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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF SAN DIEGO

13 CENTRAL BRANCH
14

15 **CALIFORNIA VALLEY MIWOK TRIBE,**

16 Plaintiff,

17 v.

18
19 **THE CALIFORNIA GAMBLING**
CONTROL COMMISSION; and DOES 1
20 **THROUGH 50, Inclusive,**

21 Defendants.

Case No. 37-2008-00075326-CU-CO-CTL

**REQUEST FOR JUDICIAL NOTICE
AND SUPPORTING DECLARATION OF
NEIL D. HOUSTON IN SUPPORT OF
DEFENDANT CALIFORNIA
GAMBLING CONTROL
COMMISSION'S REPLY TO
OPPOSITION TO DEFENDANT
CALIFORNIA GAMBLING CONTROL
COMMISSION'S MOTION FOR
SUMMARY JUDGMENT**

22 Date: April 26, 2013

23 Time: 2:00 p.m.

Dept: 62

Judge: The Honorable Ronald L. Styn

24 Trial Date: June 4, 2013

Action Filed: January 8, 2008

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26 Defendant California Gambling Control Commission respectfully requests that the Court
27 take judicial notice pursuant to Evidence Code sections 452 and 453 of each of the following
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documents in support of its reply to opposition to Defendant California Gambling Control Commission's motion for summary judgment:

A. The Cover Sheet, Table of Contents, and pages 1 through 7 of the Tribal-State Compact between the State of California and the Dry Creek Rancheria of Pomo Indians, executed on September 10, 1999 (available at <http://www.cgcc.ca.gov/?pageID=compacts>).

B. Letter dated December 22, 2010, from Larry Echo Hawk, Assistant Secretary – Indian Affairs, United States Department of the Interior, to Ms. Sylvia [sic] Burley.

C. Complaint filed on January 24, 2011, in the United States District Court for the District of Columbia, The California Valley Miwok Tribe, et al., v. Ken Salazar, et al., No. 1:11-cv-00160 RWR (*Salazar*).

D. Letter dated April 1, 2011, from Larry Echo Hawk, Assistant Secretary – Indian Affairs, United States Department of the Interior, to Mr. Yakima Dixie.

E. Letter dated August 31, 2011, from Larry Echo Hawk, Assistant Secretary – Indian Affairs, United States Department of the Interior, to Mr. Yakima Dixie and Ms. Silvia Burley.

F. The Cover Sheet, Table of Contents, and pages 1 through 15 of the Tribal-State Compact between the State of California and the Pinoleville Pomo Nation, executed on October 2, 2011 (available at <http://www.cgcc.ca.gov/?pageID=compacts>).

G. U.S. District Court, District of Columbia (Washington, DC), CIVIL DOCKET FOR CASE #: 1:11-cv-00160-RWR, Dated March 27, 2013 (available at https://ecf.dcd.uscourts.gov/cgi-bin/DktRpt.pl?313875599490286-L_1_0-1).

H. Plaintiffs' First Amended Complaint for Declaratory and Injunctive Relief, The California Valley Miwok Tribe, et al. v. Salazar, et al., (filed 10/17/11) (D.D.C.) Case No. 1:11-cv-00160-RWR.

I. Cover Sheet, Table of Contents, and pages 1 to 26, Tribal-State Compact Between the State of California and the Federated Indians of Graton Rancheria (executed 3/27/12; ratified 5/17/12; published in the Federal Register 7/12/12) (available at <http://www.cgcc.ca.gov/?pageID=compacts>).

1 J. Minute Order, April 6, 2011, Case No. 37-2008-00075326-CU-CO-CTL, imposing
2 stay on "any future motion hearings."

3 K. Court of Appeal, Fourth Appellate District, Division One, State of California,
4 unpublished decision in California Valley Miwok Tribe v. Superior Court of San Diego County
5 (California Gambling Control Commission), Case No. D061811, filed December 18, 2012.

6 L. Minute Order, March 1, 2013, Case No. 37-2008-00075326-CU-CO-CTL, lifting stay
7 to allow the parties to file dispositive motions and, if necessary, proceed to trial.

