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13
14 IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

15 JAMUL ACTION COMMITTEE and the JAMUL)
16 COMMUNITY CHURCH,)
17 Plaintiffs,)
18 v.)
19 JONODEV CHAUDHURI, Acting Chairman of the)
National Indian Gaming Commission, S.M.R.)
20 JEWELL, Secretary of the United States)
Department of the Interior, KEVIN WASHBURN,)
21 Assistant Secretary-Indian Affairs, U.S.)
Department of the Interior, PAULA L. HART,)
22 Director of the Office of Indian Gaming, Bureau of)
Indian Affairs, AMY DUTSCHKE, Regional)
23 Director, Bureau of Indian Affairs, JOHN)
RYDZIK, Chief, Division of Environmental,)
24 Cultural Resources Management and Safety of the)
Bureau of Indian Affairs, THE UNITED STATES)
25 DEPARTMENT OF THE INTERIOR and the)
26 NATIONAL INDIAN GAMING COMMISSION,)
27 Defendants.)
28

CASE NO. 3:13-cv-01920 KJM-KJN

JOINT STATUS REPORT

Date: January 23, 2014

Time: 2:30

Judge: Honorable Kimberly J. Mueller

1 Plaintiffs JAMUL ACTION COMMITTEE and the JAMUL COMMUNITY CHURCH
2 (collectively, "Plaintiffs"), and JONODEV CHAUDHURI,¹ Acting Chairman of the National
3 Indian Gaming Commission, S.M.R. JEWELL, Secretary of the U.S. Department of the Interior;
4 KEVIN WASHBURN, Assistant Secretary-Indian Affairs, U.S. Department of Interior; PAULA
5 L. HART, Chairwoman of the Office of Indian Gaming AMY DUTSCHKE, Regional Director,
6 Pacific Regional Office, Bureau of Indian Affairs; JOHN RYDZIK, Chief, Division of
7 Environmental, Cultural Resources Management and Safety, Pacific Regional Director, Bureau
8 of Indian Affairs; THE UNITED STATES DEPARTMENT OF THE INTERIOR and THE
9 NATIONAL INDIAN GAMING COMMISSION (collectively, "Federal Defendants"), hereby
10 submit this Joint Status Report (JSR) in compliance with directions in the Court's Order Setting
11 Status (Pretrial Scheduling) Conference, ECF No. 6 (September 17, 2013).

12 (a) Nature of the case.

13 The focus of this case, in Plaintiffs' view, is an Indian Lands
14 determination, which Plaintiffs allege was first made by the National Indian
15 Gaming Commission in the "PUBLIC NOTICE: Notice of Intent to Prepare a
16 Supplemental Environmental Impact Statement for the Approval of a Gaming
17 Management Contract," which was published in the Federal Register. 78 Fed.
18 Reg. 21398, 21399. Plaintiffs filed their complaint on September 15, 2013 and
19 refiled it with a clerical correction to the caption on September 23, 2013.
20 Plaintiffs assert four claims against Federal Defendants: 1) violation of the
21 Indian Reorganization Act of 1934, ("IRA"); 2) infringement of state
22 jurisdiction over non-public domain property; 3) violation of the Indian
23 Gaming Regulatory Act ("IGRA"); and 4) violation of the National
24 Environmental Policy Act ("NEPA").

25 (b) Status of service of process.
26

27 ¹ Jonodev Chaudhuri, Acting Chairman of the National Indian Gaming Commission, is
28 automatically substituted for Tracie Stevens, former Chair of the National Indian Gaming
Commission, under Federal Rule of Civil Procedure 25(d).

1 Service of the complaint was completed as to all defendants on November
2 5, 2013. In accordance with the Parties' Stipulation for Extension of
3 Answering Date(ECF No. 9) the parties agreed to extend the "Federal
4 Defendants' January 6, 2014 answering date to February 3, 2014."

5 (c) Possible Joinder of Additional Parties

6 None anticipated at this time.

7 (d) Anticipated Amendment of Pleadings.

8 None anticipated at this time.

9 (e) Jurisdiction and Venue.

10 Jurisdiction of this Court was invoked pursuant to 28 U.S.C. §§ 1331 et.
11 seq., 4 U.S.C. §§ 701-706, and 28 U.S.C. §§ 2201-2202. Plaintiffs allege that
12 venue is proper in the United States District Court for the Eastern District of
13 California under 28 U.S.C. §§ 1391 (b) and (e) and 5 U.S.C. § 703.

14 (f) Anticipated discovery and scheduling of discovery.

15 Plaintiffs have alleged that there has been final agency action and thus
16 seemingly bring their case pursuant to the APA. Federal Defendants contend that,
17 to the extent that this is an APA case, it is subject to record review and discovery
18 is not appropriate.

(g) Anticipated Dispositive Motions.

Plaintiffs may bring a motion for preliminary injunction if necessary. At
this point it seems that injunctive relief may not be necessary in the short-term
because Counsel for the Federal Defendants has indicated that, in this case, as a
practical matter, the gaming management contract will not be approved by the
NIGC until after the SEIS is finalized. Counsel for the Federal Defendants has
also confirmed that there will be a public meeting and an opportunity for public

**BIA-NIGC-DOI say
the gaming
management
contract WILL NOT
be approved UNTIL
the Supplemental
Environmental
Impact Study
(SEIS) is finalized.**

**Which will include
public comment.**

comment on the SEIS before it is finalized. In Plaintiffs' view, construction on the casino should not be initiated until the gaming management contract and SEIS are approved. And, if necessary, Plaintiffs will seek injunctive relief on that basis.

Plaintiffs also anticipate bringing a motion for summary judgment and/or a motion for judgment on the pleadings after the Defendants answer the complaint. Federal Defendants contend that, to the extent that this is a case brought under the APA, it is appropriate for resolution on summary judgment, but, prior to Federal Defendants' answer deadline, the timing of dispositive motions briefing has yet to be discussed or negotiated by the parties.

(h) – Evidence issues.

Unknown at this time.

(i) Proposed Pre-trial Final Pre-Trial Conference Date.

Plaintiffs recommend that, if necessary a pre-trial conference date be set in November 2014. Federal Defendants contend that, to the extent that this is a case brought under the APA, however, it is appropriate for resolution on summary judgment, rather than through pre-trial and trial proceedings.

(j.) Proposed trial date.

Plaintiffs recommend that, if necessary, a trial date be set in March 2015. The Plaintiff is not requesting a jury trial. Federal Defendants contend that, to the extent that this is a case brought under the APA, however, it is subject to resolution on dispositive motions rather than trial.

(k) Appropriateness of Special Procedures.

Not applicable.

1 (l) Proposed modification of standard pre-trial procedures.

2 No pre-trial procedural modifications are anticipated at this time.

3 Additionally, to the extent that this is a case brought under the APA, it is subject
4 to resolution on dispositive motions rather than through pre-trial and trial
5 proceedings.
6

7 (m) Other related cases pending in this District.

8 Neither Plaintiffs nor Defendants are aware of any related cases in this
9 District.
10

11 (n) Settlement options and discussions.

12 Uncertain at this time.

13 (o) Other Relevant Matters.

14 None at this time.

15 Respectfully submitted this 16th day of January, 2014.
16

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