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18
19 IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

20 Scotts Valley Band of Pomo Indians of)
21 the Sugar Bowl Rancheria, et al.,)
22 Plaintiffs,)
23 v.)
24 United States of America, et al.)
25 Defendants.)

No. C-86-3660-VRW
STIPULATION FOR ENTRY OF JUDGMENT
(CHICO RANCHERIA)

26 Gerald R. Stewart, et al.; County of)
27 Sonoma; and City of Chico,)
28 Defendants-Intervencors.)

STIPULATION FOR ENTRY OF JUDGMENT
(CHICO RANCHERIA)

1 The Mechoopda Indian plaintiffs,¹ the Federal defendants
2 and the City of Chico (hereinafter "the parties"), enter into
3 the following stipulation for the purpose of reaching a
4 compromise and final settlement of the claims alleged by said
5 plaintiffs against the Federal defendants in the Third Amended
6 Class Action Complaint For Declaratory And Injunctive Relief And
7 Damages, filed herein on April 29, 1991. The settling parties
8 understand that this stipulation shall provide the basis for
9 entry of a judgment by the Court which will serve to implement,
10 in an orderly and timely fashion, the substantive and procedural
11 matters agreed to herein. Accordingly, the parties stipulate
12 and agree as follows:

13 1. Federal defendants agree that the Chico Rancheria was
14 not terminated, and the Rancheria assets were not distributed,
15 in accordance with the provisions of the Act of August 18, 1958,
16 P.L. 85-671, 72 Stat. 619, as amended by the Act of August 11,
17 1964, P.L. 88-419, 78 Stat. 390 ("the Rancheria Act"). Federal
18 defendants further agree that the Indian status of the persons
19 named as distributees in the distribution plan of the Chico
20 Rancheria was not terminated in accordance with the Rancheria
21 Act.

22 2. Federal defendants agree that the distributees and the
23 dependent members of the Chico Rancheria, and their lineal
24 descendants, will have the individual and collective status and
25

26 ¹ The named plaintiffs, representing the interests of the
27 Mechoopda Indians, are Robyn D. McHenry, Loretta Lynn, Roberta J.
28 Clements, Dennis E. Ramirez, Clara Wilson and Eileen Gladys
Wilson.

1 rights, including the rights to organize for their common
2 welfare and to govern their affairs, which they had prior to
3 termination. Federal defendants further agree to deal with
4 these Indians on the same basis on which they deal with other
5 Indians of a similar status.

6 3. Federal defendants agree that, within 30 days of the
7 Court's approval of the entry of judgment pursuant to this
8 stipulation, the Assistant Secretary will transmit to the
9 Federal Register for publication a proclamation stating:

- 10 a. that the Chico Rancheria was not lawfully
11 terminated and its assets were not distributed in
12 accordance with the provisions of the Rancheria
13 Act, Act of August 18, 1958, P.L. 85-671, 72 Stat.
14 619, as amended by the Act of August 11, 1964, P.L.
15 88-419, 78 Stat. 390;
- 16 b. that the distributees of the Chico Rancheria are
17 eligible for all rights and benefits extended to
18 Indians under the Constitution and laws of the
19 United States; and
- 20 c. that the Mechoopda Indian Tribe of the Chico
21 Rancheria and its members shall be eligible for all
22 rights and benefits extended to other federally
23 recognized Indian tribes and their members,
24 including Indian tribes defined and organized under
25 the provisions of the Indian Reorganization Act
26 (IRA), 25 U.S.C. § 461 et seq.

27 4. Effective as of the date of entry of this stipulation
28 by the Court, the Mechoopda Tribe shall, consistent with Federal

1 law, have the right to determine its own membership and
 2 otherwise to govern its internal and external affairs as a
 3 tribal entity consistent with its status prior to termination.
 4 When and if the members of the Mechoopda Tribe reorganize
 5 pursuant to federal statute, the federal defendants agree to add
 6 them to the list of federally recognized tribal entities then
 7 being used and will include them on any list of tribal entities
 8 published in the Federal Register. The name of the tribal
 9 entity entered on the list(s) shall be the name chosen by the
 10 Mechoopda Tribe in its governing document. The Federal
 11 defendants further agree to advise the Commissioner of the
 12 Internal Revenue Service promptly that the Mechoopda Tribe has
 13 organized to exercise governmental functions and has been added
 14 to the list of tribal entities.

