated  
2 settlement in that case on 17 December 2004.

3         29. On or about the 30<sup>th</sup> day of June 2005 an N.I.G.C.  
4 staff attorney, Penny Coleman, responded to a letter of  
5 inquiry concerning the gaming eligibility of the Buena  
6 Vista fee land. That inquiry was from an attorney Judith  
7 Albeitz, acting on behalf of BVRMI and the casino  
8 developers. Ms. Coleman then rendered a "letter opinion,"  
9 later described as an "advisory opinion," regarding the  
10 gaming eligibility land status. In that opinion she  
11 opined that the subject fee land at Buena Vista was  
12 eligible for class II and class III gaming. That letter  
13 opinion was later apparently joined in, or concurred in,  
14 by the Defendants Secretary and D.O.I. and by the N.I.G.C.  
15 and then Commissioner and Chairman Phillip Hogen. As a  
16 direct result of that Penny Coleman opinion letter, the  
17 operation of a class III gambling casino was subsequently  
18 approved by the Secretary and Chairman of N.I.G.C. to be  
19 constructed at the site specific Buena Vista fee land. In  
20 addition that approval for class III gaming included  
21 approval of a tribal gaming ordinance previously executed  
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1 and submitted by Donna-Marie Potts for BVRMI before any  
2 such tribe was lawfully acknowledged and later obtained  
3 the approval of that fictitious tribe's state gaming  
4 compact subsequently executed by the defendant California  
5 Governor Schwarzenegger, as hereinbefore set out and that  
6 amended compact was re-executed in final amended form in  
7 2007. As hereinbefore alleged, no effort was made by  
8 Defendant Governor Arnold Schwarzenegger or any other  
9 state official to determine if the fee land at Buena Vista  
10 was eligible Indian lands as required by federal law and  
11 by Article 4 section 19 of the California Constitution or  
12 whether the putative BVRMI was in fact eligible to enter  
13 into any tribal-state compact at all and to construct and  
14 operate either a class III or class II gaming casino at  
15 Buena Vista as proposed.  
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21 FIRST CAUSE OF ACTION

22 VIOLATION OF THE INDIAN GAMING REGULATORY ACT

23 AND ULTRA VIRES APPROVAL TO CONSTRUCT AND OPERATE

24 AN ILLEGAL INDIAN CASINO  
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COMPLAINT FOR DECLARATORY RELIEF, INJUNCTION  
AND/OR MANDAMUS OR PROHIBITION

1           30. Plaintiffs incorporate by reference each and  
2 every factual allegation contained herein in paragraphs 1  
3 through 29 inclusive as if set forth and replead here in  
4 full.

5  
6           31. Defendants Ken Salazar and the United States  
7 Department of Interior have only such authority and duty  
8 to regulate class II and class III gambling or gaming  
9 facilities that are to be operated by lawfully  
10 recognized Indian tribes and that seek to conduct such  
11 gaming operations on eligible "Indian lands" pursuant to  
12 25 U.S.C. 2703 defining eligible "Indian Lands" or as  
13 may be authorized by one of the exceptions for land  
14 acquired after October 1988 just as the Buena Vista land  
15 was in 1996. Those exceptions are set out in 25 U.S.C.  
16 2719. The duty and responsibility to determine the  
17 nature and status of all Indian Lands whether created by  
18 Act of Congress, Treaty or otherwise is the exclusive  
19 responsibility of the Secretary and D.O.I. with some  
20 technical assistance from the N.I.G.C. when gaming is  
21 involved.  
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1           32. As a mandatory part of that administrative and  
2 regulatory responsibility, Defendants Secretary Chairman  
3 and the N.I.G.C. working together, must determine if any  
4 proposed class II or class III Indian gaming activity is  
5 in fact to be conducted on eligible "Indian Lands" as  
6 provided for in 25 U.S.C. 2703 or 25 U.S.C. 2719, and  
7 also determine if a lawfully acknowledged Indian tribe  
8 has in fact exercised jurisdiction and control over the  
9 site specific eligible Indian lands proposed for gaming.  
10

