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17 IN THE UNITED STATES DISTRICT COURT
18 FOR THE EASTERN DISTRICT OF CALIFORNIA

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20 **BIG SANDY BAND OF WESTERN MONO**
INDIANS, a federally recognized Indian
21 **tribe,**
22 Plaintiff,
23 v.
24 **GAVIN NEWSOM, Governor of the State**
25 **of California; and the STATE OF**
26 **CALIFORNIA,**
27 Defendants.

1:22-cv-00844-ADA-SKO

**JOINT STATEMENT OF UNDISPUTED
FACTS IN SUPPORT OF THE
STIPULATION FOR FINAL
JUDGMENT AND ENTRY OF ORDER
REQUIRING PARTIES TO PROCEED
TO THE REMEDIAL PROCESS IN 25
U.S.C. § 2710(d)(7)(B)(iii)-(vii)**

1 In connection with the Stipulation for Final Judgment and Entry of Order Requiring Parties
 2 to Proceed to the Remedial Process in 25 U.S.C. § 2710(d)(7)(B)(iii)-(vii), the parties to this
 3 action submit the following joint statement of undisputed facts. The parties, through their
 4 undersigned attorneys, hereby stipulate as follows:

UNDISPUTED ESSENTIAL FACTS	SUPPORTING EVIDENCE
1. The Big Sandy Band of Western Mono Indians of California (Big Sandy or Tribe) is a federally recognized Indian tribe.	1. Indian Entities Recognized, 87 Fed. Reg. 4636, 4637 (1/28/2022).
2. Big Sandy has enacted a gaming ordinance that authorizes and provides for the regulation of gaming on its Indian lands. Such gaming ordinance was approved by the National Indian Gaming Commission.	2. Email from Lawson to Voegeli enclosing Notice of Approved Class III Tribal Gaming Ordinance (RON Tab 326, at 7046); Notice of Approved Class III Gaming Ordinance (RON Tab 327, at 7048-7049).
3. Big Sandy possesses Indian lands that are located within the State of California (State) and which are eligible for gaming under the Indian Gaming Regulatory Act, Pub. L. 100-497, 25 U.S.C. § 2701 et seq. (IGRA).	3. Email from Lawson to Voegeli enclosing Notice of Approved Class III Tribal Gaming Ordinance (RON Tab, at 7045); Notice of Approved Class III Gaming Ordinance (RON Tab 327, at 7048-7049); NIGC Opinion re Gaming by the Big Sandy Rancheria on the McCabe Allotment (RON Tab 139, at 1797).
4. On September 10, 1999, Big Sandy and the Governor executed a class III gaming compact (1999 Compact).	4. Big Sandy 1999 Compact (RON Tab 316); Cal. Gov't Code § 12012.25(a)(3) (Deering 2023).
5. The 1999 Compact was extended by the Amendment of June 30, 2022, until December 31, 2023.	5. Amendment to 1999 Compact – Signed (RON Tab 272, at 4623); 87 Fed. Reg. 39115 (June 30, 2022).
6. Between 2014 and 2016, Big Sandy negotiated with the State for a new class III gaming compact through the Compact Tribes Steering Committee (CTSC), a coalition of federally recognized California Indian tribes, which included the five Plaintiff Indian tribes in the <i>Chicken Ranch</i> litigation.	6. Letter from Kipp to Brown re Formal Notice of Request to Negotiate Tribal-State Compact (RON Tab 8, at 10); Big Sandy Rancheria Resolution No. 0414-01, Authorization of [sic] Join the 1999 Compact Tribes Steering Committee (RON Tab 9); Meeting Notice, 1999 Compact Tribes Steering Committee (RON Tab 10); <i>Chicken Ranch Rancheria v. California</i> , 42 F.4th 1024 (9th Cir. 2022).