15 5. Lands Within the Former Boundaries of the Chico
 16 Rancheria and Currently in Indian Ownership

17 Federal defendants agree to accept in trust status that
 18 particular parcel of land within the boundaries of the former
 19 Chico Rancheria which is identified as Butte County Assessor's
 20 Parcel No. 43-18-0-036-0-0, and which is currently used as a
 21 cemetery for the Mechoopda Tribe. This parcel is currently in
 22 Indian ownership and was deeded or passed as tribal community
 23 property as a direct consequence of termination. Title is
 24 currently held in the name of Henry Azbill, et al., Trustees c/o
 25 Mechoopda Indian Tribe. The Mechoopda Indian plaintiffs agree
 26 that the use of this parcel shall be restricted solely to its
 27 current use as a cemetery.

28 The only other parcel of land within the boundaries of the

1 former Chico Rancheria remaining in Indian ownership is that
2 particular parcel of land identified as Butte County Assessor's
3 Parcel No. 43-18-0-039-0-0. Title to this parcel is currently
4 held in joint tenancy by Donna Mae Rickard, and her daughter, E.
5 Jean Berney, who desire that the parcel remain in fee status.
6 (See Affidavits of Donna Mae Rickard, and E. Jean Berney,
7 attached hereto as Exhibits A and B.) The Mechoopda Indian
8 plaintiffs, Ms. Rickard and Ms. Berney agree that this parcel
9 shall remain in fee status.

10 6. Interests in Allotted Lands Outside the Boundaries of
11 the Former Chico Rancheria.

12 Since persons listed in the plan for distribution of assets
13 of the Chico Rancheria may have acquired interests in trust
14 lands outside the Rancheria, which interests may no longer be
15 held in trust because of the purported termination of the Indian
16 status of the listed persons, Federal defendants agree to accept
17 in trust any fee interests in trust or former trust allotments
18 issued to such persons, if such interests are currently held in
19 the name of the Mechoopda Indian distributee, or of his/her
20 dependent or Indian heir, or successor in interest, provided the
21 successor is an Indian of the rancheria or reservation where the
22 allotment is located. The parties acknowledge that there is
23 only one public domain allotment in Butte County and that it
24 would not be affected by this provision or paragraph 9 because
25 the interests therein are not held by any Mechoopda Indian
26 distributee of the Chico Rancheria, or by his/her dependent or
27 Indian heir, or Indian successor in interest.

28

7. Improvements to the Indian Cemetery Within the Former Boundaries of the Chico Rancheria

Federal defendants agree to contribute up to \$5,000.00 toward the cost of constructing a fence around the cemetery parcel identified in Paragraph 5.

Plaintiffs agree to construct a fence around the cemetery within one year of the date this stipulation, fully executed by the parties' counsel, is filed with court. At least those portions of the fence that face West Sacramento Avenue and Rancheria Road will be constructed of wrought iron, unless the funds available prove to be inadequate for this purpose. In that event, plaintiffs and the City of Chico will either secure the necessary additional funds, or will consider a less expensive form of fencing that is agreeable to the plaintiffs and the City, and which can be constructed within the funds available.

8. Future Land Acquisitions Within the Boundaries of the Former Chico Rancheria

With respect to any future acquisition of land within the exterior boundaries of the former Chico Rancheria by the Mechoopda Tribe, the Mechoopda Indian plaintiffs agree that acceptance of any such land in trust status shall be subject to the condition that its use be and remain consistent with the land use element of the General Plan of the City of Chico or the County of Butte, whichever may apply.

9. Process for Restoring Trust Status -- Mechoopda Indian Cemetery and Interests in Allotments

Federal defendants agree that restoration of lands to trust status under the provisions of Paragraphs 5 and 6 above shall be

1 accomplished as follows:

2 a. Notice - Publication: Federal defendants shall
3 publish a copy of the judgment entered herein in
4 a newspaper of general circulation within the
5 county in which the trust lands are located.
6 Additionally, a copy of the judgment shall be
7 mailed to:

8 (1) each individual Indian person listed in the
9 Termination Proclamation for the Chico
10 Rancheria, and

11 (2) such other persons, based on all available
12 information in the possession of the Federal
13 defendants and any other information
14 supplied by the Mechoopda Indian plaintiffs,
15 who may be related to or descended from any
16 such individual, for whom the Bureau of
17 Indian Affairs has a current or last known
18 address.