8 M. Joint Status Report and Proposed Order Regarding the Status of the Reconsidered
9 Decision of the Assistant Secretary – Indian Affairs, Document 27, filed September 1, 2011, in
10 California Valley Miwok Tribe v. Salazar, D.D.C. Case No. 1:11-cv-00160-RWR.

11 N. Letter from Dale Risling, Sr. (BIA) to Sylvia [sic] Burley, dated March 26, 2004.

12 O. Letter from Michael D. Olsen (BIA) to Yakima K. Dixie, dated February 11, 2005.

13 P. Letter from Troy Burdick (BIA) to Silvia Burley and Yakima K. Dixie, dated
14 November 6, 2006.

15 Q. Letter from Edith R. Blackwell (Department of the Interior) to Peter Kaufman, Esq.,
16 dated January 14, 2009.

17 Each of the foregoing documents is attached to this Request.

18 The Court may take judicial notice, under Evidence Code section 452, subdivisions (c), and
19 (d), of the official acts of the legislative and executive departments of the United States and of
20 any state, and of the records of any court of record of the United States. Section 453 of the
21 Evidence Code provides that judicial notice of the matters set forth in section 452 is mandatory if
22 properly requested by a party. The requesting party must give sufficient notice of the request to
23 enable the adverse party to prepare to meet it, and furnish the court with sufficient information to
24 enable the Court to take judicial notice of the matter. (Evid. Code, § 453, subd. (a) & (b).)

25 The documents in Exhibits A, B, D, E, F, H, N, O, P, and Q are official records of the
26 United States Department of the Interior, and/or Bureau of Indian Affairs. "The records and files
27 of an administrative board are properly the subject of judicial notice." (*Hogen v. Valley Hospital*
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1 (1983) 147 Cal.App.3d 119, 125; see also *Western States Petroleum Ass'n v. Dept. of Health*
2 *Services* (2002) 99 Cal.App.4th 999, 1002 [judicial notice taken of federal Environmental
3 Protection Agency's materials pursuant to Evidence Code section 452, subdivision (c)]. Exhibits
4 A, F and H also are official records of the legislative and executive departments of the State of
5 California in that Exhibits A, F and H were executed by the Governor of California and ratified
6 by the Legislature.

7 The document in Exhibits C, G, H, and M are records of the federal courts and are subject
8 to judicial notice pursuant to Evidence Code section 452, subdivision (d). (*Mills v. U.S. Bank*
9 (2008) 166 Cal.App.4th 871, 877 [judicial notice taken of certain pleadings from federal action].)

10 The document in Exhibit K is a record of the Court of Appeal for the Fourth Appellate
11 District of the State of California, and is subject to judicial notice pursuant to Evidence Code
12 section 452, subdivision (d), and, moreover, is the law of the case herein.

13 The documents in Exhibits J and L are Minute Orders of this Court in this case.

14 Each of the items requested to be noticed is relevant to the Commission's opposition to
15 Plaintiff's motion for judgment on the pleadings, and the relevance of each is set forth in the
16 memorandum of points and authorities filed in opposition thereto.

17 Dated: April 10, 2013

Respectfully Submitted,

18 KAMALA D. HARRIS
19 Attorney General of California
20 SARA J. DRAKE
21 Senior Assistant Attorney General
22 WILLIAM L. WILLIAMS, JR.
23 Deputy Attorney General
24 T. MICHELLE LAIRD
25 Deputy Attorney General



26 NEIL D. HOUSTON
27 Deputy Attorney General
28 *Attorneys for Defendant*

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1 6. Exhibit D attached hereto is a true and correct copy of a letter dated April 1, 2011,
2 from Larry Echo Hawk, Assistant Secretary – Indian Affairs, United States Department of the
3 Interior, to Mr. Yakima Dixie. It was received by the Office of the Attorney General of
4 California in the regular course of business and is being maintained in the file for this matter over
5 which I have responsibility.

6 7. Exhibit E attached hereto is a true and correct copy of a letter dated August 31, 2011,
7 from Larry Echo Hawk, Assistant Secretary – Indian Affairs, United States Department of the
8 Interior, to Mr. Yakima Dixie and Ms. Silvia Burley. It was received by the Office of the
9 Attorney General of California in the regular course of business and is being maintained in the
10 file for this matter over which I have responsibility.

