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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CHEMEHUEVI INDIAN TRIBE, on its own behalf and on behalf of its members parens patrie, CHELSEA LYNN BUNIM, TOMMIE ROBERT OCHOA, JAMSINE SANSOUCIE and NAOMIE LOPEZ, Plaintiffs, v. JOHN McMAHON in his official capacity as Sheriff of San Bernardino County, RONALD SINDELAR, in his official capacity as Deputy Sheriff for San Bernardino County; MICHAEL RAMOS, in his official capacity as the District Attorney of San Bernardino County, JEAN RENE BASLE, in his official capacity as County Counsel for San Bernardino County, and MILES KOWALSKI, in his official capacity as Deputy County Counsel for San Bernardino County, Defendants.	CASE NO. 5:15–CV-01538-DMG-FFM [Action filed: July 30, 2015 Case Assigned to: Hon. Dolly M. Gee Courtroom 7] **DEFENDANTS' SUPPLEMENTAL OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION** **Hearing Date: February 5, 2016** **Time: 11:00 a.m.** **Courtroom: 7**

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I. INTRODUCTION

Plaintiffs seek a preliminary injunction restraining Defendants from citing and/or prosecuting members of the Chemehuevi Indian Tribe (the "Tribe") for certain violations of the California Vehicle Code allegedly occurring on tribal land. Their claim is that such violations occurring on tribal land are civil/regulatory and therefore not enforceable against tribal members by San Bernardino County officials pursuant to Public Law 280. Plaintiffs allege traffic citations have been issued to tribal members on a county maintained road crossing through land referred to as Sections 30 and 36, located near Lake Havasu, in San Bernardino County.

While filled with rhetoric, Plaintiffs have submitted no admissible evidence to support the issuance of a preliminary injunction. As to Section 30, which admittedly is Reservation land, the existing policy of Defendants is to not issue citations to tribal members for such "minor" traffic violations occurring solely on tribal land. This is to be distinguished from observing violations occurring off Reservation with a physical stopping of a vehicle for such violations on the Reservation. One mistaken citation issued for a violation within Section 30 does not justify an injunction be issued.

As to Section 36, historically that land has never been considered Reservation land. No federal ruling or adjudication has held it to be Reservation land. In fact, the history of Section 36 reveals that it is not Reservation land, or at least is clearly disputed as being Reservation land. Therefore, no just cause exists to issue an injunction restraining enforcement of California law thereon pending trial. The blanket assertions of "racial profiling" are unsupported in the first instance and are rebutted by opposing declarations filed herewith. Moreover, Plaintiffs' have provided no evidence that they will be irreparably harmed. This is in stark contrast to the several hundred non-Indian residents living in Section 36 who understand and expect to be protected under California law.

Because Plaintiffs do not and cannot show that they are likely to succeed on the merits of their claims or that the Tribe or any of its members will be irreparably

harmed if the Preliminary Injunction is not issued, the Preliminary Injunction must be denied.

II. BACKGROUND

As set forth more fully in the Declarations of Ronald Sindelar, John Wagner, and Ross Tarangle filed concurrently herewith, the pertinent background facts are as follows:

Since the 1980s, the San Bernardino Sheriff's Department has maintained a resident post adjacent to Section 36, Township 5N, Range 24E ("***Section 36***"), and has been enforcing traffic citations, against both Indian and non-Indians, on the County maintained road within Section 36 since that time. Prior to the present dispute, the Tribe has not attempted to exercise jurisdiction over Section 36, and in fact, have had a cooperative relationship with the County regarding law enforcement in that area. (Tarangle Decl., ¶¶ 6, 7, 9; Sindelar Decl., ¶¶ 5-8.)

Pursuant to this long standing practice of enforcing traffic citations within Section 36, in February and March 2015, Deputy Sindelar stopped and issued three (3) citations for traffic violations occurring within Section 36.[1] (Deputy Wagner issued one citation for a violation occurring within Section 30). Each stop was made with probable cause, and the citations issued for legitimate violations of State law. Nothing by their occurrence suggests "racial profiling." Subsequently, the citations were prosecuted in California state court. As a result of these state court actions, Plaintiffs filed this action.

III. LEGAL ARGUMENT

A preliminary injunction is an "extraordinary remedy never awarded as of right." (*Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 24 (2008).) Instead, it "may only be awarded upon a ***clear showing*** that the plaintiff is entitled to such relief." (*Id*. at 22) [Emphasis added.] (See *Earth Island Institute v. Carlton,* 626 F.3d 462, 469 (9th Cir. 2010) (holding plaintiffs "face a difficult task in proving that

[1] Although one of these stops was made within Section 30, the violation occurred within Section 36.

they are entitled to this 'extraordinary remedy'").) A plaintiff seeking a preliminary injunction "must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." (*Winter*, *supra*, 555 U.S. at 20.)

Additionally, the Ninth Circuit has adopted a version of the sliding scale approach under which a preliminary injunction will only issue where the likelihood of success is such that "serious questions going to the merits were raised and the balance of hardships tips **sharply** in [plaintiff's] favor." (*Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) [Emphasis added].) "Of course, plaintiffs must also satisfy the other *Winter* factors. (*Id*. at 1135.) That is, serious questions going to the merits and a balance of hardships that tips sharply towards the plaintiff can support issuance of a preliminary injunction only if "the plaintiff also shows that there is a likelihood of irreparable injury and that the injunction is in the public interest." (*Ibid*.)

For the reasons set forth below and in the accompanying declarations, Plaintiffs have failed to meet this high burden and their motion must be denied.

A. Plaintiffs Have Not Shown A Likelihood Of Success On The Merits As To Violations Occurring Within Section 36.

Plaintiffs filed their unverified Amended Complaint alleging four claims for relief: (1) Violation of P.L. 280—issuing citations without jurisdiction on Reservation Land; (2) Interference with Tribal Self-Government; (3) Preemption; and (4) Civil Rights Violation of the Fifth and Fourteenth Amendment, the Indian Commerce Clause, federal statues and federal common law and 42 U.S.C. § 1983. Each of these causes of actions allegedly arise out of citations issued to and prosecuted against the individual Plaintiffs for specified traffic violations occurring within Section 36, privately owned land adjacent to the Reservation.[2] Plaintiffs contend that by citing

[2] One violation, issued to Naomi Lopez, occurred within Section 30 and will be addressed separately.

and prosecuting tribal members within Section 36, the County has exceeded its jurisdiction in violation of law. These claims fail for several reasons.

1. Plaintiffs have failed to Join Necessary Parties pursuant to FRCP 19.

Federal Rule of Civil Procedure 19 governs the circumstances under which persons must be joined as parties to an action. It states: (a)(1) "A person who is subject to service of process and whose joinder will not deprive the court of subject matter jurisdiction must be joined as a party if:

(A) in that person's absence, the court cannot accord complete relief among existing parties; or

(B) that person claims an interest relating to the subject of the action and is so situated that disposing of the action in the person's absence may:

(i) as a practical matter impair or impede the person's ability to protect the interest; or

(ii) leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest."

If the party has not been joined under Rule 19(a)(1) as required, the court must order that person(s) be made a party. (Fed.R.Civ.P. 19(a)(2).) In this case, Plaintiffs have failed to join (1) the State of California (hereinafter "***State***"); and (2) those parties that own land in fee within Section 36 (hereinafter "***Landowners***").

The State and Landowners are necessary parties under Rule 19(a)(1)(B)(i) because they have an interest in the subject matter of the proceeding, and because disposing of this proceeding without joining them as parties would impair or impede their ability to protect that interest.

Plaintiffs' Preliminary Injunction asks the Court to declare that Defendants' conduct in citing and prosecuting violations that occur within Section 36 is in excess

of their jurisdiction and therefore prohibited by law. Such relief would necessarily require a determination by this Court that the land in Section 36, all of which is privately owned land, is within the boundaries of the Reservation and therefore subject to the Tribe's jurisdiction, not the State's and/or the County's. Such a determination will divest the State of its jurisdiction, as well as its ability to tax Landowners, as explained below. Because the State will be significantly impacted by a determination divesting them of jurisdiction, it must be joined as a necessary party.

Additionally, a determination in this regard by the Court would substantially affect the rights and obligations of the Landowners residing in that area, both short and long term. As explained in the Declaration of Captain Ross Tarangle, there are approximately two hundred (200) non-Indians that own land, in fee, within Section 36. (Tarangle Decl., ¶ 8.) Those Landowners have made significant investments in establishing their homes within Section 36, and many dispute that their homes are within Reservation boundaries. These Landowners pay taxes to the State of California and the County, and are subject to County zoning laws. (Tarangle Decl., ¶ 8.) A determination by the Court that Section 36 is within the boundaries of the Reservation, and therefore under the jurisdiction of the Tribe and not the State and/or the County, would substantially change these obligations and have long term legal and possibly financial implications for this group of affected Landowners.

Moreover, the Landowners are not currently paying any taxes to the Tribe. However, if this Court were to rule that Section 36 is within the boundaries of the Reservation, presumably the Tribe could seek to tax and otherwise regulate these private, non-Indian Landowners. If Section 36 were deemed to be within the Reservation, the Landowners would likewise be subject to the Tribe's zoning laws, as well as land use regulations and decisions. Further, if the County is not able to cite or prosecute traffic violations occurring within Section 36, non-Indians protected by enforcement of those laws, including a requirement of having a license and insurance, would be left unprotected and without recourse. That property values would likely be

impacted by such a ruling is not yet before this Court, however, the possibility seems almost certain. As of the date of this Opposition, Defendants have received inquiries from fifty-six (56) property owners and real estate agents concerned about the impact of the litigation on their real property interest. (*See* Sartain Decl., ¶¶ 2-3.) Because the Landowners will necessarily be substantially affected by the impact of this litigation, they must be joined as necessary parties. Absent these parties being joined, a Preliminary Injunction is both improper and premature.

2. Plaintiffs have failed to demonstrate that Section 36 is within the Reservation.

Three of the violations at issue occurred within Section 36.[3] In order to prevail on the merits of their claims, Plaintiffs must show that Defendants exceeded their jurisdiction in citing and prosecuting those violations. Plaintiffs have not made such a showing. As explained below, Plaintiffs' Preliminary Injunction is contingent upon the *assumption* that Section 36 is within the Reservation boundaries. This unsupported conclusion regarding the status of the land is insufficient to prove that Plaintiffs are likely to succeed on the merits of their claims. The actual facts and history of Section 36 reveal that it is not within the boundaries of the Reservation.

On March 3, 1853, Congress passed the "Act of March 3, 1853" ("***March 3, 1853 Act***") providing that all public lands within the State of California shall be subject to preemption by individuals living on federal land under the Act of 1841, *except those Sections sixteen (16) and thirty-six (36) which were conveyed to the State of California for the purpose of public schools*. (10 Stat. 244, ch. 145, § 6.) The March 3, 1853 Act provided that "this act shall not be construed to authorize settlement to be made on any tract of land in the occupation or possession of any Indian tribe, or to grant any preemption right to the same"; ***however, it did not establish the boundaries of the Reservation.*** (*Ibid*.) On July 23, 1866, Congress

[3] Although one citation was issued outside of Section 36, the violation itself occurred within Section 36.

passed the "Act of July 23, 1866" ("July 23, 1866 Act") quieting title of Sections 16 and Sections 36 to the State of California. (14 Stat. 218, Ch. 219.)

On January 12, 1891, Congress passed "An Act for the Relief of the Mission Indians of the State of California" ("***MIRA***"), providing that the Secretary of the Interior shall appoint three disinterested persons as commissioners to select a reservation for each band or village of Missions Indians residing in California. (26 Stat. 712, ch. 65, § 1) The MIRA provides that the reservations "shall include, ***as far as practicable***, the lands and villages which have been in the actual occupation and possession of said Indians, and which shall be sufficient to the extent to meet their just requirements, which selections shall be valid when approved by the President and the Secretary of the Interior." (*Id*. at § 2) [Emphasis added.] The commissioners were then to report the results to the Secretary of the Interior, who, "if no valid objection exists, ***shall cause a patent to issue for each of the reservations selected***… *Provided*, That ***no patent shall embrace any tract or tracts to which existing valid rights have been attached*** in favor of any person under any of the United States laws providing for the disposition of the public domain, unless such person shall acquiesce in and accept the [same]." (*Id.* at § 3.) [Emphasis added.] The Commission submitted its report to the Secretary of the Interior on December 7, 1891, which was approved by the Secretary of the Interior and the President on December 29, 1891. The report did not contain a selection of the Reservation for the Tribe,[4] and no patent was issued at that time. (*See* Office of the Solicitor's Opinion dated August 20, 1990, regarding Chemehuevi Request for Trust Patent ("***Solicitor Opinion***") (*A true and correct copy of the Solicitor Opinion is attached hereto as Exhibit "**A**"*).)