1	7. On March 2, 2018, Big Sandy requested a meeting with the State to discuss a Tribal-State compact.	7. Letter from Peebles to Dhillon requesting meeting (RON Tab 14, at 24).
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3	8. On May 1, 2018, the State sent to Big Sandy a copy of a Tribal-State compact the State had negotiated with another Indian tribe, proposing to use it for discussion purposes for a compact with Big Sandy.	8. E-mail from Henderson to Peebles providing draft compact (RON Tab 33, at 116); State's 2018 Draft Tribal-State Compact (RON Tab 34).
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5	9. The State's May 1, 2018 draft Tribal-State compact draft for discussion purposes contained provisions requiring environmental review and mitigation for a broadly defined set of projects.	9. E-mail from Henderson to Peebles providing draft compact (RON Tab 33, at 116); State's 2018 Draft Tribal-State Compact (RON Tab 34).
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7	10. The State's May 1, 2018 draft Tribal-State compact for discussion purposes contained provisions requiring broad tort claims coverage based upon California law.	10. E-mail from Henderson to Peebles providing draft compact (RON Tab 33, at 116); State's 2018 Draft Tribal-State Compact (RON Tab 34).
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9	11. On January 8, 2019, Big Sandy sent to the State a proposed Tribal-State compact. The draft Tribal-State compact proposed changes to the 1999 Compact. Big Sandy sent this proposed compact to the State again on February 21, 2019 and April 22, 2019.	11. Letter from Kipp to Newsom requesting meeting to discuss compact (RON Tab 53); Tribe's Proposed Tribal-State Compact (RON Tab 54).
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11	12. On May 2, 2019, the State sent to Big Sandy a copy of the Tribal-State compact it had negotiated with the La Jolla Band of Luiseno Indians, proposing to use it as a template for a compact with Big Sandy.	12. E-mail from A. Naimark to E. Kipp confirming formal request for compact negotiations and enclosing La Jolla compact (RON Tab 72, at 517); 2018 La Jolla Compact (RON Tab 73).
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13	13. On July 6, 2021, Big Sandy sent to the State a proposed Tribal-State compact.	13. Letter from Peebles to Naimark requesting meeting concerning proposed compact (RON Tab 99); Tribe's 7/6/2021 Draft Compact (RON Tab 100).
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15	14. On July 29, 2021, Big Sandy sent to the State a revised proposed Tribal-State compact.	14. Letter from Peebles to Naimark & Voegeli re request for compact negotiation meeting & revised draft Tribal-State Compact (RON Tab 103); Tribe's 7/29/2021 Draft Compact (RON Tab 104).
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17	15. On September 28, 2021, the State sent Big Sandy a copy of the Tribal-State compacts it	15. E-mail from Voegeli to Peebles enclosing Middletown and La Jolla draft compacts
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1	had negotiated with the Middletown Rancheria and the La Jolla Band of Luiseno Indians, and proposed that the parties use portions of these Tribal-State compacts as starting places for negotiation.	(RON Tab 127, at 1051); 2021 Middletown Compact (RON Tab 128); 2018 La Jolla Compact (RON Tab 128).
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5	16. On October 20, 2021, Big Sandy sent to the State a proposed Tribal-State compact.	16. Letter from Peebles to Voegeli (RON Tab 146); Tribe's 10/20/2021 Draft Compact (Redline) (RON Tab 147).
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7	17. On November 29, 2021, the State sent to Big Sandy a proposed Tribal-State compact comprising a revised version of the Tribal-State compact the State had negotiated with the Picayune Rancheria of Chukchansi Indians.	17. E-mail from Voegeli to Peebles (RON Tab 158, at 2243); State's 11/29/2021 Compact Draft (Redlined against PRCI Compact) (RON Tab 159, at 2245-2421).
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11	18. The State's November 29, 2021 Tribal-State compact draft contained provisions requiring environmental review and mitigation for a broadly defined set of projects.	18. State's 11/29/2021 Compact Draft (redlined against PRCI Compact) (RON Tab 159, at 2363-2357).
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15	19. The State's November 29, 2021 Tribal-State compact draft contained provisions requiring broad tort claims coverage.	19. State's 11/29/2021 Compact Draft (Redlined against PRCI Compact) (RON Tab 159, at 2325-2357).