19 b. Election to Convey: Each Indian of the Mechoopda
20 Tribe who has retained any interest in or to
21 allotted lands, fee patent to which was issued
22 upon or, in the judgment of the Secretary, as a
23 direct result of the purported termination of the
24 Chico Rancheria, may elect to convey his or her
25 interest to the United States, to be held in
26 trust for the benefit of a person who is related
27 by blood or, at the time of this decree, is the
28 individual's spouse and is otherwise eligible to

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have land held in trust as an Indian by the United states for his or her benefit. With respect to the Mechoopda cemetery parcel, the trustees for the Mechoopda Tribe listed on the fee patent shall be entitled to convey the interests therein to be held in trust by the United States for the benefit of the Indians of the Mechoopda Tribe, or such other recognized Mechoopda tribal entity as specified in the instrument of conveyance.

c. Form of Conveyance Instrument; Conditions and Restrictions: Conveyance of title to the United States made pursuant to paragraphs 5 or 6 may, at the election of the grantor, provide that the United States will hold title in trust for an Indian or Indians, as provided above, or a tribal entity of the Mechoopda Tribe, and be subject to such conditions or restrictions as set forth in the instrument of conveyance; provided such conditions and restrictions are acceptable to the United States; and, provided further, that the United States shall not unreasonably withhold its acceptance.

d. Recording Conveyance: Upon acceptance of any instrument or instruments conveying to the United states title to the Mechoopda cemetery on the former Chico Rancheria, or to interests in allotted lands pursuant to this stipulation and

1 the judgment entered thereon, the Secretary of
2 the Interior or his designee shall promptly
3 record said instruments with the County Recorder
4 of the county in which said lands are located.

5 10. Nothing in this stipulation shall be construed to
6 require the Secretary to accept in trust any land which has on
7 it hazardous substances or contaminants. Before the Secretary
8 accepts any land in trust pursuant to this stipulation, a
9 hazardous substance determination shall be made in accordance
10 with 602 DM 2 and the instructions for implementing that chapter
11 of the Department Manual described in 54 BIAM Bulletin 1, dated
12 March 9, 1990, and any duly adopted revisions of the manual or
13 instructions. (Copies of 602 DM 2 and 54 BIAM Bulletin 1 are
14 attached hereto as Exhibits C and D, respectively.)

15 11. Should lands be acquired in the future on behalf of
16 the Mechoopda Tribe, if organized under the IRA, the Secretary
17 shall, within 180 days of acquisition, consider and respond to a
18 request to issue a proclamation in accordance with 25 U.S.C. §
19 467 that such newly acquired lands constitute an Indian
20 reservation.

21 12. The Federal defendants will, following the execution
22 of this stipulation by their counsel, prepare a comprehensive
23 needs assessment for the Mechoopda Tribe, including the
24 projected needs of the Tribe for Federal programs and services
25 through Fiscal Year 1994.

26 The Federal defendants will provide workshops prior to
27 March 1992 to be conducted by a technical team comprised of
28 representatives from the Bureau of Indian Affairs, the Indian

1 Health Service, the Department of Housing and Urban Development,
2 and such other consultants as may be necessary, for the purpose
3 of providing needed technical assistance to the Mechoopda Tribe.
4 The scheduling and content of the workshops will be developed by
5 the Federal defendants in consultation with representatives from
6 the Mechoopda Tribe and will be designed to provide, at a
7 minimum, specific information regarding Federal programs
8 available to Indian tribes, including the tribal contracting
9 requirements of Public Law 93-638, and an overview of those
10 Indian programs available to meet the developmental needs of
11 individual Indians, such as health care, education and
12 vocational training. The Federal defendants shall cover the
13 costs of attendance at the workshops of at least one
14 representative from the Mechoopda Tribe.

15 13. The Mechoopda Indian plaintiffs will provide the
16 federal defendants with the names, current or last known
17 residential address of each potential class member to whom it
18 has given notice of this proposed settlement and the names and
19 ages of all minors who are dependents of potential class
20 members. The Mechoopda Indian plaintiffs will give written
21 notice of the terms of the settlement to all members of the
22 plaintiff class, as such class is defined in Paragraph 10 of the
23 Third Amended Class Action Complaint, filed herein on April 29,
24 1991. The costs of giving such notice shall be borne solely by
25 the Federal defendants. The form of notice, the deadline for
26 responding to the notice, and other procedures for class members
27 to opt in or out of the settlement, shall be set forth in a
28 separate stipulation to be filed with the Court.

STIPULATION FOR ENTRY OF JUDGMENT
(CHICO RANCHERIA)


1 14. The Mechoopda Indian plaintiffs, in consideration of
 2 the above agreements by the Federal defendants, will (a) release
 3 and forever discharge Federal defendants from and against any
 4 and all liability, including attorneys' fees and costs, arising
 5 out of this litigation and settlement, provided, this release
 6 and discharge shall not apply to claims relating to hazardous
 7 substances or contaminants which may be identified in any survey
 8 conducted in order to make the determination required by
 9 paragraph 9 of this agreement; and (b) will dismiss with
 10 prejudice all money damages claims alleged herein against the
 11 Federal defendants, including any individual and tribal claims.