Following the issuance of the Report, the Secretary of the Interior sent a letter to the Senate Committee on Indian Affairs outlining the Bureau of Indian Affairs' ("***BIA***") concerns that some tribes may not have received all of their land. Despite

[4] The report did contain a selection for the Chemehuevi Indians living at 29 Palms, California, but not those living along the Colorado River, which is the area at issue in this dispute.

these concerns, legislation was ***not*** enacted at that time. (*Ibid*.) ***On July 10, 1895, the land within Section 36 was ceded to the State of California.*** (*See* United States Department of Interior, Bureau of Land Management Trust Patent to the Chemehuevi Indians dated June 28, 2010, (*A true and correct copy of the June 28, 2010, Trust Patent is attached hereto as Exhibit "**B**".)*

On December 27, 1906 and January 3, 1907, C.E. Kelsey, Special Agent for the California Indians, sent letters to the Commissioner of Indian Affairs reporting on the lands not yet added to the Mission Indian reservations, recommending that lands listed be formally added to the Reservation (collectively "***Kelsey Report***"). (*True and correct copies of the December 27, 1906, and January 3, 1907, Kelsey Reports are attached hereto as Exhibits "**C**" and "**D**", respectively.)*

On January 31, 1907, the Commissioner of Indian Affairs sent a letter to the Secretary of Interior requesting the lands listed in the Kelsey Report be withdrawn from settlement and entry pending action by Congress authorizing the addition. (*A true and correct copy of the January 31, 1907 letter is attached hereto as Exhibit "**E**".*) Following this letter, the Secretary of Interior issued an Order on February 2, 1907 to the General Land Office recommending that the lands be withdrawn from settlement ("***February 2, 1907 Order***"). The Order contained a proposed draft of the bill to Congress to authorize such addition. (*See* February 2, 1907, Order as attached to Declaration of June Levias in Support of Plaintiffs' Application for TRO/Preliminary Injunction as Exhibit "***A***".)

Subsequent to the February 2, 1907 Order, on March 1, 1907, Congress enacted "An Act Making Appropriations for the Current and Contingent Expenses of the Indian Department, for Fulfilling Treaty Stipulations with Various Indian Tribes, and for Other Purposes, for the Fiscal Year Ending June Thirtieth, Nineteen Hundred and Eight" ("***Appropriations Act***"). (34 Stat. 1015, 1022-1023.) The Appropriations Act amended the MIRA to "authorize the Secretary of the Interior to select, set apart, and ***cause to be patented*** to the Mission Indians such tracts of public lands of the

United States, in the State of California, as he shall find upon investigation to have been in the occupation and possession of the several bands or villages of Mission Indians, ***and are now required and needed by them***, and which were not selected for them by the Commission…*Provided*, That ***no patent issued under the provisions of this Act shall embrace any tract or tracts to which valid existing rights have attached*** in favor of any person under any of the United States laws providing for the disposition of the public domain…" (*Id*.) [Emphasis added.]

Following the enactment of the Appropriations Act, the Department of Interior "investigated" the status of certain land withdrawn pursuant to the February 2, 1907 Order. Although additional action was taken with regard to land for the Chemehuevi living at 29 Palms, no further action was taken with regard to the land withdrawn by the Colorado River.[5]

The Bureau of Land Management ("***BLM***") did not take action until June 28, 2010, at which time it issued a trust patent for the Chemehuevi Tribe. The trust patent includes lands that were withdrawn for the Tribe's benefit in the 1907 Secretarial Order, *subject to exclusions of specific federal and private-owned lands and other valid existing rights associated with patented lands*. The trust patent states in pertinent part:

> WHEREAS, there has been deposited in the Bureau of Land Management an order of the Secretary of the Interior dated February 2, 1907, withdrawing from settlement and entry the following described land…and…
>
> WHEREAS, an Order of the Authorized Officer of the Bureau of Indian Affairs is now deposited in the Bureau of Land Management, directing that, pursuant to the Act of January 12, 1891 (26 Stat. 712), as amended by the Act of March 1, 1907 (34 Stat.

[5] According to the Office of the Solicitor, no trust patent was issued to the Tribe pursuant to the MIRA because the Chemehuevi are not Mission Indians. However, Congress considers them as such and therefore, they are covered by the MIRA, as amended. (*See* Office of the Solicitor's Opinion dated August 20, 1990, regarding Chemehuevi Request for Trust Patent.)

> 1015), and other acts, a trust patent issue to the Chemehuevi Tribe of Mission Indians ("Tribe") for the above described lands ***excluding…***
>
> 3. ***Those lands granted to the State of California as school sections on July 10, 1895, located in sec. 36, T. 4 N., R. 25 E and sec. 36, T. 5 N., R. 24 E…*** (Trust Patent)[Emphasis added.]

Thus, Section 36 was *expressly excluded* from the land that was issued to the United States to be held in trust for the Tribe.

As outlined above, Section 36 is neither allotted land, nor land held in trust by the Federal Government for the benefit of the Tribe. By the time the Trust Patent was issued to the Tribe, Section 36 was already privately owned in fee by County residents. In fact, according to a Bureau of Land Management land status map of the area, Section 36 is not "Indian Land or Reservation," but is "Private Property." (*See* "United States Department of Interior Bureau of Land Management Location Map" attached to Declaration of Katelyn Empey as Exhibit "1".)

Plaintiffs seek to, but may not rely on the fact that the Secretary of the Interior issued an order recommending that the land be withdrawn from settlement. The MIRA provided that the Secretary "***shall cause a patent to issue for each of the reservations selected***…" Similarly, the Appropriations Act authorized the Secretary to "select, set apart, and ***cause to be patented***" land for the Mission Indians. The Secretary, however, did not issue the patent to the Tribe. The patent was issued by the BLM in 2010, which expressly excluded Section 36.

In *Pechanga Band of Mission Indians v. Kacor Realty, Inc.* (680 F.2d 71 (9th Cir. 1982)), the Pechanga tribe claimed that the reservation included 320 acres of undeveloped land in Riverside County, California, to which the defendants held title. The trial court entered summary judgment against the tribe, and the tribe appealed. The Court of Appeal affirmed the ruling, holding that the Federal Government did not grant the land to the tribe. In so holding, the court found that "…the Secretary had to issue a patent to the land [under the MIRA] in order to include it in the reservation." (*Id*. at 75.) Because the record was "unambiguous that [the Secretary] purposefully

elected not to take this final step [to issue the patent]" the court "cannot speculate whether the Secretary would have preferred in the abstract to grant the land to [the tribe.]" (*Ibid*.)

In this case, the record is ambiguous as to the Secretary's intent in not issuing the patent and Plaintiffs have not provided evidence to establish such intent. What is clear, is that a patent was required to be issued, but was not. At this point, the record does not justify changing the status quo where no patent has been issued to the Tribe.

Finally, because the survey of Section 36 preceded the Secretary's Order recommending the land be included in the Reservation, the land was no longer subject to Congress' power of disposition and, therefore, could not have been included in the Reservation. The MIRA and Appropriations Act expressly provided "that no patent shall embrace any tract or tracts to which existing valid rights have *been attached*." Because Section 36 had already been surveyed and granted to the State, Congress—and thus the Secretary—could not include this land in the Reservation, even if so intended. (*See U.S. v. Southern Pac. Transp. Co.* 601 F.2d 1059, 1067 (9th Cir. 1979) (Where inapposite facts were at issue, with the court finding that Congress has the power of disposition up until the point of survey, which had not occurred. It stated the principle that "[t]he State's right to school grant lands does not vest until the lands have been surveyed. Until that time, the land remains subject to Congress' power of disposition").)

Because Plaintiffs entire Amended Complaint rests on the improper assumption that Section 36 is within the boundaries of the Reservation, a fact that has not been proven by Plaintiffs and is contested by Defendants, Plaintiffs have not met their burden to show a likelihood of success on the merits.

3. Plaintiffs Have Presented No Evidence that the Citations were Racially-Motivated.

Plaintiffs have similarly presented no evidence whatsoever in support of their contention that the conduct of Deputy Sindelar was racially-motivated or that

Defendants otherwise failed to have probable cause to stop and/or issue the citations in question. Plaintiffs conclude, without any factual support, that the conduct in question constitutes "racially-motivated discriminatory practices." However, as outlined in the Declaration of Deputy Sindelar, all stops were made with probable cause, and all citations issued for legitimate vehicle code violations. Other than the conclusory allegation that the practices were racially motivated, Plaintiffs have presented no factual evidence supporting this proposition. Again, Plaintiffs have failed to meet their burden, as they have failed to establish that they are likely to succeed on the merits.

B. Plaintiffs Have Not Demonstrated Irreparable Injury

Plaintiffs seeking preliminary relief must **demonstrate** that irreparable injury is *likely* in the absence of an injunction. (*Winter*, *supra*, 55 U.S. at 22) [Emphasis added.] "[A] preliminary injunction will not be issued simply to prevent the possibility of some remote future injury" (*Ibid*.) "Issuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the court's] characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a ***clear showing*** that the plaintiff is entitled to such relief. (*Ibid*) [Emphasis added]. Moreover, "[s]peculative injury does not constitute irreparable injury sufficient to warrant granting a preliminary injunction." *Caribbean Marine Services Co., Inc. v. Baldrige*, 844 F.2d. 668, 674 (9th Cir. 1988) (citing *Goldie's Bookstore, Inc. v. Superior Court*, 739 F.2d 466, 472 (9th Cir. 1984)). "A plaintiff must do more than merely allege imminent harm sufficient to establish standing; a plaintiff must *demonstrate* immediate threatened injury as a prerequisite to preliminary injunctive relief." (*Ibid*.) (citing *Los Angeles Memorial Coliseum v. National Football League*, 634 F.2d 1197, 1201(9th Cir. 1980)) [Emphasis in original.]

In this case, Plaintiffs have not shown by admissible evidence that the Tribe, or any individual members thereof, will suffer any irreparable harm if the Preliminary

Injunction is not granted. Plaintiffs only actual evidence in this regard consists of the singular, identical and cumulative testimony of the individual Plaintiffs, as well as two other tribal members, which states: "While within the boundaries of my Reservation, I am under the imminent threat of unlawful citation and prosecution for violations of other state traffic laws, like California Vehicle Code Section 4000(a)(1) and California Vehicle Code Section 16028(a) if I am driving a vehicle not in conformity with those Vehicle Code Sections." (*See* Leivas Decl., ¶ 11; Potts Decl., ¶11; Sansoucie Decl., ¶10; Bunim Decl., ¶9; Lopez Decl., ¶8; Ochoa Decl., ¶8.) Plaintiffs provide no facts supporting this legal conclusion.

Absent any factual support, Plaintiffs rely on a series of general legal propositions to show irreparable harm. First, relying on *Elrod v. Burns* (427 U.S. 347 (1976)), Plaintiffs contend that "if it is found that a constitutional right is being threatened or impaired, a finding of irreparable harm is mandated." Plaintiffs' reliance is misplaced. In *Elrod*, the Supreme Court found that loss of constitutional freedoms constitutes irreparable injury. However, as detailed above, Plaintiffs have not shown that they have suffered the loss of any constitutional freedoms. Plaintiffs are not constitutionally permitted to violate State laws while driving outside of their Reservation, which boundaries are, at best, disputed. Therefore, contrary to Plaintiffs' assertion, a finding of irreparable harm is not mandated under *Elrod*.

Second, Plaintiffs contend that, in the absence of the injunctive relief requested, the continued citation and prosecution of tribal members for violations of state law encroaches on and interferes with the ability of the Tribe to govern itself. In so doing, Plaintiffs rely on a series of cases standing for the general proposition that "State encroachments on tribal sovereignty constitute an irreparable injury." However, these cases are inapposite. In those cases, the *reservation boundaries were not contested*. It was clear that the exercise of authority in excess of jurisdiction within *undisputed* reservation boundaries would constitute irreparable harm. Such is not the case here. As explained in detail above, Plaintiffs' entire argument in this regard necessarily

presupposes that Section 36 is within the boundaries of the Reservation. Because Plaintiffs have presented no evidence supporting this proposition, they cannot show any interference with tribal governance, and therefore, have failed to meet their irreparable harm burden.

Third, Plaintiffs contend that tribal members face continued harassment and threat of unlawful citation and prosecution on a daily basis. Again, Plaintiffs have presented no admissible evidence supporting these propositions. To the contrary, Plaintiffs' own evidence weighs against any argument of irreparable harm. For example, Chelsea Lynn Bunim was cited for a violation of California Vehicle Code section 4000(a)(1)—driving a motor vehicle with an expired registration. However, the vehicle is now "validly registered with the State of California." (Potts Decl., ¶ 5.) Similarly, Jasmine Sansoucie was cited for California Vehicle Code Section 14601.1(a)—driving a motor vehicle with a suspended license. However, by Ms. Sansoucie's own admission, she "did not know that [her] driver's license had been suspended until Deputy Sindelar informed [her] of the suspension." This testimony necessarily suggests that had Ms. Sansoucie known her license was suspended, she would not have been driving the vehicle in violation of State law. (Sansoucie Decl., ¶6.) Therefore, as to Ms. Bunim, and presumably Ms. Sansoucie, citations for those traffic violations are highly unlikely.

Finally, Plaintiffs contend that as to the individual Plaintiffs currently facing prosecution, Bunim and Ochoa, the threat of irreparable harm is imminent because they face prosecution in a tribunal that lacks jurisdiction over them. Again, this argument necessarily presupposes that the County does not have jurisdiction over them because Section 36 is within the boundaries of the Reservation. Plaintiffs have presented no evidence supporting this conclusion and have therefore failed to meet their burden. By contrast, Defendants have demonstrated above that Section 36 is not within the Reservation and is subject to County law enforcement jurisdiction.