11           33. The proposed construction of a class III  
12 gambling casino on this ineligible land at Buena Vista,  
13 owned in fee simple by BVRMI was approved by Defendants  
14 in violation of the I.G.R.A. and such approval was  
15 illegal and ultra vires and the decision to do so is and  
16 was an arbitrary and capricious action that is contrary  
17 to law.  
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19           34. As a direct and proximate result of the  
20 arbitrary, capricious and illegal approval for gaming on  
21 this ineligible and illegal parcel of fee land owned by  
22 the fictitious BVRMI, Plaintiffs and the People of the  
23 County of Amador including Bea Crabtree and June Geary,  
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1 the true Indian descendants actually entitled to organize  
2 any such Indian tribal government, if one was authorized  
3 by the Tillie-Hardwick judgment, are the persons who have  
4 been damaged and will continue to be irreparably damaged  
5 by these ultra vires, arbitrary and capricious acts,  
6  
7 contrary to law. Plaintiffs are therefore entitled to a  
8 declaratory judgment declaring the actions and inactions  
9 of defendants to be unlawful, arbitrary, capricious and  
10 contrary to law and Plaintiffs are also entitled to the  
11 injunctive and equitable relief, hereinafter prayed for.  
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15 SECOND CAUSE OF ACTION AGAINST GOVERNOR SCHWARZENEGGER  
16 AND THE STATE OF CALIFORNIA

17  
18 35. Plaintiffs refer to their First Cause of  
19 Action herein and all of the allegations set out in  
20 paragraphs 1 through 34 of this complaint and  
21 incorporate all of them herein as if set out and  
22 replead in their entirety.  
23

24 36. Article 4 section 19 of the California State  
25 Constitution authorizes gaming to be conducted only  
26 upon Indian Lands in California, any other class III  
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1 gaming in California is illegal. Those Indian Lands  
2 referred to in article 4 section 19 of the California  
3 Constitution are the lands defined by 25 U.S.C. 2703,  
4 and are one and the same. In addition before any such  
5 class III gaming activity is allowed on eligible Indian  
6 lands gaming can only be engaged in by a properly  
7 acknowledged lawful Indian tribe. Such a lawfully  
8 acknowledged tribe or band is the only tribal entity  
9 with standing to enter into a tribal-state compact  
10 pursuant to the provisions of 25 U.S.C. 2710 d and such  
11 a compact must be lawfully in effect under state law.  
12 [25 U.S.C. 2710 d(3).] Because the subject fee land at  
13 Buena Vista is not eligible Indian Lands, and  
14 Plaintiffs informed the defendant, Governor  
15 Schwarzenegger of that fact in 2006 and again in 2007,  
16 the defendant Governor had no authority and still has  
17 no authority to execute a tribal-state compact allowing  
18 such gaming to be conducted on this ineligible land and  
19 particularly by the fictitious BVRMI.  
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25 37. The Buena Vista casino currently being  
26 considered and proposed has already been unlawfully  
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1 authorized for the site specific Buena Vista fee lands  
2 which clearly do not meet any definition of eligible  
3 Indian lands. In addition, the putative group calling  
4 itself the "Buena Vista Rancheria of MeWuk Indians" has  
5 never exercised any governmental jurisdiction, dominion  
6 and control over that land at any time as required by  
7 law as hereinbefore set out, and had no legal standing  
8 to execute a tribal-state compact with defendant State  
9 of California. Any unlawfully or fraudulently  
10 recognized or acknowledged group of persons such as  
11 this putative band, including persons who may be non-  
12 Indians or members of a different tribe, are not  
13 eligible to engage in class II or class III gaming  
14 under the I.G.R.A. nor to organize as an Indian tribe  
15 or take land into trust under the I.R.A. or enter into  
16 a tribal-state compact or obtain approval of a tribal-  
17 state gaming compact or approval of any purported  
18 "tribal gaming ordinance" or to receive distributions  
19 from the California Tribal Revenue Sharing Trust Fund.