12 15. It is agreed that the Mechoopda Indian plaintiffs will
 13 not seek, and Federal defendants will not agree, to reestablish
 14 the former boundaries of the Chico Rancheria, and that no action
 15 taken in connection with this settlement shall be construed as
 16 reestablishing the former Rancheria boundaries.

17 16. It is understood that none of the terms of this
 18 agreement shall deprive a Federal official of his authority to
 19 revise, amend or promulgate regulations, nor shall this
 20 agreement be construed to commit a Federal official to expend
 21 funds not appropriated by Congress. Furthermore, the sole
 22 remedy of the Mechoopda Indian plaintiffs for the failure of
 23 the Federal defendants to comply with its terms shall be to
 24 initiate such proceedings in this action as may be available, or
 25 file a new action in the United States district court, to
 26 enforce the provisions of this stipulation and the judgment
 27 entered thereon.

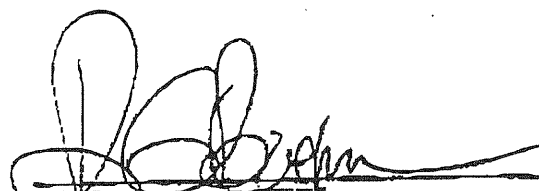
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Dated: ~~December~~ ^{January} 3, 1992.


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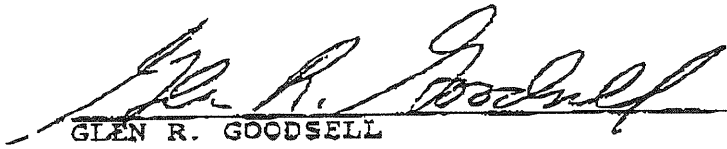
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Dated: December 19, 1991.


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Dated: December 31, 1991.


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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Scotts Valley Band of Pomo
Indians of the Sugar Bowl
Rancheria, et al.,

Plaintiffs,

v.

United States of America, et
al.,

Defendants.

Gerald R. Stewart, et al.;
County of Sonoma; City of
Chico,

Defendants-Intervenors.

) NO.: C-86-3660-VRW
)
) ORDER FOR ENTRY OF
) JUDGMENT AND JUDGMENT

ENTERED IN CIVIL DOCKET APR 29 1992

On April 17, 1992, this matter came on for hearing on approval of the proposed settlement of the claims of the Mechoopda Indians of the Chico Rancheria pursuant to the order prescribing notice of settlement and hearing on approval of settlements issued by the Court on January 17, 1992. This action has not been certified as a class action; however, the Court previously determined that it was proper to proceed under the procedures of Fed.R.Civ.P. 23(e) to ensure that the

1 settlement and dismissal of plaintiffs claims would not
2 prejudice the interests of the putative class. See Diaz v.
3 Trust Territory of the Pacific Islands, 876 F.2d 1401, 1408 (9th
4 Cir. 1989).


5 Having reviewed the Stipulation For Entry Of Judgment
6 (Chico Rancheria), filed January 6, 1992, the Certificate Of
7 Counsel, filed April 10, 1992, setting forth the plaintiffs' and
8 Federal defendants' reasons for supporting the settlement, the
9 Report Of Plaintiffs' Counsel Re: Objections To Proposed
10 Settlement And Undelivered Notices Of Settlement, filed April
11 10, 1992, and the other pleadings and papers on file; and having
12 fully considered the arguments of counsel and noting that no
13 objection has been made to the proposed settlement, the Court
14 finds that:

- 15 1. Notice was duly given to putative class members as
16 ordered by the Court.
- 17 2. The Stipulation For Entry Of Judgment compromising and
18 settling the claims of the Mechoopda Indian plaintiffs
19 will result in a judgment that is fair, just and
20 reasonable, is not collusive, and will not prejudice
21 the interests of the putative class.
- 22 3. There is no just reason to delay entry of a final
23 judgment in accordance with Fed.R.Civ.P. 58 disposing
24 of the claims of the Mechoopda Indian plaintiffs in
25 accordance with the terms of the Stipulation For Entry
26 Of Judgment.

27 Accordingly, IT IS ORDERED THAT final judgment be, and
28 hereby is, entered according to the terms of the Stipulation For

1 Entry Of Judgment (Chico Rancheria), filed January 6, 1992.

2 Dated: April 17, 1992



VAUGHN R. WALKER
United States District Judge

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