Plaintiffs' contention that they will be irreparably harmed is further controverted by the fact that it took over thirty (30) years for an action to be brought contesting jurisdiction. Plaintiffs cannot reasonably claim that they will be imminently and irreparably harmed by conduct of Defendants that has been occurring for over three decades.

Moreover, Plaintiffs have entirely failed to demonstrate that the Preliminary Injunction, if issued, would prevent the alleged harm. The California Highway Patrol ("CHP") has issued, and continues to issue, citations to both Indians and non-Indians for traffic violations occurring within Section 36. However, as explained above, Plaintiffs have failed to join the CPH or the State of California in this action. Therefore, prohibiting Defendants from issuing and prosecuting citations for violations in Section 36 would not prevent the alleged injury from occurring.

As to citations issued for violations within Section 30, Defendants do not contest that such is outside the bounds of County jurisdiction. As such, Defendants do not intend to issue or prosecute citations for future violations in Section 30. (Tarangle Decl., ¶ 10.) As such, there is no irreparable harm and a preliminary injunction is unnecessary.

C. The Balance of Equities and Public Interest Weigh in Favor of Denying the Preliminary Injunction.

The balance of equities and the public interest require that the Preliminary Injunction be denied. In their Application for Preliminary Injunction, Plaintiffs argue that the Preliminary Injunction should be issued because the "threatened injury to the Tribe and its tribal members outweighs any conceivable harm to Defendants." (Plaintiffs' Notice of Motion and Motion for OSC re: Preliminary Injunction, page 28, lines 9-10.) In so doing, Plaintiffs note that there is a "strong public interest in requiring the defendants to recognize and comply with federal laws that protect the integrity of the Tribe's sovereign territory and its right to self-government." (Id. at 21-24.) Although that may be true, such is not the case here. As explained in detail

above, Plaintiffs' entire Preliminary Injunction relies on the incorrect assumption that Section 36 is within the boundaries of the Reservation. However, because the land at issue is private land, the Tribe has not demonstrated that there is any sovereign interest at stake sufficient to overcome Defendants' interests. In contrast, Defendants have an exceedingly strong interest in enforcing State laws on private property subject to their jurisdiction. As explained above, Defendants are mandated to protect the hundreds of residents in that area and to enforce State law.

Plaintiffs' moreover cite at length, the Tenth Circuit decision in *Ute Indian Tribe of the Uintah & Ouray Reservation v. Utah* (790 F.3d 1000 (10th Cir. 2015)) to show that the public interest and the equities favor injunction. Plaintiffs' reliance on *Ute Indian Tribe* is in error. In *Ute Indian Tribe*, the Court held that a temporary injunction should issue because it would "simply prohibit the State and County from prosecuting…tribal members for offenses in Indian Country—something they have no legal entitlement to do in the first place." (*Id*. at 1007) [Emphasis added.] Such is not the case here. Here, the requested preliminary injunction would prohibit Defendants from "directly or indirectly taking action to *cite*, *arrest*, *impound the vehicles of*, and/or prosecute tribal members" on a County maintained road that is not within the Reservation. (Notice of Application for TRO and Motion for OSC re: Preliminary Injunction, page 7, lines 17-23.) The County has an affirmative obligation to protect and enforce traffic laws on County roads outside the Reservation. Failure to cite and prosecute clear violations of State law on private land would be against the public interest. To date, at least 56 landowners and real estate agents have expressed concerns that if Defendants are unable to enforce the laws in that area, it will not only substantially affect their property interests, but could pose a significant risk to public safety if tribal members are able to violate laws without consequence. Plaintiffs have not provided any evidence, let alone sufficient evidence, to show any interest overcoming that of Defendants.

Plaintiffs essentially ask that this Court enjoin the County Sheriff from enforcing the laws that he is sworn and legally mandated to enforce on a County road outside the Reservation. Such a request is unprecedented. An order should not issue before all facts are submitted and decades long jurisdiction disturbed.

D. The Preliminary Injunction Will Not Maintain the Status Quo

The basic function of a preliminary injunction is to preserve the *status quo* pending a determination of the action on the merits. (*Chalk v. United States Dist. Ct. Cent. District of California*, 840 F.2d 701, 704 (9th Cir. 1988).) "The status quo is the last uncontested status which preceded the pending controversy. (*Tanner Motor Livery, Ltd. v. Avis, Inc*., 316 F.2d 804, 809 (9th Cir. 1963) [internal quotations omitted].) Although injunctive relief is not automatically denied because it would alter the status quo, such requests for relief are subject to higher scrutiny and carry a heavy burden of persuasion. (See *Tom Doherty Assocs., Inc. v. Saban Entertainment, Inc*., 60 F.3d 27, 33 (2nd Cir. 1995).)

At the time Plaintiffs filed the instant suit, the status quo currently existing was one in which the County was exercising jurisdiction over Indians and non-Indians for traffic offenses committed within Section 36. As detailed in the accompanying Declaration of Ross Tarangle, the County of San Bernardino has maintained the Resident Post adjacent to Section 36 since the 1980s. (Tarangle Decl., ¶ 6.) Since that time, San Bernardino County Sheriff deputies have stopped, cited, and prosecuted traffic citations for violations that occurred within Section 36 against both Indians and non-Indians alike. Until this present dispute and the underlying criminal actions, the Tribe did not contest the County's jurisdiction. Moreover, the Tribe has never attempted to interfere with County jurisdiction, or attempted to exercise jurisdiction over Section 36. (Tarangle Decl., ¶¶ 6,7,9.) Because the Preliminary Injunction would clearly alter the status quo that has been in place for over thirty years, and because Plaintiffs' have not otherwise met the heavy burden for issuance of a preliminary injunction, the Preliminary Injunction must be denied as a matter of law.

IV. VIOLATIONS OCCURRING IN SECTION 30

Defendants do not contest that Section 30 is within the boundaries of the Reservation. As explained in the Declaration of Ross Tarangle, it is not, and has not been the policy of the County to issue citations against Indians for violations that occur within Section 30. (Tarangle Decl., ¶ 10.) Therefore, the citation issued against Naomi Lopez for a violation that occurred within Section 30 was issued mistakenly. Defendants do not intend to enforce civil/regulatory traffic citations against Indians for violations that occur within Section 30, and therefore, a preliminary injunction over Section 30 is unnecessary. As Defendants will not issue any future citations for civil/regulatory laws within Section 30, Plaintiffs cannot show that they will suffer any irreparable harm if the Preliminary Injunction is not issued. As such, the Preliminary Injunction should be denied.

V. PROCEDURAL DEFECTS IN ORDER

Pursuant to Federal Rule of Civil Procedure ("***FRCP***") 65(d)(1): "[e]very order granting an injunction…must:

(A) state the reasons why it issued;

(B) state its terms specifically; and

(C) describe in reasonable detail—and not by referring to the complaint or other document—the act or acts restrained or required."

In this case, even assuming Plaintiffs had met their burden to support the issuance of a Preliminary Injunction, Plaintiffs' proposed order fails to comply with the Federal Rules of Civil Procedure. In particular, the proposed order provides that "[D]efendants…are enjoined from citing, arresting, impounding the vehicles of, and prosecuting Chemehuevi tribal members for on-reservation violations." (Order, p. 5, lines 24-25.) The proposed order however, does not define the boundaries of the Reservation. As explained above, Plaintiffs' wrongly and without any supporting evidence conclude that Section 36 is within the boundaries of the Reservation; however, it is not clear what other land, if any, the Tribe has attempted to or will

attempt to unilaterally include within its boundaries. Without more, the proposed order is vague and ambiguous.

Moreover, the proposed order requires defendants to "serve and file a declaration verifying that they have complied with [the] order and detailing what steps… have been taken to do so." (*Id*. at page 6, lines 12-15.) However, because of the boundary dispute, Defendants could not, in good faith, make such a declaration, as it is unclear what the proposed order actually prohibits. The request of reporting what actions have been taken to comply is overreaching and unnecessary. There is no reason to suggest that Defendants will not comply with this Court's order if and when issued.

VI. PLAINTIFFS CANNOT SUBMIT NEW EVIDENCE SUPPORTING THEIR REQUEST FOR A PRELIMINARY INJUNCTION

To the extent Plaintiffs may now attempt to present new evidence supporting their claims, they are prohibited from doing so absent opportunity for Defendants to respond. New evidence presented in reply should not be considered without giving the non-movant an opportunity to respond. (See *Provenz v. Miller*, 102 F.3d 1478, 1483 (9th Cir.1996) ("[W]here new evidence is presented in a reply to a motion for summary judgment, the district court should not consider the new evidence without giving the [non-]movant an opportunity to respond.")) The Ninth Circuit has applied this holding to preliminary injunction motions. (*Iconix, Inc. v. Tokuda*, 457 F.Supp.2d 969, 975-976 (N.D. Cal. 2006) (citing *El Pollo Loco, Inc. v. Hashim*, 316 F.3d 1032, 1040-1041 (9th Cir. 2003).) Because Plaintiffs have failed to provide any admissible evidence whatsoever supporting their claims for relief, they have not met the high burden for awarding preliminary injunctive relief. As such, they are prohibited from doing so in their Reply absent opportunity for Defendants to respond.

VII. YOUNGER ABSTENTION DOCTRINE

Younger abstention is a jurisprudential doctrine rooted in overlapping principles of equity, comity, and federalism. *San Jose Silicon Valley Chamber of*

Commerce Political Action Comm. v. City of San Jose, 546 F.3d 1087, 1091 (9th Cir. 2008) (*citing Steffel v. Thompson*, 415 U.S. 452, 460–73 (1974) (explaining the history and purposes of the doctrine); *Younger v. Harris,* 401 U.S. 37, 43–49 (1971) (discussing the jurisprudential background of abstention); *Gilbertson v. Albright,* 381 F.3d 965, 970–75 (9th Cir. 2004) (en banc) (tracing the Supreme Court's application of the doctrine). The Ninth Circuit has held that a federal court must abstain under *Younger* if four requirements are met: (1) a state-initiated proceeding is ongoing; (2) the proceeding implicates important state interests; (3) the federal plaintiff is not barred from litigating federal constitutional issues in the state proceeding; and (4) the federal court action would enjoin the proceeding or have the practical effect of doing so, *i.e.*, would interfere with the state proceeding in a way that *Younger* disapproves. (*Id*. at 1092) "As virtually all cases discussing [*Younger* abstention] emphasize, the limited circumstances in which abstention by federal courts is appropriate remain the exception rather than the rule." (*Ibid.*) (citing *AmerisourceBergen Corp v. Roden,* 495 F.3d 1143, 1148 (9th Cir. 2007) [internal quotation marks and ellipsis omitted.]

In this case, there are no ongoing state-court proceedings that will be impacted by this litigation. First, the parties have already stipulated to a dismissal in *People of the State of California v. Chelsea Lynn Bunim.* Second, *People of the State of California v. Tommie Robert Ochoa*, is not ongoing. Mr. Ochoa was found guilty on the charges. Although Plaintiff is seeking to reopen the matter, the parties have also agreed to stipulate to a dismissal in this case. *Younger* abstention is therefore not appropriate in this instance.

VIII. <u>AMOUNT OF BOND</u>

Pursuant to FRCP 65(c): "The court may issue a preliminary injunction or a temporary restraining order ***only if*** the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained." [Emphasis added.] In this case, Plaintiffs request that no such security or bond be required. (Proposed Order, page 6,

lines 9-10). They have provided no support for this request. As such, Defendants respectfully request that Plaintiffs post a bond as deemed reasonable by the Court.

IX. CONCLUSION

For the foregoing reasons, Defendants respectfully request that Plaintiffs' Application for a Preliminary Injunction be denied; however, if the Court is inclined to grant the Preliminary Injunction, Defendants request that Plaintiffs' be required to post a bond in an amount deemed reasonable by the Court.

Respectfully submitted,

Dated this 15th day of January, 2016

SLOVAK BARON EMPEY MURPHY & PINKNEY LLP

/s/ Thomas S. Slovak (CASB# 62815)
Thomas S. Slovak, Esq.
Attorneys for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been filed electronically on this 15th day of January, 2016, and is available for viewing and downloading to the ECF registered counsel of record, if any, and has also been served by email as listed below.

Lester Marston, Esq.
marston1@pacbell.net

DATED this 15th day of January, 2016.

SLOVAK BARON EMPEY MURPHY & PINKNEY, LLP

By: /s/ Thomas Slovak (CASB# 62815)
1800 East Tahquitz Canyon Way
Palm Springs, CA 92262
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Attorneys for Defendants

EXHIBIT A

SOLICITOR'S OPINION OF AUGUST 20, 1990

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
PHOENIX FIELD OFFICE
One Renaissance Square
Two North Central Avenue
Suite 500
Phoenix, Arizona 85004

COMM: (602) 379-47
(602) 379-41
FTS: 261-47
FAX: 261-41

BIA.PX.3210

August 20, 1990

Memorandum

To: Area Director, Phoenix Area Office, BIA

From: Field Solicitor, Phoenix

Subject: Chemehuevi Request for Trust Patent

Since July of 1985, the Chemehuevi Tribe ("Tribe") has been requesting the Bureau of Indian Affairs ("BIA") to issue or authorize the issuance of a trust patent to the Tribe for the Tribe's reservation. The Tribe asserts, in essence, that absent such a document, the Tribe has no compensable interest in the reservation and can be evicted from the reservation at any time. Although neither assertion is correct, we believe the Secretary has the authority to issue the Tribe a trust patent.