25 38. As a result of Defendant Secretary's  
26 improper recognition or acknowledgement of BVRMI and  
27

1 the Defendant Governor Schwarzenegger's failure to  
2 determine the fictitious identity of this "tribe" the  
3 state of California has been improperly distributing  
4 several million dollars to this group from the State's  
5 Indian Tribal Revenue Sharing Trust Fund, all to the  
6 detriment and damage of Plaintiffs Bea Crabtree and  
7 June Geary, the true descendants of the original  
8 occupants and assignees who were entitled to organize  
9 and be federally recognized as an Indian tribe, if in  
10 fact and law, the Tillie-Hardwick Judgment created the  
11 right to do so. Plaintiffs Bea Crabtree and June Geary  
12 are the persons who would be entitled to receive that  
13 money.  
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18 39. If any land on which class II or class III  
19 gaming is proposed is not eligible for conducting  
20 Indian gaming activities, sanctioned and approved under  
21 the terms and conditions set out in the IGRA, then the  
22 federal defendants have repeatedly taken the position  
23 that they have no jurisdiction and control over such  
24 illegal Indian gambling activity being conducted  
25 outside of their statutory authority as it is provided  
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1 by the IGRA. The defendant Secretary of the D.O.I. and  
2 the Chairman of N.I.G.C.'s position is, where illegal  
3 unauthorized gambling activity is on ineligible land or  
4 conducted by an unlawful or sham Indian tribe or anyone  
5 wrongfully and unlawfully claiming to be an Indian  
6 tribe occurs, that it is the State of California (or  
7 any other affected state) that has primary if not sole  
8 jurisdiction and responsibility to enforce all state  
9 laws prohibiting illegal gambling casinos being  
10 operated within the state and the state is responsible  
11 to take any necessary enforcement actions.

15 40. Under current law the state of California has  
16 no independent authority to approve or enter into any  
17 tribal-state gaming compact with any Indian or Indian  
18 tribe that seeks to construct, own and operate any  
19 class II or class III gaming casino unless it is doing  
20 so lawfully pursuant to the I.G.R.A. and particularly  
21 any class III gaming activity under 25 U.S.C.  
22 2710(d)(3) because such gambling is otherwise expressly  
23 prohibited by the California State Constitution and the  
24 State's Penal Code.

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THIRD CAUSE OF ACTION

VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT [APA]

41. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1 through 40 inclusive contained in this complaint and the First and Second Causes of Action herein, and incorporate all of them herein as though they were set forth and replead here in full.

42. Several administrative determinations are required by Defendants under the IGRA, including the determination that all class II and III gambling is to be located on eligible "Indian Lands" as defined in the I.G.R.A. and as required by 25 C.F.R. section 559.1. Administrative agency approval of illegal Indian gaming on ineligible lands is subject to judicial review under the A.P.A, title 5 U.S.C. 701a. et.seq. This Judicial review process is established to insure Agency compliance with the applicable laws and because in this case, there is no distinctive statutory, judicial or other review process or appeal established within the

1 I.G.R.A. and provided to restrain or to legally  
2 challenge any arbitrary, or capricious actions or  
3 inactions that are contrary to law and which are ultra  
4 vires and illegal acts as those that have occurred  
5  
6 here.

7 43. Any person or persons who are injured and  
8 aggrieved or likely to be injured because an erroneous  
9 administrative decision approving an illegal Indian  
10 gambling casino or are injured by a federal or state  
11 agency which fails to prevent such illegal activity  
12 within their community, has legal standing to challenge  
13 actions taken or failures to act, by the Defendants, as  
14 a violation of the A.P.A, 5 U.S.C. 701 et. seq. and  
15 other applicable laws.  
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19 44. These plaintiffs have repeatedly brought to  
20 the attention of all the defendants, that the Buena  
21 Vista fee land is not eligible for class II or class  
22 III gambling because it is not "Indian Lands" as  
23 required by law. Plaintiffs have exhausted all  
24 available administrative procedures including informal  
25 administrative appeals to the Defendant Secretary of  
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1 the D.O.I. and Defendant Chairman of the N.I.G.C. and  
2 defendant Governor Schwarzenegger, any further attempts  
3 to resolve this dispute administratively would be  
4 futile.