11 8. Exhibit F attached hereto is a true and correct copy of the Cover Sheet, Table of
12 Contents, and pages 1 through 15 of the Tribal-State Compact between the State of California and
13 the Pinoleville Pomo Nation, executed on October 2, 2011 (a public record available at
14 <http://www.cgcc.ca.gov/?pageID=compacts>). It was received by the Office of the Attorney
15 General of California in the regular course of business and is being maintained in the file for this
16 matter over which I have responsibility.

17 9. Exhibit G attached hereto is a true and correct copy of the Civil Docket for The
18 *California Valley Miwok Tribe, et al. v. Salazar, et al.*, Case No. 1:11-cv-00160-RWR, United
19 States District Court, District of Columbia. It is available at available at
20 https://ecf.dcd.uscourts.gov/cgi-bin/DktRpt.pl?313875599490286-L_1_0-1 and was downloaded
21 on March 27, 2013, and printed out, pursuant to my instructions. Exhibit G was received by the
22 Office of the Attorney General of California in the regular course of business and is being
23 maintained in the case file for this matter over which I have responsibility.

24 10. Exhibit H attached hereto is a true and correct copy of Plaintiff's First Amended
25 Complaint for Declaratory and Injunctive Relief, filed on October 17, 2011, which was filed in
26 *California Valley Miwok Tribe, et al. v. Salazar, et al.*, (filed 10/17/11) (D.D.C.) Case No. 1:11-
27 cv-00160-RWR. Exhibit H was received by the Office of the Attorney General of California in
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1 the regular course of business and has been maintained in the case file for this matter over which I
2 have responsibility. This document is a public record available by download from the court as
3 Document 32 in the above identified case.

4 11. Exhibit I attached hereto is a true and correct copy of the Cover Sheet, Table of
5 Contents, and pages 1 through 26 of the Tribal-State Compact between the State of California and
6 the Federated Indians of Graton Rancheria, executed on March 27, 2012 and ratified May 17,
7 2012 (available at <http://www.cgcc.ca.gov/?pageID=compacts>). It was received by the Office of
8 the Attorney General of California in the regular course of business and is being maintained in the
9 file for this matter over which I have responsibility. This document is a public record available
10 for download from the website identified above.

11 12. Exhibit J attached hereto is a true and correct copy of a Minute Order dated April 6,
12 2011, in this case, which imposed a stay on motions.

13 13. Exhibit K attached hereto is a true and correct copy of the appellate court decision
14 dated December 18, 2012 granting Plaintiff's petition for a writ of mandate directing this Court to
15 lift the stay on motions in this case. This document was received by the Office of the Attorney
16 General of California in the regular course of business and is being maintained in the file for this
17 matter over which I have responsibility.

18 14. Exhibit L attached hereto is a true and correct copy a Minute Order dated March 1,
19 2013, in this case, which lifted the stay on motions.

20 15. Exhibit M attached hereto is a true and correct copy of a Joint Status Report and
21 Order Regarding the Status of the Reconsidered Decision of the Assistant Secretary – Indian
22 Affairs, filed September 1, 2011 as Document 27 in *California Valley Miwok Tribe v. Salazar*,
23 D.D.C. Case No. 1:11-cv-00160-RWR. This document is a public record available for download
24 from the court.

25 16. Exhibits N, O, and P are true and correct copies of letters from officials of the BIA to
26 Silvia Burley and/or Yakima Dixie. These letters were received by the Office of the Attorney
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1 General of California in the ordinary course of business and are being maintained in the file for
2 this matter over which I have responsibility.

3 17. Exhibit Q is a true and correct copy of a letter from the Department of the Interior to
4 Peter Kaufman, Esq., an attorney in the Office of the Attorney General of California. This
5 document was received in the ordinary course of business and is being maintained in the file for
6 this matter over which I have responsibility.

7 I declare under penalty of perjury under the laws of the State of California that the
8 foregoing is true and correct. Executed this 10th day of April, 2013 at Sacramento, California.

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11 NEIL D. HOUSTON
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