I. Procedural History

In July of 1985, the Tribe sent a letter to the Realty Officer of the Colorado River Agency requesting a trust patent for the Chemehuevi Reservation. In its letter, the Tribe outlined the history of the Mission Indian Relief Act, the Secretary's withdrawal of the reservation from the public domain in aid of legislation in 1907 and a 1907 amendment to the Mission Indian Relief Act. (All of these acts and the withdrawal are discussed in part II., below.) The Agency sent the Tribe's letter to the Phoenix Area Office, and the Area Office responded to the Agency on August 21, 1985. The gist of the Area Office's response was that the reason no patent had been issued to the Chemehuevi Tribe pursuant to the Mission Indian Relief Act is because the Chemehuevi's are not Mission Indians. The response went on to note that regardless of the issuance of a patent, the Department, Congress and the courts have recognized the existence of the reservation and the Tribe's interest therein. The Superintendent of the Colorado River Agency sent a copy of the Area Office's response to the Tribe on September 24, 1985, and advised the Tribe its request for a trust patent was denied.

On January 26 1986, the Tribe requested the Superintendent to reconsider the decision denying the Tribe's request for a trust patent. In its request, the Tribe reiterated its earlier arguments and reemphasized that there was no document which recognized the Tribe's interest in the reservation. The Tribe argued that without such a document, there was no guarantee the reservation could not be terminated except by an Act of Congress. In other words it appears the Tribe is arguing that in the absence of some document evidencing title to the reservation in the Chemehuevi Tribe, the reservation can be administratively terminated. After the exchange of additional correspondence, the Tribe filed a notice of appeal from the Superintendent's September 24, 1985, letter on September 19, 1986. (25 C.F.R. Part 2 requires notices of appeal to be filed within 30 days of the action being appealed. Although this matter may be time barred, we will, nonetheless, address the merits of the Tribe's claim.)

Since the filing of the Tribe's appeal, this matter has been handled in a relatively informal manner since the issues involved are primarily a matter of researching the history of the Chemehuevi Reservation. Various documents have been exchanged between the Area Office, this office and the Tribe. We also requested the BIA's Central Office to look for documents related to this matter in the National Archives in Washington, D.C. A review of these documents leads us to conclude that while the Chemehuevis are not "Mission Indians", as noted by the Area Office in its 1985 decision, Congress considered them as such and they are covered by the Mission Indian Relief Act, as amended.

II. Legal Analysis

On January 12, 1891, Congress passed An Act for the Relief of the Mission Indians in the State of California. 26 Stat. 712. (Hereinafter the Mission Indian Relief Act or "MIRA".) The MIRA created a Commission whose primary duty was to select a reservation for each band or village of Mission Indians residing in California. The selections were to include "as far as practicable, the lands and villages which have been in the actual occupation and possession of said Indians...." The Commissioners were to submit a report on each reservation selected to the Secretary of the Interior and the Secretary was directed, "if no valid objection exists", to issue a [trust] patent for each of the reservations selected by the Commission. The patents were to be held in trust by the United States for twenty-five years for the sole use and benefit of the band or village for whom the reservation was selected. During this time period the lands were subject to allotment to individual members of the band or village. At the end of the twenty-five years, the remaining lands were to be conveyed to the band or village in fee simple.

The Commission submitted its report to the Secretary of the Interior on December 7, 1891. The report was approved by the Secretary and the President of the United States on December 29, 1891. The report did not

contain a selection of a reservation for the Chemehuevi Indians living along the Colorado River. However, the report did contain a selection for the Indians living at 29 Palms, California. The Indians at 29 Palms are Chemehuevi Indians. Within a few years of the filing of the Commission report, the BIA became concerned that several tribes had not received all of the land in their "actual occupation and possession" on the date of passage of the MIRA. The Secretary of the Interior sent a letter to the Senate Committee on Indian Affairs outlining the BIA's concerns and requesting legislation amending the MIRA. Senate Document No. 54, 55th Congress, 2nd Session, January 11, 1898. (Copies of the documents referenced in this opinion are contained in the material accumulated from the National Archives, the Area Office, the Tribe and our files. All of this material is being returned to the Area Office with this opinion and should be filed in the Chemehuevi files.) Legislation was not enacted at that time, but the BIA continued to monitor the situation on behalf of the California Indians.

On January 3, 1907, C. E. Kelsey, Special Agent for the California Indians, in response to a letter sent by the Commissioner of Indian Affairs on November 10, 1906, filed a report on lands withdrawn for but not yet added to the Mission Indian Reservations. In his report, Agent Kelsey recommended that the lands listed in his report should be formally added to the various reservations by Congress. One of the parcels listed was land in the Chemehuevi Valley on the Colorado River below Needles, California. Agent Kelsey noted that the Chemehuevi Indians had lived in the area since primeval times and he did not know why the land had not previously been withdrawn for their benefit. Agent Kelsey recommended the land be added to the Colorado River Indian Reservation or that other appropriate action be taken.

The Commissioner of Indian Affairs, on January 31, 1907, sent a letter to the Secretary requesting that the lands listed in the Kelsey report be withdrawn from settlement and entry pending action by Congress authorizing their addition to the various reservations. The Secretary issued an order to the General Land Office ("GLO") to withdraw the listed lands from settlement and entry on February 2, 1907. In the order, the Secretary noted the Department had submitted proposed legislation to Congress on January 31, 1907, to add the lands to the various reservations. On March 1, 1907, Congress amended the MIRA to "authorize the Secretary of the Interior to select, set apart, and cause to be patented to the Mission Indians such tracts of the public lands of the United States, in the State of California, as he shall find upon investigation to have been in the occupation and possession of the several bands or villages of Mission Indians, and are now required and needed by them, and which were not selected for them by the Commission...." 34 Stat. 1022.

Shortly after passage of the legislation, the Department, in compliance with the legislation, "investigated" the status of the various parcels

withdrawn by the Secretary's February 2, 1907, order. See for example, the Commissioner's letter of August 12, 1907, to the GLO. Although additional land was added to the Chemehuevi Reservation at 29 Palms, no further action was taken in regard to the land withdrawn for the Chemehuevis living in the Chemehuevi Valley. The Area Office in its August 21, 1985, decision concluded the reason no action was taken is because the Chemehuevis are not Mission Indians. Assuming this conclusion were correct, the Chemehuevis' status as non-Mission Indians would not, as explained below, affect the validity of the reservation. We conclude, however, that regardless of the Chemehuevis actual ethnic classification, the Department and the Congress considered them as Mission Indians for purposes of the 1907 amendment to the MIRA.

The Congressional Record for February 5, 1907, contains a copy of a letter sent from the Commissioner of Indian Affairs to the Chairman of the Committee on Indian Affairs, House of Representatives. The letter notes the Committee had acknowledged receipt of a letter from the Secretary of the Interior transmitting a letter from the Commissioner of Indian Affairs dated January 28, 1907. 41 C.R. 2268. The January 28, 1907, letter was located in the National Archives. The letter explained the need for an amendment to the MIRA and noted that appended to it were copies of C. E. Kelsey's reports and a proposed bill. As noted above, C. E. Kelsey's report of January 3, 1907, contained a specific recommendation for a reservation for the Chemehuevis in the Chemehuevi Valley. In addition, the January 3, 1907, report contained eight maps showing the proposed additions to the California reservations. One of these maps depicts the Chemehuevi Valley. Thus, it is clear Congress had copies of Kelsey's reports and was aware the Chemehuevis at Chemehuevi Valley (not to mention the Chemehuevis at 29 Palms) were considered by the Department as being one of the intended beneficiaries of the proposed legislation. Congress apparently did not object to the Department's proposal since the legislation, as enacted, is verbatim to that proposed by the Department.

We have been unable to find any documents explaining why the Chemehuevi Reservation was not patented, as other reservations on Kelsey's list were, shortly after passage of the 1907 amendment. We see no present legal impediment to issuing such a patent. On the other hand, we see no real need for the issuance of such a patent either. The Tribe claims it must have some document evidencing title in order to have a compensable interest, and permanent occupancy rights, in the reservation. Most Indian reservations have no title documents. The only evidence of title is an order creating or withdrawing land for the reservation and a notation in the GLO (now Bureau of Land Management) or BIA records.

The land in question was withdrawn by the Secretary in aid of legislation. The legislation was passed giving the Secretary the authority to permanently withdraw the lands and "convey" twenty-five years in the future, a patent. At this point, it must be remembered the legislation

authorized the issuance of a trust patent. A trust patent is not a present conveyance of title, it is merely a promise to convey at some point in the future. In addition, the legislation specifically intended that the reservation would be allotted and only the remaining lands, if any, conveyed to the tribes. Indian law and policy has changed radically since 1907.

First, in 1927 Congress prohibited the alteration of any Indian reservation created by "Executive order, proclamation or otherwise" except by Act of Congress. 25 U.S.C. 398d. In a November 19, 1963, letter from the Chief of the Branch of Real Property Management to the Commissioner of Indian Affairs, the Branch Chief advised the Commissioner that "remedial or clarifying" legislation was not needed as the Chemehuevi Indians already have a compensable interest in the reservation as a result of the passage of 25 U.S.C. 398d. (The Chemehuevis have, in fact, been compensated for takings of tribal land.) Next, as noted above, the purpose of the trust patent was to divide the land and allot it to individual members of the band or village. Then, at the end of the trust period, the remaining lands, if any, were to be conveyed in fee simple to the band or village. The allotment policy was reputiated by Congress in Section 1 of the Indian Reorganization Act (IRA). 25 U.S.C. 461. In addition, Section 2 of the IRA extended indefinitely all periods of trust--thus, no fee patents have been issued. 25 U.S.C. 462. Finally, section 16 of the IRA recognized that tribes are the actual owners of their land and that they clearly have a compensable interest in their lands. 25 U.S.C. 476. Thus, the original purpose of the MIRA has been changed by history and subsequent legislation and issuance of a trust patent at this time will serve no real purpose.

Assuming your office decides to grant the Tribe's request some technical problems exist. First, no one has issued a trust patent for tribal lands for almost a century. Thus, there are no forms or standardized procedures for the issurance of such a patent. Any patent, obviously, must conform with the requirements of the authorizing statute. Attached is a copy of the trust patent issued to the Agua Caliente Tribe (Palm Springs). The patent was drafted in conformance with the 1907 amendment. Also attached is a draft patent prepared by the Tribe's attorney. I suggest that you use these as models or perhaps get some additional samples from the Archives. The final issue in this matter is who has the authority to cause the patent to be issued. The 1907 amendment provides that the Secretary may "cause to be patented" the lands selected for the various bands and villages. The Secretary apparently did this in the case of the Agua Caliente Tribe by issuing an order to the GLO to issue the patent. Since that time, the Secretary has delegated his authority to request the issuance of patents to the Assistant Secretary—Indian Affairs. 209 D.M. 8. The Assistant Secretary has, in turn, redelegated his authority to the Area Directors at 230 D.M. 3. It, therefore, appears your office has the authority to

request the BLM (the successor to the GLO--to issue a trust patent to the Chemehuevi Tribe. (Note--any request to the BLM must be sent to the BLM's California State Office as the land in question is in California.)

Fritz L. Goreham
Field Solicitor

Wayne C. Nordwall

Wayne C. Nordwall
For the Field Solicitor

Attachments

EXHIBIT B

U.S. Department of the Interior
Bureau of Land Management

News Release

For Immediate Release: June 28, 2010 CA-CDD-10-80
Contact: Nedra Darling, 202-208-3710 or Jan Bedrosian, BLM (916) 978-4610

BLM Issues Trust Patent to Chemehuevi Indians

The final trust patent for the Chemehuevi Tribe's existing 32,500-acre reservation along the Colorado River in eastern San Bernardino County was issued officially today by the Bureau of Land Management (BLM).

BLM Acting State Director Jim Abbott said the issuance of the patent, or land title, was requested by the Bureau of Indian Affairs (BIA) on behalf of the Tribe. The trust patent was authorized by the 1891 Mission Indians Relief Act, as amended.

The trust patent includes lands that were withdrawn for the Tribe’s benefit in 1907, subject to exclusions of specific federal and privately-owned lands and other valid existing rights associated with the patented lands. A copy of the trust patent is posted on the BIA's webpage at www.bia.gov. Questions may be directed to Tribal Chairman Charles Wood at 760-858-4301, or Superintendent Janice Staudte, Colorado River Agency, at 928-669-7111.