5  
6 45. Defendants' determination to allow  
7 construction of, and the operation of, an illegal class  
8 III gambling casino at the Buena Vista fee property  
9 site, and their approval of the Buena Vista Gaming  
10 Ordinance for this site, the letter opinion of June 30,  
11 2005 and the March 2004 and the 2007 approvals of the  
12 amended tribal-state compacts for this ineligible land  
13 are all violative of 5 U.S.C. 701. Plaintiffs have  
14 standing to challenge the Defendant federal agency  
15 under the A.P.A. 25 U.S.C. 701 et.seq., which creates a  
16 cause of action for conduct that is:  
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20 Arbitrary, capricious, an abuse of discretion,  
21 **or otherwise not in accordance with the law;**  
22 and are contrary to constitutional right,  
23 power, privilege, or immunity; and are in  
24 excess of statutory jurisdiction, authority,  
25 or limitations, or short of statutory right;  
26 and are done without observance of procedure  
27 required by law. [emphasis added]  
28

1           46. In addition before granting any discretionary  
2 approval for gaming by a person or persons claiming to  
3 be an Indian tribe, band or community, the federal  
4 defendants had a duty to determine whether such an  
5 Indian entity was lawfully acknowledged and required  
6 compliance with the 25 C.F.R. part 83 criteria, which  
7 are set out in detail in 25 C.F.R. parts 83.1 through  
8 83.8, before recognizing and acknowledging the claimed  
9 Indian group, tribe, or band seeking acknowledgement  
10 for gaming purposes. The provisions of the I.G.R.A.  
11 were intended to benefit real Indian groups, tribes or  
12 bands who engage in or intend to engage in lawful  
13 gaming activities conducted on eligible Indian Lands,  
14 not as a means to expand casino gambling opportunities  
15 for non-Indian investors all over California and those  
16 who want to cash in on gambling profits in the guise of  
17 being an Indian tribe.  
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22           47. As hereinbefore set out, the defendants have  
23 failed, and neglected to follow their own statutory  
24 duties and procedures and have recognized a non-  
25 existent and fictitious tribe for the express purposes  
26 of authorizing a class III gambling casino on fee lands  
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1 that are not eligible for such gaming and are violative  
2 of the requirements of law and the federal defendants  
3 failed and neglected to even give notice of the  
4 unauthorized tribal organization attempts by Donna-  
5 Marie Potts, to the true descendants of Rancheria  
6 occupants and assignees Plaintiffs Bea Crabtree and  
7 June Geary, Defendants further failed and neglected to  
8 give them any notice of the pending lawsuit between  
9 Wanda Morningstar Pope and the Secretary, case no. CIV-  
10 S-01-2255 FCD DAD or its proposed and purported  
11 stipulated settlement of that case and consent judgment  
12 therein.  
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16  
17 FOURTH CAUSE OF ACTION

18 AGAINST DEFENDANT GOVERNOR ARNOLD SCHWARZENEGGER,

19  
20 GOVERNOR OF CALIFORNIA

21 48. Plaintiffs refer to their First, Second and  
22 Third Causes of Action herein and all of the  
23 allegations set out in this complaint paragraphs 1  
24 through 47, incorporating them herein as if set out and  
25 replead in their entirety.  
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1           49. Where any lawfully established Indian tribe  
2 seeks to conduct class III gaming on "Indian Lands" in  
3 California they must enter into a tribal-state compact  
4 pursuant to 25 U.S.C. 2710 d that is lawfully in effect  
5 under state law, 25 U.S.C. 2710 d(3).  
6

7           50. As a term and condition of the approval of  
8 any class III tribal-state compact in California the  
9 Governor and the State of California has imposed a  
10 number of environmental restrictions and limitations on  
11 Indian Tribes seeking such a class III gaming compact  
12 and casino. These conditions and restrictions require  
13 adequate mitigation of any significant negative impacts  
14 resulting from the approval of any class III gaming  
15 facility on Indian lands. That process requires the  
16 preparation and submission of what is described as a  
17 Tribal Environmental Impact Report [T.E.I.R.]. By  
18 definition that T.E.I.R. also requires input and  
19 information from the affected citizens and communities  
20 that are, or could be, negatively impacted by such a  
21 class III casino and also requires at least a good  
22 faith analysis and mitigation of those negative impacts  
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1 pursuant to federal law, 25 C.F.R. sec. 559.1 and 559.5  
2 as well as the I.G.R.A.

3         51. In addition to approving the operation of a  
4 class III gaming facility on ineligible fee lands at  
5 Buena Vista in violation of the I.G.R.A. defendant  
6 Governor Schwarzenegger has failed, refused and  
7 neglected to adequately consider important negative  
8 impacts identified to him by the affected community and  
9 it's citizens, including Plaintiffs herein, Friends of  
10 Amador County. Despite the existence of these several  
11 identified and significant negative impacts Defendant  
12 Governor Schwarzenegger has failed, refused and  
13 neglected to require adequate identification and  
14 mitigation of those impacts by BVRMI in order to  
15 protect the affected community, the County of Amador,  
16 California, the nearby municipal entities and all the  
17 residents of the county.