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17	20. Big Sandy sent letters to the State on December 22, 2021, on January 4, January 19, February 9, March 14, March 21, April 13, May 18, and July 6, 2022, expressing Big Sandy's view that Tribal-State compact provisions demanded by the State violate IGRA.	20. Email from Peebles to Voegeli enclosing Tribe's revised draft compact (RON Tab 172, at 2501); Email from Bergin to Voegeli re compact negotiations and enclosing further revised draft compact (RON Tab 174, at 2656); Letter from Bergin to Voegeli re McCabe allotment & disapproved compacts (RON Tab 182, at 2969); Letter from Bergin to Voegeli re McCabe Allotment and other compact negotiation issues (RON Tab 191, at 3219); Letter from Peebles to Voegeli re compact negotiation issues (RON Tab 206, at 3497); Letter from Bergin to Voegeli re extension of 1999 compact and other compact negotiation issues (RON Tab 219, at 3981); Letter from Peebles to Voegeli re compact negotiation issues (RON Tab 229, at 4042); Letter from Peebles to Voegeli re Big Sandy Compact Negotiations (RON Tab 279, at 5003); Letter from Peebles to Voegeli re
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1		Compact Negotiations (RON Tab 329, at 7065).
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3	21. On December 22, 2021, Big Sandy sent to the State a proposed Tribal-State compact.	21. Email from Peebles to Voegeli enclosing Tribe's revised draft compact (RON Tab 172, at 2501); Tribe's 12/22/2021 Draft Compact (Redline) (RON Tab 173).
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6	22. On January 27, 2022, the State sent to Big Sandy another proposed Tribal-State compact.	22. E-mail from Voegeli to Peebles (RON Tab 188, at 3016); State's 1/27/2022 Draft Compact (Tab 189).
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8	23. The State's January 27, 2022 Tribal-State compact draft contained provisions requiring environmental review and mitigation for a broadly defined set of projects.	23. State's 1/27/2022 Draft Compact (Tab 189, at 3112-3151).
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11	24. The State's January 27, 2022 Tribal-State compact draft contained provisions requiring broad tort claims coverage.	24. State's 1/27/2022 Draft Compact (Tab 189, at 3156-3157).
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14	25. On March 14, 2022, Big Sandy sent to the State a proposed Tribal-State compact. Big Sandy informed the State that it would not accept material revisions to the proposed Tribal-State compact that violated the Secretary's decisions or the federal courts' decisions. Big Sandy referred to the proposed Tribal-State compact as its final offer.	25. Letter from Peebles to Voegeli re compact negotiation issues (RON Tab 206, at 3497); Tribe's 3/14/2022 Final Offer Draft Compact (RON Tab 207); Gaming Operations Building and Safety Ordinance (RON Tab 208); Tort Liability for Gaming Patrons Ordinance (RON Tab 209); Gaming Patron Dispute Resolution Ordinance (RON Tab 210); Gaming Operations Environmental Impact Ordinance (RON Tab 211); Gaming Employees Labor Relations Ordinance (RON Tab 212).
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21	26. On April 22, 2022, the State sent to Big Sandy a revised proposed Tribal-State compact.	26. E-mail from Voegeli to Peebles (RON Tab 276, at 4636); State's 4/22/022 Draft Compact (redlined against State's 01/27/2022 draft) (RON Tab 277, at 4637-4822).
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24	27. The State's April 22, 2022 Tribal-State compact draft contained provisions requiring environmental review and mitigation for a broadly defined set of projects.	27. State's 4/22/022 Draft Compact (redlined against State's 01/27/2022 draft) (RON Tab 277, at 4720-4759).
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28. The State's April 22, 2022 Tribal-State compact draft contained provisions requiring broad tort claims coverage.	28. State's 4/22/022 Draft Compact (redlined against State's 01/27/2022 draft) (RON Tab 277, at 4765-4766).
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Dated: April 28, 2023

Respectfully submitted,

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SARA J. DRAKE
Senior Assistant Attorney General
T. MICHELLE LAIRD
Supervising Deputy Attorney General
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/s/ B. Jane Crue

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Attorneys for Defendants

Dated: April 28, 2023

PEEBLES KIDDER BERGIN AND
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*/s/ John M. Peebles (as authorized on
4/27/23)*

John M. Peebles
Attorneys for Plaintiff

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CERTIFICATE OF SERVICE

Case Name: **Big Sandy Band, et al., v. Gavin Newsom, et al.** No. **1:22-cv-00844-ADA-SKO**

I hereby certify that on April 28, 2023, I caused to be electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

JOINT STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF THE STIPULATION FOR FINAL JUDGMENT AND ENTRY OF ORDER REQUIRING PARTIES TO PROCEED TO THE REMEDIAL PROCESS IN 25 U.S.C. § 2710(d)(7)(B)(iii)-(vii)

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 28, 2023, at Sacramento, California.

Linda Thorpe
Declarant

/s/ Linda Thorpe
Signature