-BLM-

Form 1860-8
(July 1987)

The United States of America

Serial No. CACA 40253

To all to whom these presents shall come, Greeting:

WHEREAS, there has been deposited in the Bureau of Land Management an order of the Secretary of the Interior dated February 2, 1907, withdrawing from settlement and entry the following described land:

San Bernardino Meridian, California

Fractional townships T. 4 N., R. 25 E., T. 4 N., R. 26 E., T. 5 N., R. 25 E., T. 6 N., R. 25 E., the E/2 of T. 5 N., R. 24 E., and secs. 25, 26, 35, and 36 of T. 6 N., R. 24 E.

and

Whereas, an Order of the Authorized Officer of the Bureau of Indian Affairs is now deposited in the Bureau of Land Management, directing that, pursuant to the Act of January 12, 1891 (26 Stat. 712), as amended by the Act of March 1, 1907 (34 Stat. 1015), and other acts, a trust patent issue to the Chemehuevi Tribe of Mission Indians ("Tribe") for the above described lands excluding the following lands and subject to any existing valid rights associated therewith:

1. Those lands contained in Havasu National Wildlife Refuge, as depicted on the Bureau of Land Management Survey accepted November 12, 2002.
2. Those lands contained in Railroad Patent 543283, sec. 1, T. 5 N., R. 24 E.
3. Those lands granted to the State of California as school sections on July 10, 1895, located in sec. 36, T. 4 N., R. 25 E., and sec. 36, T. 5 N., R. 24 E.
4. Those lands taken by the United States, according to the Secretary of the Interior's designation (as amended) pursuant to P.L. 76-730, 54 Stat. 744.

This patent does not create access rights across any lands owned in trust for the Tribe described in this patent or alter or change in any way whatever access rights that may or may not exist.

The above described lands owned in trust are also described as:

San Bernardino Meridian, California

T. 5 N., R. 24 E.,
sec. 1, SE 1/4;
sec. 2, all;
sec. 3, all;
secs. 10 through 15, inclusive;
secs. 22 through 27, inclusive;
sec. 34, all;
sec. 35, all.

Containing 10,283.45 acres

Patent Number 04-2010-0007

T. 6 N., R. 24 E.,
sec. 26, lots 4, 5, 6, 8, and 10, NW1/4NW1/4, S1/2NW1/4, SW1/4, W1/2SE1/4;
sec. 35, all;
sec. 36, lots 5, 7, 8, 11, and 13, SW1/4NW1/4, SW1/4, S1/2SE1/4;
Containing 1,539.13 acres

T. 4 N., R. 25 E., excluding all lands therein below the operating pool level of Lake Havasu, elevation four hundred fifty (450) feet mean sea level (m.s.l.),
sec. 6, lots 1-10 inclusive;
sec. 7, lots 1-17, inclusive;
sec. 8, lots 1-4, inclusive, and SW1/4SW1/4;
sec. 9, lots 1-6, inclusive;
sec. 10, lots 1-5, inclusive;
sec. 13, lot 1;
sec. 14, lots 1-5, inclusive;
sec. 15, lots 1-5, inclusive, NW1/4NW1/4, S1/2NW1/4, SW1/4, and S1/2SE1/4;
sec. 16, lots 1-4, inclusive, S1/2NE1/4, S1/2NW1/4, and S1/2 excepting 1/16 of all coal, oil, and gas, and other mineral deposits as reserved by the State of California in Lot 1 and SE1/4NE1/4;
sec. 17, all;
sec. 18, lots 1-12, inclusive, and E1/2;
sec. 19, lots 1-12, inclusive, and E1/2;
secs. 20-22, inclusive;
sec. 23, lots 1 and 2, NE1/4NE1/4, NW1/4NW1/4, S1/2N1/2, and S1/2;
sec. 24, lots 1-5, inclusive, SW1/4NE1/4, NW1/4NW1/4, S1/2NW1/4, and S1/2;
sec. 25, lots 1 and 2, W1/2NE1/4, NW1/4, and S1/2;
secs. 26-29, inclusive;
sec. 30, lots 1-12, inclusive, E1/2;
sec. 31, lots 1-8, inclusive, E1/2;
secs. 32-35, inclusive.
Containing 14,787.20 acres

T. 5 N., R. 25 E., excluding all lands therein below the operating pool level of Lake Havasu, elevation four hundred fifty (450) feet m.s.l.,
sec. 6, lots 7, 8, 9, and 12;
sec. 7, lots 5, 7, 9, 10, 12, and 13, SW1/4NW1/4; SW1/4, SW1/4SE1/4;
sec. 17, excluding those lands withdrawn for Havasu National Wildlife Refuge;

sec. 18, excluding those lands withdrawn for Havasu National Wildlife Refuge;
sec. 19, all;
sec. 20, all;
sec. 29, all;
sec. 30, all;
sec. 31, all;
sec. 32, all.

Containing approximately 4,289 acres

T. 4 N., R. 26 E., excluding all lands therein below the operating pool level of Lake Havasu, elevation four hundred fifty (450) feet m.s.l.,

sec. 19, lots 1-3, inclusive;
sec. 29, lots 1 and 2;
sec. 30, lots 1-20, inclusive;
sec. 31, lots 1-10, inclusive, S1/2NE1/4, and SE1/4;
sec. 32, lots 1-9, inclusive, SW1/4NE1/4, and S1/2;
sec. 33, lots 1-8, inclusive, and SW1/4SW1/4.

Containing 1,588.23 acres.

Aggregating approximately 32,487 acres altogether.

NOW KNOW YE that the UNITED STATES OF AMERICA, in consideration of the premises, hereby declares that it does and will hold the said tracts of land in trust for the Chemehuevi Indian Tribe of California.

EXCEPTING AND RESERVING TO THE UNITED STATES

1. As to the lands designated in the Determination of August 15, 1974, and the Secretarial Order of November 1, 1974 (herein referred to as "said lands"), all such exceptions, reservations, conditions, and rights as set forth, verbatim, in paragraphs (a) through (e) of the Secretarial Order of November 1, 1974, which is attached to this patent.

2. A right-of-way for road purposes as granted in BIA Document 695-2-980 as to secs. 12 and 13, T. 5 N., R. 24 E.

3. A right-of-way for road purposes as granted in BIA Document 695-3-980 as to secs. 13 and 24, T. 5 N., R. 24 E., 18 and 19, T. 5 N., R. 25 E.

4. A right-of-way for road purposes as granted in BIA Document 695-1-987 as to sec. 19, T. 5 N., R. 25 E.

5. A right-of-way for sewer main purposes as granted in BIA Document 695-3-989 as to S1/2 sec. 19, T. 5 N., R. 25 E.

Patent Number 04-2010-0007

6. A right-of-way for road purposes as granted in BIA Document 695-1-980 as to sec. 19, T. 5 N., R. 25 E.

7. A right-of-way for road purposes as granted in BIA Document 695-4-980 as to sec. 19, T. 5 N., R. 25 E.

8. A right-of-way for road purposes as granted in BIA Document 695-1-982 as to secs. 19 and 30, T. 5 N., R. 25 E.

9. A right-of-way for road purposes as granted in R-O-W # 00-09-27-01, in BIA document 695-006-00 dated September 28, 2000, as to secs. 19 and 20, T. 5 N., R. 25 E.

10. A "Memorandum of Agreement" entered into on December 17, 2001 by and between the Bureau of Reclamation, Lower Colorado District, and the Chemehuevi Indian Tribe providing for the cooperative management of those lands and interests therein reserved by the November 1, 1974 Secretarial Order.

SUBJECT TO:

1. The rights of the Metropolitan Water District of Southern California under that District's contract with the United States, captioned "Cooperative Contract for Construction and Operation of Parker Dam," dated February 10, 1933 (Designated 11r-712), as supplemented and amended by contracts between the same parties dated September 29, 1936, April 7, 1939 and December 16, 1952.

2. A right-of-way for electrical line and water pump purposes granted to Southern California Edison Co., its successors and assigns, in BIA Document 695-1-75 as to SE1/4 sec. 1, T. 5 N., R. 24 E., and sec. 6, T. 5 N., R. 25 E.

3. A right-of-way for a 16 KV electric distribution line, granted to Southern California Edison Co., its successors and assigns, in BIA Documents 603-188-388 and 603-188-488, as to W1/2, SE1/4 sec. 12, E1/2 sec. 13, T. 5 N., R. 24 E.; SW1/4 sec. 18, W 1/2, N1/2SE1/4 sec. 19, T. 5 N., R. 25 E.
4. A right-of-way for electrical supply systems, granted to Southern California Edison Co., its successors and assigns, in BIA Document 695-2-75 as to SE1/4 sec. 1, T. 5 N., R. 24 E.

5. A homesite lease issued to Patricia Smith Gardner in Lease B-941-CH-A, BIA Document 3998 as to sec. 19, T. 5 N., R. 25 E.

6. A right-of-way for electrical line purposes granted to Southern California Edison Co., its successors and assigns, in BIA Document 695-21, dated May 20, 1974, as to SW1/4SW1/4 sec. 31, T. 5 N., R. 25 E.

7. A business lease issued to the Needles Unified School District, its successors and assigns, in Lease B-566-CR, BIA Document 695-180-988 and modified in BIA Documents 695-181-988 and 695-182-988, as to sec. 19, T. 5 N., R. 25 E.

8. A homesite lease issued to Edward D. Smith, Frank G. Smith, and Donald L. Smith for domestic livestock use in Lease B-941-CH, BIA Document 695-3-987 as to secs. 19, 20, 29, and 30, T. 5 N., R. 25 E.

9. A perpetual highway right-of-way issued to San Bernardino County, its successors and assigns, by BIA Document 1425-1957 and described in Document 695-4-8981 and Map IND-260 as to W1/2, NE1/4 sec. 30 and W1/2 sec. 31, T. 5 N., R. 25 E.

10. A right-of-way for an electrical distribution line granted to Southern California Edison Co., its successors and assigns, in BIA Document 695-007-02 and approved in R-O-W # CHEM R 02-24-04, as modified on May 29, 2002, as to secs. 31, T. 5 N., R. 25 E.

11. A right-of-way for electrical line purposes granted to Southern California Edison Co., its successors and assigns, in BIA Document 695-2-86 as to sec. 31, T. 5 N., R. 25 E.

12. A right-of-way for electrical line purposes granted to Southern California Edison Co., its successors and assigns, in BIA Document 695-4-87 as to sec. 31, T. 5 N., R. 25 E.

13. A perpetual highway right-of-way issued to San Bernardino County in BIA Document 16604-1941 as to secs. 31, T. 5 N., R. 25 E and 36, T. 5 N., R. 24 E.

14. A perpetual right-of-way for overhead and underground electrical supply system purposes granted to Southern California Edison Co., its successors and assigns, in BIA Document 695-1-88 as to sec. 19, T. 5 N., R. 25 E.

15. A right-of-way for electrical supply purposes granted to Southern California Edison Co., its successors and assigns, in BIA Document 695-11-77 as to sec. 31, T. 5 N., R. 25 E.

16. A right-of-way for electrical supply systems, granted to Southern California Edison Co., its successors and assigns, in BIA Document 695-5-80 as to sec. 6, T. 4 N., R. 25 E., and SW1/4SW1/4, sec. 31, T. 5 N., R. 25 E.

17. A right-of-way for electrical supply systems, granted to Southern California Edison Co., its successors and assigns, in BIA Document 695-1-81 as to sec. 31, T. 5 N., R. 25 E.

18. right-of-way for electrical supply systems, granted to Southern California Edison Co., its successors and assigns, in BIA Document 695-2-81 as to sec. 31, T. 5 N., R. 25 E.

19. A right-of-way for electrical supply systems, granted to Southern California Edison Co., its successors and assigns, in BIA Document 695-3-81 as to secs. 17, 19, and 20, T. 5 N., R. 25 E.

20. A right-of-way for electrical supply systems, granted to Southern California Edison Co., its successors and assigns, in BIA Document 695-4-81 as to sec. 31, T. 5 N., R. 25 E.

21. A right-of-way for electrical supply systems, granted to Southern California Edison Co., its successors and assigns, in BIA Document 695-2-82 as to SW1/4, secs. 30 and NW1/4, sec. 31 T. 5 N., R. 25 E, and sec. 36, T. 5 N., R. 24 E.

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22. A right-of-way for electrical supply systems, granted to Southern California Edison Co., its successors and assigns, in BIA Document 695-3-85 as to NW1/4, sec. 31, T. 5 N., R. 25 E.

23. A right-of-way for electrical supply systems, granted to Southern California Edison Co., its successors and assigns, in BIA Document 695-4-85 as to sec. 19, T. 5 N., R. 25 E.

24. A right-of-way for electrical supply systems, granted to Southern California Edison Co., its successors and assigns, in BIA Document 695-3-75 as to SW1/4 sec. 31 T. 5 N., R. 25 E.

25. A right-of-way for electrical supply systems, granted to Southern California Edison Co., its successors and assigns, in BIA Document 695-4-75 as to SW1/4 sec. 31 T. 5 N., R. 25 E.

26. A perpetual right-of-way issued to Metropolitan Water District of Southern California for transmission line and road purposes in BIA Document 37063-31 as to SW1/4, S1/2SE1/4, sec. 19; SW1/4SW1/4, sec. 28; SW1/4NW1/4, N1/2SW1/4, NW1/4SE1/4, S1/2SE1/4, sec. 29; N1/2NE1/4, SE1/4NE1/4, NE1/4NE1/4NW1/4, sec. 30; NE1/4NE1/4, sec. 32; SW1/4NE1/4, NW1/4, NE1/4SW1/4, SE1/4, sec. 33; SW1/4NW1/4SW1/4, S1/2SW1/4, S1/2SE1/4, sec. 34; S1/2SW1/4, sec. 35, T. 4 N., R. 25 E.