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22         52. Defendant Governor Schwarzenegger's failure,  
23 neglect and refusal to follow the requirements for an  
24 adequate T.E.I.R. are part of a pattern of denying  
25 affected local communities any environmental protections  
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1 from Indian casinos in an effort to approve expanded  
2 Indian gaming enterprises in California, many with  
3 questionable legal status and on ineligible lands, in  
4 order to obtain gambling monies and revenues to resolve  
5 state budget shortfalls, all to the detriment of the  
6 community, its citizens, the environment and quality of  
7 life that is significantly diminished by such gambling  
8 enterprises and which also violates the requirements of  
9 the I.G.R.A., as set out in 25 Code of Federal  
10 Regulations sections 559.1 and 559.5 and 25 C.F.R. sec.  
11 292.13 which all require that any Indian Gaming  
12 operations be, "conducted in a manner that protects the  
13 public safety and environment." In addition as herein  
14 set out no Indian land acquired after 1988, as this land  
15 was, is entitled to either class III or class II gaming  
16 unless it becomes eligible as an exception to the rule  
17 of section 2703 prohibiting gaming on land acquired  
18 after October 1988. Any such an exception under 25  
19 U.S.C. 2719 requires, among other things, a finding by  
20 the Defendant Secretary, concurred in by the Defendant  
21 California Governor, that any such casino on lands  
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1 acquired after 1988 would not be detrimental to the  
2 surrounding community.

3  
4 PRAYER FOR RELIEF

5  
6 WHEREFORE, Plaintiff prays that:

7 1. The court determine and declare by judgment that  
8 the proposed site at Buena Vista is fee land not eligible  
9 "Indian lands" as required by 25 U.S.C. 2703 and is it  
10 entitled to any exception that is provided for by 25  
11 U.S.C. 2719. Further the court declare that the "Indian  
12 lands eligibility" determination made in a "letter  
13 opinion" by Penny Coleman on 30 June 2005 and  
14 subsequently joined in by the Chairman, the N.I.G.C. and  
15 the Secretary of D.O.I., was and is arbitrary, capricious  
16 and contrary to law and is a violation of the A.P.A. 5  
17 U.S.C. 701 et. seq. Further the court determine or  
18 declare that approval of the gaming ordinance, unlawfully  
19 obtained earlier by one Donna-Marie Potts and the tribal-  
20 state compact she obtained without lawful authority or  
21 standing in 1999 which was finally approved by the  
22 Secretary and the Governor of California in March 2004  
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1 and again, as amended in 2007, are all invalid ab initio  
2 and violate the A.P.A. 5 U.S.C. 701 et. seq. and the  
3 I.G.R.A.

4           2. This court also determine and declare that  
5 Defendant Secretary's previous approval and any  
6 subsequent approval of any tribal-state compact entered  
7 into between Defendant Governor Schwarzenegger and one  
8 Rhonda Morningstar Pope entered into in March 2004 and  
9 again approved in final amended form in 2007 was  
10 arbitrary, capricious and contrary to law and violative  
11 of the I.G.R.A. and was not entered into pursuant to any  
12 lawful tribal gaming ordinance by any lawful tribe.  
13 Further the court declare that Defendant Secretary's  
14 tribal acknowledgement of the putative tribal entity  
15 calling itself the "Buena Vista Rancheria of Mewuk  
16 Indians," and the Secretary's participation in a  
17 purported stipulation and consent judgment in December  
18 2004 was unlawful, and a recognition and acknowledgement  
19 or approval obtained by fraud, without notice to  
20 Plaintiffs Bea Crabtree and June Geary, and that any such  
21 acknowledgement be ordered vacated as violative of the  
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1 I.G.R.A. and also constitutes a violation of the  
2 Administrative Procedures Act because such approvals were  
3 arbitrary, capricious, illegal and contrary to law  
4 without authority and constituted ultra vires acts ab  
5 initio.  
6

7 3. The court further determine and declare that the  
8 environmental assessment, evaluation and proposed TEIR  
9 approved by Defendant Governor Arnold Schwarzenegger as  
10 part of the tribal-state compact process and federal law  
11 is not adequate by the State's own requirements and  
12 standards for a T.E.I.R. as a condition of approving any  
13 tribal-state compact pursuant to Art. 4 section 19 of the  
14 California Constitution, and does not comply with federal  
15 law pursuant to 25 U.S.C. 2710 d(3) and 25 C.F.R. parts  
16 559.1, 559.5 and part 293. That insufficient  
17 environmental assessment was given and approval then  
18 granted despite well identified significant negative  
19 impacts which were ignored and unmitigated. That  
20 sufficient mitigations of those many negative impacts  
21 should have been required as a condition of approval of  
22 the T.E.I.R. which T.E.I.R. is made a part of the tribal-

1 state compact by state law. Further that an adequate  
2 T.E.I.R. should be ordered to be properly prepared with  
3 required mitigations unless, as hereinbefore set out,  
4 such compact is declared herein to be illegal and the  
5 casino project at Buena Vista determined to be unlawful  
6 as one proposed to be constructed on ineligible lands  
7 rendering any required T.E.I.R. moot.  
8

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10 4. Further, that the court issue its preliminary  
11 injunction immediately preventing any further pursuit of  
12 the proposed gaming casino, to be constructed on  
13 ineligible fee land at Buena Vista. That these  
14 Defendants be ordered restrained and enjoined from  
15 authorizing or approving the continuation of the casino  
16 construction and be restrained from granting and further  
17 approvals, issuing any gaming facility licenses, permits,  
18 management contracts or otherwise allowing any class II  
19 or class III gaming activity to occur on that site  
20 without first complying with all of the provisions of the  
21 IGRA, the applicable regulations contained in the C.F.R.  
22 and contained in Article 4 section 19 of the California  
23 Constitution, until this case is concluded.  
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1           5. In the alternative, the court to issue an order  
2 or writ of mandate or prohibition pursuant to 28 U.S.C.  
3 1651(a) and order that Defendants be ordered to not be  
4 allowed construction of any class III or class II casino  
5 on this parcel of land until it has been determined and  
6 declared herein what the eligibility status, if any, of  
7 the Buena Vista land is determined, and further what the  
8 true status of this putative tribe named the BVRMI is and  
9 also until the status and rights of Plaintiffs Bea  
10 Crabtree and June Geary are determined herein.

11           6. The court further order that the previous  
12 approval of the T.E.I.R. by defendant Governor  
13 Schwarzenegger and the tribal-compact based upon that  
14 approval be vacated with such further orders of this  
15 court as may be appropriate depending upon whether other  
16 issues herein are determined which could render that  
17 T.E.I.R. requirement moot.

18           7. In addition the court order that all future  
19 distributions of funds to the entity called the "Buena  
20 Vista Rancheria of Me-Wuk Indians" from the California  
21 Indian Revenue Sharing Trust Fund and any grant monies  
22



1 that may be due from the federal defendants and federal  
2 agencies be paid over to or interplead into this court  
3 and deposited into an interest bearing trust account  
4 pendente lite and a constructive trust be established  
5 over those funds. Further, in the event that any  
6 application is made to attempt to transfer the subject  
7 Buena Vista fee land into trust under the procedures in  
8 the I.R.A. 25 U.S.C. 465 et. seq. that the court require  
9 all applicable federal laws, current case law and  
10 regulations applicable to any such fee to trust transfer  
11 be required to be complied with by Defendants.

15 8. Lastly, that the court issue its declaratory  
16 judgment on the grounds raised by this complaint and  
17 ultimately issue its permanent injunction consistent with  
18 that declaratory judgment and, until this matter is  
19 resolved, the court issue its temporary restraining order  
20 or preliminary injunction to preserve the status quo and  
21 prevent any gaming operation as proposed to be  
22 constructed and conducted on this site at Buena Vista,  
23 pending the entry of it's final declaratory judgment or  
24 entry of any permanent injunction in this case.

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9. For all costs of suit incurred by Plaintiff herein and for attorneys fees when they are permitted by law or are available pursuant to the Equal Access to Justice Act.

10. For such other and further relief as the court deems appropriate in law or in equity upon the facts and law of this case.

Date: 5 February 2010

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James E. Marino  
Attorney for Plaintiffs