27. A master lease from the Chemehuevi Tribe as lessor, designated as "Lease to the Chemehuevi Housing Department for Purpose of Subletting Land for Residential Housing for Tribal Members and Essential Governmental Employees," authorizing the issuance of tribal revocable permits and approved by the Bureau of Indian Affairs February 19, 2008.

28. A master lease from the Chemehuevi Tribe as lessor, designated as "Lease to the Chemehuevi Indian Tribe Doing Business as the Havasu Landing Resort," authorizing the operation of a resort by the Tribe's economic enterprise and approved by the Bureau of Indian Affairs February 19, 2008.

29. All interest in real and personal property, including valid homesite leases, represented under the Master Lease Agreement of the Chemehuevi Department of Housing, as transferred from the Chemehuevi Housing Authority in the Absolute Assignment of Leases, Assets, and Debts dated February 27, 2002, and approved by CHA Resolution 02-01-10-01, dated January 10, 2002 (incorporating by reference Ordinance 1-10-27-01).

30. A right-of-way for a 16 kV underground electric distribution line, granted to Southern California Edison Company, its successors and assigns, in BLM Document CAS-5675 as to SWNE1/4 and NWSE1/4, sec. 32, T. 4 N., R. 26 E.

CACA 40253

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

[SEAL]

GIVEN under my hand, in **Sacramento, California** the **TWENTY-EIGHTH** day of **JUNE** in the year of our Lord two thousand and **TEN** and of the Independence of the United States the two hundred and **THIRTY-FOURTH**..

By: James Wesley Abbott
Acting State Director
California State Office

Patent Number 04-2010-0007

EXHIBIT C

LETTER OF DECEMBER 27, 1906
TO COMMISSIONER OF INDIAN AFFAIRS
FROM SPECIAL AGENT C.E. KELSEY

REFER IN REPLY TO THE FOLLOWING:

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

San Jose, Calif., Dec. 27, 1906.

Hon. Commissioner of Indian Affairs,
Washington, D. C.

Sir:-

I am in receipt of your letter of Dec. 8. 1906, Land 102935-1906, enclosing a letter and plat from E. S. Curtis at Needles, Calif., in regard to the Indians of the Chimehuevi Valley, and also you instruct me to visit the said Indians and report as to means of saving the Indians thei lands. I shall be glad to investigate this matter and will do as soon as as I am able. I am able, however, to make a partial report, although as is is based upon information gained second hand, I am not assured of its entire correctness. As Congressional action may be required I feel I should make report at the present time as far as I can as otherwise I may not be able to get a report in in time.

This same band of Indians is mentioned in my letter to you of Dec. 10th, 1906, in regard to the Indians of the 29 Palms reservation. I believe it was the intention of the officials who laid out the Colorado River reservation that these Indians should be removed to that reservation. But as the Chimehuevis are of Shoshonean stock and at emnity with the Indians lower down the river, who are of Yuman stock, nothing but the military power of the Government could make them go to the reservation

or stay there when moved. I understand that all the available land upon the Colorado River reservation has already been apportioned and that this band would find there not only no welcome, but no land. It seems best therefore to take care of them where they already are and have been for centuries. On the Colorado river are several low valleys, usually overflowed by the river each season. When the water goes down the Indians plant crops and this is about their only means of subsistence. The Chimehuevi Valley is one of these low valleys. It is, as Mr. Curtis states, mostly upon the California side of the river. I think there is sufficient land upon the California side to answer for the whole band. These Indians have lived remote from civilization in a very primitive way. I doubt if they are ready for allotments. That is one of the things I expect to report upon hereafter. I think it better to add the entire tract occupied by the Chimehuevis to the Colorado river reservation or create a new reserve, if that is allowable. Then, if the land should be allotted it can be done with time enough available to avoid errors. Action to preserve the land for these Indians should certainly be taken at once or we are likely to have another very expensive Indian trouble on our hands and for which there is not a shadow of an excuse.

I enclose a map showing the location of the Indians. The only townships that have been surveyed are Tps 4 N. R. 25 and 26 E. The Indians are scattered along the river from the upper end of the valley in T. 6 N. R. 24 E. to the lower end in T. 4 N. R. 26 E., the greater number being in T. 5 N. R 25 E., which contains most of the bottom land.

Most of the bottom land properly so called is flooded when the river is high . To cultivate this in civilized fashion would require a system of levees. There is also a considerable quantity of land above the flood line, partly mesa land cut up by washes and partly the slope from the valley up to the hills, which lies finely for irrigation and can be irrigated at comparatively small expense by means of a ditch heading opposite the Blankenship Valley. Most of the slope lies in T. 5 N. R. 24 E. . I do not think it wise or feasible even, to attempt to allot the land until an irrigation system has been planned. I would therefore recommend the setting aside in some manner, for Indian use, of fractional townships 4 N. Rs. 25 and 26 E., T. 5 N. R. 25 E., 6 N. R. 25 E., the east one half of T. 5 N. 24 E., and sections 25, 26, 35 and 36 of T. 6 N. R. 24 E and a right of way for an irrigation ditch along the river through the last named township and through 7 N. R. 24 E. if that should prove necessary. Possibly secs 1, 2, 11 - 12 of T. 4 N R 24 E should be included. I should expect that the land so reserved would be more than actually required by the Chimehuevis, but that can not be determined in advance of investigation. There are a few Indians of this band at Topock and some out in the Mohave desert. The Indians at the Needles are Mohaves of Yuman stock and would not be included in this scheme. A few Chimehuevis are also at Fort Mohave in Arizona. The entire band probably does not number more than 250. I expect to mention this matter again in a report to be submitted within a few days in regard to proposed additions to several of the Southern California Indian reservations.

Very respectfully,

C. E. Kelsey
Special Agent for the Calif. Indians.

EXHIBIT D

LETTER OF JANUARY 3, 1907
TO COMMISSIONER OF INDIAN AFFAIRS
FROM SPECIAL AGENT C.E. KELSEY

REFER IN REPLY TO THE FOLLOWING:

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

San Jose, Calif., Jan 3, 1907.

Hon. Commissioner of Indian Affairs,
Washington, D. C.

Sir:-

I have the honor to make the report asked for in your letter of Nov. 10, 1906, Land 96989-1906 in respect to certain lands withdrawn from entry on account of the Mission Indians which have not as yet been added to the reservations, and will specify those that, in my opinion should be formally added to the various reservations by Congress. I have been unable to report earlier owing to the time required in getting the data for a proper report. There are thirty four Indian reservations in Southern California. As to some of these I already had fairly complete data and as to others no changes were proposed. Still it took more than 2,000 miles of travel to visit these absolutely necessary for me to see. To get proper data from the Land Office and personally inspect the proposed additions and to secure other information necessary, required considerable time even if the Campo situation and other duties had not made further demands upon my time.

29 Palms.

The land patented as the 29 Palms reservation is the N. W. 1/4 Sec. 4, T. 1 S. R. 9 E., S. B. M.. The land actually occupied is the

(2. Ind. Commr. Res. Add.)

S. W. 1/4 Sec. 33, T. 1[illegible] 9 E. ., S. B. M. The latter description was reserved for the use of the Mission Indians by executive order dated Dec. 23, 1901. As this quarter section contains about all the land of value and especially the water, I recommend that it be added to the reservation. See my letter upon this subject dated Dec. 10, 1906.

Inyaha.

My letter of Nov. 5, 1906 contains as complete a statement of the situation as I have been able to make. The original Inyaha consisted of the N. E. 1/4 of Sec. 35 , T. 15 S. R. 5 E., S. B. M. Later Aug. 6, 1892, the S. 1/2 of the S. E. 1/4 and the N. W. 1/4 of the S. E. 1/4 of Sec 26, same township was added, but whether by executive order or by act of Congress the Land Office records at Los Angeles do not show. In a letter dated Feb. 19, 1906, to the Indian Office I recommended that there be added the N. 1/2 of the N. W. 1/4 and the S. E. 1/4 of the N. W. Sec. 35 the W. 1/2 of the N. E. 1/4 Sec. 26 and the W. 1/2 Sec. 26 be also added to the reservation. All but the last have, I understand, been withdrawn from entry. There is some arable land , some pasture and considerable wood upon the land mentioned and I would recommend the addition of the said land to the Inyaha reservation.

Santa Rosa.

The Indians of the Santa Rosa band have never had a reservation set apart for them. The land has recently been surveyed, I understand, although not as yet published. As nearly as I can get at it they occupy land in section 33, T. 7. S. R. 5 E., S. B. M. The entire township is included [illegible] San Jacinto Forest Reserve and there be obstacles in

(.. Ind. Commr. Res. Add.)

the setting aside of land for these Indians. I would recommend that if possible, the lands which these people have occupied from time immemorial be in some manner secured to them.

Capitan Grande.

The lands patented to the Capitan Grande band of Indians are Sec. 10, 11, 14, 15, 22, the W. 1/2 27, Sec. 28, 33, the S. 1/2 34 and Sec 35, T. 14 S. R. 2 E., the N. 1/2 of Secs. 1 and 2 and Secs. 3 and 4, T. 15 S., R. 2 E., Secs. 31 and 32, T. 14 S. R. 3 E. and Secs 5 and 6 T. 15 S. R 3 E. Since that time there have been reserved from entry pending investigation etc., Secs. 23, 26 and 25, T. 14 S. R. 2 E., Secs 5, 6 and 10 T. 15 S. R. 2 E. I see no advantage to the Indians in adding sections 5 and 6 T. 15 R. 2 E. Sec ten of same township is nearly worthless but the South Fork of the San Diego river runs through it and it may be the scene of a water struggle if not added. I would therefore recommend that the N.1/2 of Sec 10 be added and also the S. 1/2 Sec. 2 for the same reason, to prevent future trouble over the water in the stream. The S. E. 1/4 of the S. E. 1/4 of Sec. 21, T. 14 S. R. 2 E. was filed upon in 1887 by one Frederick S. Anderton, pre-emption 2545, dated Nov. 25, that year. The Land Office records at Los Angeles do not show that final proof was ever made or that a final patent ever issued. There are no filings upon the rest of the section. If the filing of Anderton is outlawed as it appears to be I recommend that the entire section be added to the reservation. The south east corner of the section is on the east side of the San Diego River, not far from the Capitan Grande school house. There are several acres of bottom land and the apparent possession of this tract by outsiders

has been a matter of disquietude to the Indians and it should be removed. I also recommend the addition of sections 23, 25 and 26 to the reservation as recommended by several special agents at various times past. There is some pasturage and some wood which the Indians may as well have as any one else. I would also recommend the addition of the E. 1/2 of Sec. 27 and the N. 1/2 of Sec. 34. They are not good for much . About the only thing they can be used for would be for some white man to start a saloon on. Rather than have the land in the possession of outside parties, who would ~~ex~~ expect to be bought out by the government at a high figure I think it better to put the land into the reservation. The situation in townships 14 and 15 south range three East is somewhat different. There is a fine stream in each of the creeks known as King Creek and Conejos Creek, in the rights to which the Indians have no protection. There is also a considerable tract of arable land on sections 4, 7 and 8 which the Indians will soon need. They are cultivating some of it now. This land and all which will protect the water rights of the Indians should be added to the reservation. Some land has already passed into private ownership and I consider the need of taking action to be great. Sections 4, 7, 8 and the N.W. 1/4 of the S. W. 1/4 and the S. W. 1/4 of the N. W. 1/4 of Sec. 9., T. 15 S. R 3 E. and the W. 1/2 Sec 28, the E. 1/2 of the S. E. 1/4 Sec. 28, and the N. 1/2 of the N. E. 1/4 Sec. 28, T. 14 S. R. 3 E. should be added to the reservation. Lots 2 & 3 1/4 Sec 33. S 1/2 S E 1/4, N E 1/4 S E 1/4, S E 1/4 N E 1/4 & N 1/2 N E 1/4 Sec 3. T. 14 S R 3 E

Agua Caliente or Palm Springs.

The sections originally reserved by executive order were Secs. 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34, T. 4. S. R. 4 E.

and Sec. 2 in T. 5. S. R. 4 E. The Sections Patented are Secs. 12, 14, 22, 24, 26, and 34, T. 4 S. R. 4 E. Some of these sections first named were restored to entry and some entries were made on Sec. 10. These have recently been cancelled and I recommend the addition of this section to the reservation. Should the government ever attempt to do anything with the water at the head of Chino Canyon on Sec. 6 Sec 10 will be about the only place it can be used. The Indians will probably not need it for some time but they want the land and the present is the most favorable time to give it to them. Section 6 is the subject of a letter addressed by me to the Hon. Commissioner of Indian Affairs, dated Dec. 10, 1906. I would renew the recommendation there made that Sec. 6 be added to the reservation. It is the only pasture land the Indians have and they want this section. Most of the land and water are upon Sec. 7, which is owned by the Southern Pacific R. R. Co. I suggested that perhaps the Railroad company might be willing to exchange this Sec. 6 for section 22, T. 3 S. R. 4 E. upon which the railroad buildings and other property at Palm Springs Station are located, and to which the Company has no title. If this should be done section 7 should also be added to the reservation. I have seen nothing further in T. 4. S. R. 4 E. that I can recommend for addition, except that should the purchase of Sec. 35 be made as has been recommended by Chief Irrigation Engineer Code and myself, this section should also be added. This deal also includes Sec. 3 in T. 5. S. R. 4. E. Sec. 2 in this township was not included in the patent. I think it should be added as it has quite an area of good land and the Indians want the land. They have lived upon it within a few years, though I found none there on my recent visit. Sec.

10 also should be added as it controls the water from Murray Canyon. This is not a large stream but any water in that country is a subject for bitter controversies and the best way to prevent any more such as the one which has lasted for so long with Barney, is to appropriate the whole subject of probable controversy. Sec. 11 of this township was at one time patented to the So. Pacific R. R. Co., but it has been reconveyed to the United States. There is some arable land and it is the most natural place to use the water from Murray Canyon, or part of it and I think it should be added to the reservation.

Martinez.

The desert reservations consist of certain even numbered sections, which I believe have not as yet been patented. There is no opportunity to add any land to the reservations as the whole country has proved to be in an artesian belt of the first class. Land without water is now $50.00 per acre. It would be very expensive and does not seem to be necessary to increase any of these reservations. Some years ago, I understand, the State relinquished sections 16 and 36, T.7 S. R. 8 E to the United States. They have been and now are occupied by the Indians. Upon Sec. 16 are three artesian wells and the Government school house. I would suggest that these Sections 16 and 36 be included in the patent when issued, and that if any Congressional action be necessary, the same be recommended at this time.

✳ Chimehuevi Valley.

The rights of the Indians of the Chimehuevi valley on the Colorado river below the Needles is the subject of my letter to the Indian Office

dated Dec. 27, 1906. These Indians regard their present location as their place of origin. I believe there is no question but they have occupied this land since primeval times. I do not know why the land has not been reserved before this, but the place is a remote one in the desert and they were probably overlooked, as a good many other Indians in California have been. I would therefore recommend that their valley be added to the Colorado River reservation or that whatever action is appropriate be taken The land to be so set aside should be, I think, T. 4 N. R. 25 E., T. 4 N. R. 26 E.,T. 5. N. R. 25 E., 6. N. 25 E. the E. 1/2 of T. 5.N. R. 24 E. Sections 25, 26, 35 and 36 of T. 6 N. R. 24 E and possibly a right of way for an irrigating ditch through T. 7 N. R. 24 E. The townships above mentioned are all fractional but 5 N 24 E and some of them are very small. All have not been surveyed.

Pachanga.

There is considerable government land adjoining the Pachanga reservationbut the most of it is absolutely worthless, as far as any one can see. The spring from which the Indians get their water and the water of which we expect to pipe down onto the reservation is situated upon government land. There are several springs all of which seem to be on Sec 25, T. 8. S. R. 2 W.I think this section should be added to the reservation. There would probably be no objection on the part of anyone if Secs. 30 and 31, T. 8 S. R. 2 1 W. should be added as has, I understand, been proposed. But I do not see any especial benefit.

Saboba or San Jacinto.

Fractional section 5, (consisting of Lots 1, 2, 3, ~~4 and 5~~) T. 5 S. R. 1 E. and Lots 1, 2, 3, 4, and 5 and the N. E. 1/4 of N. E. 1/4 of Sec. 29 and all of Sec. 31, T. 4 S. R. 1 E., have by some misunderstanding been

patented to the Southern Pacific R. R. Co., as part of its land grant. The land is not of great value, but it has been occupied by the Indians since before the Southern Pacific Company was organized and probably for hundreds of years before that. Part of the land has Indian houses on it and has been for years under cultivation by the Indians. The Indians will naturally think that if they can be deprived of these descriptions they can be deprived of all the land they have. I do not think any one can ever explain to the Indians how or why they should be deprived of this land. If there is any possible way I trust these sections may be added to the reservation.

Campo.

The land patented to the Campo Indians consists of the E. 1/2 of the N. E. 1/4 Sec. 4, the W. 1/2 of the N. W. 1/4, the S. E. 1/4 of the N. W. 1/4, the S. W. 1/4 of the N. E. 1/4, and the N. W. 1/4 of the S. W. 1/4 of Sec. 3, T. 18 S. R. 5 E. S. B. M. The Indian graveyard, most of the Indian houses and a large part of their arable land, all that can be irrigated from the spring are upon the N. E. 1/4 of the N. W. 1/4 Sec. 3. Why it was not included in the original grant I do not know. It should certainly be added to the reservation now. I think it would be well also to add the N. E. 1/4 of the S. E. 1/4 and the W. 1/2 of the N. E. 1/4 of Sec. 4, ~~[illegible]~~ T. 18 S. R. 5 E. and the S. 1/2 of the S. E. 1/4 of Sec. 33 and the S. 1/2 of the S. W. 1/4 of Sec. 34, T. 17 S. R. 5 E. These descriptions of land have no value to speak of, except for grazing a few cattle. I think it advisable to interpose a little barren

land between the Indians and their neighbors. Most of the troubles of the Campo Indians have arisen from their white neighbors crowding over the lines. It would have been better, in my opinion, if the Commission had placed the reservation boundaries wide enough to protect the Indians, in the first instance. J. A. Warren, immediately adjoining the reservation in section 3, has been occupying for years a piece of the reservation equal to 40% of its arable land. Such things could not occur if a zone of safety be allowed around the land occupied by the Indians, large enough to allow for mistaken boundaries, and defective surveys. For the protection of the Indians I therefore recommend that these descriptions be added to the Campo reservation.

Laguna.

The land patented to the Laguna Indians is the N. W. 1/4 of Sec. 33 T. 14 S. R. 5 E. S. B. M. Since then the S. W. 1/4 of the S. W. 1/4 Sec 28 and the N. 1/2 of the S. W 1/4 of Sec.33 has been reserved by executive order. There are Indians on both tracts. The land is of very good quality, better than on any of the other reservations. I recommend that the descriptions mentioned above and also the S. E. 1/4 of the S. W. 1/4 of Sec. 28 be formally added to the reservation. The N. 1/2 of the S. 1/2 of Sec. 28 has been filed on as a homestead and also the S. E. 1/4 of the S. W. 1/4 Sec. 33 and also certain land in Sec. 4, T. 15 S. R. 5 E. It would seem that if this land is valuable enough for white men to homestead it is valuable enough for the Indians. I would therefore recommend that the homestead entries be cancelled and the land added to the Laguna reservation if authority for such procedure exists.

(10. Ind. Commr. Res. Add.)

Cuyapipe.

The land patented to the Cuyapipe Indians is the E. 1/4 of Sec. 19, the W. 1/2 of Sec. 20, the W. 1/2 of the S. E. 1/4 Sec. 20, the N. W. 1/4, the W. 1/2 of the N. E. 1/4, the N. E. 1/4 of the N. E. 1/4 and the N. W. 1/4 of the S. E. 1/4, Sec. 29, T. 15 S. R. 6 E. S. B. M. Since then there has been reserved by executive order the N. W. 1/4 ~~of the~~ ~~N. W. 1/4~~ and the W. 1/2 of the N. E. 1/4 Sec. 19 and the S. 1/2 of the S. E. 1/4 Sec. 29 and at a later date the N. W. 1/4 of Sec. 33. These so reserved by executive order are all occupied by the Indians and should be added to the reservation. I think that there should also be added a protective belt. The reservation is very barren on the side of a very rocky steep mountain. On sections 17 and 18 part way up the mountain is a mesa which should raise grain. The rest of the newly proposed addition is of value only as grazing land, and I do not consider it of high quality for that. But the need for protection from the variations of lines caused by fraudulent and careless surveys is the same here as at Campo. I therefore recommend the land described above for addition to the reservation and also the following:- the S. 1/2 of Secs. 17 and 18; the N. E. 1/4 and E. 1/2 of the S. E. 1/4, Sec. 20; the S. W. 1/4 and the W. 1/2 of the S. E. 1/4 Sec. 19 all of Secs. 21, 28 and 30, the S. W. 1/4 Sec. 29, the N. 1/2 Sec. 32, the E. 1/2 and the E. 1/2 of the S. W. 1/4 and the S. W. 1/4 of the 1/4 of Sec 33.

La Posta.

The land patented to the La Posta Indians is the S. 1/2 of the S. E.

1/4 and the S. E. 1/4 of the S. W. 1/4 Sec. 31, T. 16 S. R. 6 E., S. B. M., and the N. 1/2 of the N. E. 1/4 and the N. E. 1/4 of the N. W. 1/4 Sec. 6, T. 17 S. R. 6 E.. Subsequently there was reserved by executive order the S. 1/2 of the N. 1/2 Sec. 5 and the S. 1/2 of the N. E. 1/4 and the S. E. 1/4 of the N. W. 1/4 Sec. 6, T. 17 S. R. 6. E. and the S. 1/2 of the S. E. 1/4 and the N. W. 1/4 of the S. E. 1/4 Sec. 24 and the N. 1/2 of the N. E. 1/4 Sec. 25, T. 16 N. R. 5 E. Upon the last named tract there were three Indian families when the land was suspended from entry twelve years ago. There are none now and have been none for years. I see no reason for retaining the land. It does not fit in with any scheme for improving the condition of the Indians and I recommend that the said land, described as the S. 1/2 of the S. E. 1/4 and the N. W. 1/4 of the S. E. 1/4 Sec. 24 and the N. 1/2 of the N. E. 1/4 Sec. 25 be restored to the public domain. The particular tract patented to the Indians as the La Posta reservation is a very barren pile of granite rocks. The Indians were at that time and have been ever since located upon the S. 1/2 of the N. 1/2 of Sections 5 and 6, T. 17 S. R. 6 E. This land should certainly be added to the reservation. The best land in the neighborhood lies in the south half of section 30 and the N. 1/2 of the N. W. 1/4, the S. W. 1/4 of the N. W. 1/4 and the N. W. 1/4 of the S. W. 1/4 of Sec. 31, T. 16 S. R. 6 E. , which land has now been patented to private owners. This seems to me to again illustrate the advisability of having a buffer strip of land around the reservation to take up the vagaries and worse of the various surveys in this country and to protect the Indians from boundary

troubles with whosoever may take up the land adjoining them. I therefore recommend the addition to the La Posta reservation of the following land; the N. E. 1/4 of the S. W. 1/4; the s. W. 1/4 of the S. W. 1/4; the S. E. 1/4 of the N. W. 1/4 ; the E. 1/2 of S. E. 1/4 and the N. E. 1/4 of Sec 31 and all of sections 32 and 33, T. 16 S. R. 6 E and the W. 1/2 of the N. W. 1/4 and the S. 1/2 of Sec. 6; the N. 1/4 and the S. 1/2 of Sec. 5 and all of section 4, T. 17 S. R. 6 E. If this land is so added the reservation as enlarged will join on to the enlarged Manzanita and the new reservation which may be created to the south.

Manzanita.

The land patented to the Manzanita Indians is the whole of section 26, T. 16 S. R. 6 E, S. B. M. The Indians had occupied this section but had been disposed by one Peter Mc Cain under a homestead patent for the S. W. 1/4 of section 25 same township. When the land was given the Indians they were mostly on the N. E. 1/4 of Sec. 35 and a few were on the N. 1/4 of Sec 25. , which tracts have been suspended from entry for some years by executive order. Mc Cain seems to be in possession through an error of the surveyor who ran the lines when he took up the land and not from any deliberate effort to occupy reservation land. He is using about 210 acres of land of fair quality, the possession of which by the Indians would be a great help in making them self sustaining. The field notes for T. 16 S. R. 6 E. were not on file at the county seat nor could they be obtained at Washington. Mc Cain's surveyor, not being able to get the field notes of this township, took those of the township immediately east, naturally supposing that the section lines of the two townships would

coincide. Actually they are half a mile apart and the surveyor therefore located Mc Cain half a mile too far south and the land to which Mc Cain holds a patent is a worthless rocky hill. Within the last month the missing field notes have been found in the land office in Los Angeles and Deputy U. S. Surveyor Couts informs me that there is practically no doubt but Mc Cain is on the reservation. A proper margin of land around the Indians would have prevented this whole affair and I therefore recommend that such a strip be now added to this reservation. As far as Mc Cain is concerned, it is something like locking the stable a little late, but it is not too late to save troubles of the kind with other men. I would therefore recommend the addition of the W. 1/2 of Sec. 24 and 25 and all of Secs. 22, 23, 27, 34 and 35, T. 16 S. R. 6 E. I think it would be wise to pay Mc Cain a fair price for his improvements and would have tried to buy him out when there recently, but he was absent in the Imperial country for an indefinite period. I hope to take up the matter with him on my next visit to Campo. The matter of additions to the five Campo reservations will be mentioned and further explained in connection with the proposed purchases of land for the Campo Indians, in a report upon the same, which I expect to send in within a few days.

I would therefore summarize my recommendations as follows.

There should be added to

Twenty nine Palms,- S. W. 1/4 Sec. 33, T. 1 N. R. 9 E., S. B. M.

Inyaha,- N. 1/2 of the N. W. 1/4 and S. E. 1/4 of the N. W. 1/4 Sec. 35; the W. 1/2 Sec. 26 and the W. 1/2 of the N. E. 1/4 Sec. 26 and

if the same has not been already added, the S. 1/2 of the S. E. 1/4 and the N.W. 1/4 of the S. E. 1/4 Sec. 26, all in T. 13 S. R. 3 E. S. B. M.

Santa Rosa.- E. 1/2 Sec. 32, all of Sec. 33 and the W. 1/2 of Sec. 34, T. 7 S. R. 5 E. S. B. M.

Capitan Grande,- Secs. 21, 23, 25, 26, the E. 1/2 of Sec. 27 and the N. 1/2 of Sec. 34, T. 14 S. R. 2 E. S. B. M; the N. 1/2 Sec 10 and the S. 1/2 of Secs. 1 and 2, T. 15 S. R. 2 E; the W. 1/2 Sec. 28, the N. 1/2 of the N. E. 1/4 and the E. 1/2 of the S. E. 1/4 Sec. 28, the S. W. 1/4 Sec. 33, the S. 1/2 of the S. E. 1/4, the N. E. 1/4of the S. E. 1/4 the S. E. 1/4 of the N. E. 1/4 and the N. 1/2 of the N. E. 1/4 Sec 33, all of T. 14 S. R. 3 E.; the whole of Secs. 4, 7 and 8 and the S. W. 1/4 of the N. W. 1/4 and the N. W. 1/4 of the S. W 1/4 of Sec. 9, all T. 15 S. R. 3 E. S. B. M.

Agua Caliente or Palm Springs.- Secs. 6, 7 if the same be exchanged with the S. P. R. R.,Sec. 10, T. 4. S. R. 4. E. and Secs. 2, 10 and 11, T. 5. S. R. 4. E. S. B. M.

Martinez.- Secs. 16 and 36, T. 7. S. R. 8 E. S. B. M. if the same have not been added already.

Chimehuevi Valley,- Fractional townships4. N. R. 25 E., T. 4 N. R 26 E., T. 5 N. 25 E. , 6. N. 25 E, the E. 1/2 of T. 5 N. R. 24 E., and Secs. 25, 26, 35 and 36 T. 6 N. R. 24 E. S. B. M.

Saboba or San Jacinto.- Fractional Sec 5, T. 5 S. R. 1 E. and Lots 1, 2, 3, 4, and 5, and the N. E. 1/4 of Sec. 29 and all of Sec. 31, T. 4 S. R. 1 E., S. B. M.

(15. Ind, Commr. Res. Add.)

Campo.- The N. E. 1/4 of the N. W. 1/4 of Sec. 3; the N. E. 1/4 of the S. W. 1/4, the W. 1/2 of the N. E. 1/4Sec. 4, T. 18 S. R. 5 E., and the S. 1/2 of the S. E. 1/4 of Sec. 33 and the S. 1/2 of the S. W. 1/4 Sec. 34, T. 17 S. R. 5 E. S. B. M.

Laguna.- The S. 1/2 of the S. W. 1/4 Sec. 28 and the N. 1/2 of the S. W. 1/4 Sec. 33, T. 14 S. R. 5 E. S. B. M.

Cuyapipe.- The S. 1/2 of Secs. 17 and 18, all of Sec. 19, excepting the E. 1/4 already in the reservation, the E. 1/4 of Sec. 20, the W. 1/2 of the N. E. 1/4 Sec. 20, all of Secs. 21, 28, and 30; the S. W. 1/4 Sec. 29, the S. 1/2 of the S. E. 1/4 Sec. 29, the N. 1/2 Sec. 32, the N. 1/2 Sec. 33, the S. E. 1/4, the E. 1/2 of the S. W. 1/4 and the S. W. 1/4 of the S. W. 1/4 Sec. 33,T. 15 S. R. 6 E. S. B. M.

La Posta.- The S. W. 1/4 of the S. W. 1/4, the N. E. 1/4 of the S. W. 1/4, the S. E. 1/4 of the N. W. 1/4, the N. 1/2 of the S. E. 1/4, and the N. E. 1/4, all of Sec. 31 and all of Secs. 32 and 33, T. 16 S. R. 6 E., and all of Secs. 4 and 5 and the S. 3/4 and the N. W. 1/4 of the N. W. 1/4 of Sec. 6, T. 17 S. R. 6 E. S. B. M.

Manzanita.- Sec. 22, Sec. 23 (should Mc Cain convey the S. W. 1/4 to the U. S.), the W. 1/2 Sec. 24, the W. 1/2 Sec. 25, and all of Secs. 27, 34, and 35, T. 16 S. R. 6 E. S. B. M.

The Becker extension, as recommended in letter of Jan. 4, 1907, subject to the approval of the Hon. Commissioner of Indian Affairs,- Secs. 1, 2, 3, 10, the N. 1/2 of Sec. 11, the W. 1/2 of the S. W. 1/4, the N. 1/2 of the S. E. 1/4, and the S. E. 1/4 of the S. E. 1/4 Sec. 11, all of Sec. 12 and the N. 1/2 Sec. 13, the N. 1/2 Sec. 14, excepting the N. W.

(16. Ind. Commr. Res. Add.)

1/4 of the N. E. 1/4, Secs. 15, 21, the N. 3/4 and the S. E. 1/4 of the S. E. 1/4Sec. 22, the E. 1/2 Sec. 20, Sec. 27 (excepting the N. W. 1/4 of the N. E. 1/4; the E. 1/4 and the W. 1/2 of Sec. 28; the E. 1/2 Sec. 29; the N. E. 1/4 and the W. 1/2 of the S. E. 1/4 Sec. 32; the N. W. 1/4 and the W. 1/2 of the E. 1/2 of Sec. 33; the N. 1/2 and the N. W. 1/4 of the S. E. 1/4 and the N. E. 1/4 of the S. W. 1/4 Sec. 34; all in T. 17 S. R. 6 E., the E. 1/2 of Secs. 5, 8 and 17 and all of Secs. 3, 4, 9, 10, 15 and 16, (school section) the E. 1/2 of fractional Sec. 20 and fractional Sec. 21, all in T. 18 S. R. 6 E., S. B. M.

I would suggest that the above named descriptions of land be reserved from entry, such as are not already suspended, pending such action as Congress may see fit to take.

I would also suggest that authority be conferred upon the Secretary or such official as Congress may see fit to appoint, to cancel any homestead entry covering land needed for addition to any of the proposed reservations, upon payment of a reasonable sum for any improvements the homesteader may have upon the land. The Smiley Commission was given such authority, or its equivalent and it was of great advantage in setting aside land for the Indians in Southern California.

I enclose herewith eight maps showing the proposed additions to the reservations mentioned in this letter, and beg leave also to refer to a map of the country east of Campo which accompanies my report upon the proposed purchase of land for the Campo Indians.

Very respectfully,

C. E. Kelsey

Special Agent for the California Indians.

Enclosures)

EXHIBIT E

LETTER OF JANUARY 31, 1907
TO THE SECRETARY OF THE INTERIOR
FROM THE COMMISSIONER OF INDIAN AFFAIRS

REFER IN REPLY TO THE FOLLOWING:

Land
5467-1907.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

8003

January 31, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Office letter of January 28, transmitting reports of Special Agent C. E. Kelsey on the condition of the Mission Indian Reservations in California, and the draft of a proposed bill for the betterment of their condition, I have now the honor to transmit herewith certain descriptions of land which he recommends be withdrawn from all form of settlement and entry pending action by Congress whereby they may be added to the several reservations.

The proposed additions are as follows:

Twenty-nine Palms.- The SW/4 of Sec. 33, T. 1 N., R. 9 E., S.B.M.

Inyaha.- The N/2 of NW/4 and SE/4 of NW/4, Sec. 35; the W/2 of Sec. 26 and the W/2 of NE/4, Sec. 26, and if the same has not been already added, the S/2 of SE/4 and the NW/4 of SE/4, Sec. 26, all in T. 13 S., R. 5 E., S.B.M.

Santa Rosa.- The E/2 of Sec. 32, all of Sec. 33, and the W/2 of Sec. 34, T. 7 S., R. 5 E., S.B.M.

Capitan Grande.- Secs. 21, 23, 25, 26, the E/2 of Sec. 27 and the N/2 of Sec. 34, T. 14 S.,R. 2 E., S.B.M.; the N/2 of Sec. 10 and the S/2 of Secs. 1 and 2, T. 15 S., R. 2 E.; the W/2 of Sec. 28, the N/2 of the NE/4 and the E/2 of SE/4, Sec. 28, the SW/4 Sec. 33, the S/2 of SE/4, the NE/4 of SE/4, the SE/4 of NE/4, and the N/2 of NE/4, Sec. 33, all of T. 14 S., R. 3 E.; the whole of Secs. 4, 7, and 8, and the SW/4 of NW/4, and the NW/4 of SW/4 of Sec. 9, all T. 15 S., R. 3 E., S.B.M.

Agua Caliente or Palm Springs.- Secs. 6, 7 if the same be exchanged with the S. P. R. R., Sec. 10, T. 4 S., R. 4 E., and Secs. 2, 10 and 11, T. 5 S., R. 4 E., S.B.M.

Martinez.- Secs. 16 and 36, T. 7 S., R. 8 E., S.B.M., if the same have not been added already.

Chimehuevi Valley.- Fractional townships 4 N., R. 25 E., T. 4 N., R. 26 E., T. 5 N., 25 E., 6 N., 25 E., the E/2 of T. 5 N., R. 24 E., and Secs. 25, 26, 35 and 36, T. 6 N., R. 24 E., S.B.M.

Saboba or San Jacinto.- Fractional Sec. 5, T. 5 S., R. 1 E., and Lots 1, 2, 3, 4, and 5, and the NE/4 of Sec. 29, and all of Sec. 31, T. 4 S., R. 1 E., S.B.M.

Campo.- The NE/4 of NW/4 of Sec.3; the NE/4 of SW/4, the W/2 of NE/4 Sec. 4, T. 18 S., R. 5 E., and the S/2 of SE/4 of

of Sec. 33, and the S/2 of SW/4 Sec. 34, T. 17 S., R. 5 E., S.B.M.

Laguna.- The S/2 of SW/4 Sec. 28, and the N/2 of SW/4 Sec. 33, T. 14 S., R. 5 E., S.B.M.

Cuyapipe.- The S/2 of Secs. 17 and 18, all of Sec. 19, excepting the E/2 of NE/4 and the E/2 of SE/4 already in the reservation, the E/2 of NE/4 and the E/2 of SE/4, Sec. 20, the W/2 of NE/4 Sec. 20, all of Secs. 21, 28, and 30; the SW/4 of Sec. 29, the S/2 of SE/4 Sec. 29, the N/2 Sec. 32, the N/2 Sec. 33, the SE/4, the E/2 of SW/4, and the SW/4 of SW/4 Sec. 33, T. 15 S., R. 6 E., S.B.M.

La Posta.- The SW/4 of SW/4, the NE/4 of SW/4, the SE/4 of NW/4, the N/2 of SE/4, and the NE/4, all of Sec. 31, and all of Secs. 32 and 33, T. 16 S., R. 6 E., and all of Secs. 4 and 5, and the SW/4, the SE/4, the S/2 of NW/4, the S/2 of NE/4, and the NW/4 of NW/4 of Sec. 6, T. 17 S., R. 6 E., S.B.M.

Manzanita.- Sec. 22, Sec. 23 (should McCain convey the SW/4 to the United States), the W/2 Sec. 24, the W/2 Sec. 25, and all of Secs. 27, 34 and 35, T. 16 S., R. 6 E., S.B.M.

Campo.- Secs. 1, 2, 3, 10, the N/2 of Sec. 11, the W/2 of SW/4, the N/2 of SE/4, and the SE/4 of SE/4 Sec. 11; all of Sec. 12, and the N/2 Sec. 13, the N/2 Sec. 14, excepting the NW/4 of NE/4, Secs. 15, 21, the NW/4, the NE/4, the N/2 of

SW/4, the N/2 of SE/4, and the SE/4 of SE/4, Sec. 22, the E/2 Sec. 20, Sec. 27 (excepting the NW/4 of NE/4) the E/2 of NE/4, the E/2 of SE/4, and the W/2 Sec. 28; the E/2 Sec. 29; the NE/4 and the W/2 of SE/4 Sec. 32; the NW/4 and the W/2 of E/2 Sec. 33; the N/2 and the NW/4 of SE/4 and the NE/4 of SW/4 Sec. 34; all in T. 17 S. R. 6 E., the E/2 of Secs. 5, 8, and 17, and all of Secs. 3, 4, 9, 10, 15 and 16 (school section), the E/2 of fractional Sec. 20 and fractional Sec. 21, all in T. 18 S., R. 6 E., S.B.M.

I have the honor to recommend that the Commissioner of the General Land Office be instructed to note the withdrawal of these lands from all forms of settlement and entry, and directed to advise the officers of the local land offices for the districts in which the lands are situated, of such withdrawal.

Very respectfully,

Acting Commissioner.

AGE.Ph.