

TIMOTHY J. RYAN (SBN 99542)
REBEKKA R. MARTORANO (SBN 173600)
THE RYAN LAW GROUP
 2600 Capitol Avenue, Suite 400
 Sacramento, CA 95816
 Tel: (916) 924-1912
 Fax: (916) 923-3872
 tryan@ryanlg.com
 rmartorano@ryanlg.com

TIMOTHY C. SEWARD (SBN 179904)
HOBBS, STRAUS, DEAN & WALKER
 1903 21st Street, 3rd Floor
 Sacramento, CA 95811
 Phone: (916) 442-9444
 Fax: (916) 442-8344
 TSeward@hobbsstrauss.com

Attorneys for Defendant-Intervenor
 Cher-Ae Heights Indian Community of the Trinidad Rancheria

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
EUREKA DIVISION

YUOK TRIBE,	)	Civ. No. 1:26-cv-05240-RMI
	)	
Plaintiff,	)	MEMORANDUM OF POINTS AND
	)	AUTHORITIES IN SUPPORT OF
v.	)	CHER-AE HEIGHTS INDIAN
CITY OF TRINIDAD, CHERYL KELLY,	)	COMMUNITY OF THE TRINIDAD
BRYCE KENNY, DOES 1-20	)	RANCHERIA'S MOTION FOR
	)	LIMITED INTERVENTION AND
Defendants,	)	[PROPOSED] MOTION TO DISMISS
	)	
CHER-AE HEIGHTS INDIAN	)	DATE: August 25, 2026
COMMUNITY OF THE TRINIDAD	)	TIME: 11:00 a.m.
RANCHERIA, a federally recognized Indian	)	LOCATION: Eureka-Mckinleyville
Tribe,	)	Courthouse, 3140 Boeing Ave,
Defendant-Intervenor.	)	Mckinleyville, CA 95519
	)	

Table of Contents

I.	BACKGROUND.....	6
II.	LEGAL STANDARD.....	8
III.	ARGUMENT.....	9
A.	Trinidad’s Motion for Limited Intervention Is Timely.....	10
B.	Trinidad Rancheria Has a Significant Protectable Interest in the Subject Matter of the Litigation.....	10
C.	If Plaintiff Succeeds in This Case, the Tribe’s Interests Will as A Practical Matter Be Severely Impaired or Impeded.....	13
D.	No Party Adequately Represents the Tribe’s Interests.....	13
E.	Request in the Alternative for Permissive Intervention.....	16
IV.	CONCLUSION.....	17

Federal Cases

<i>Citizens for Balanced Use v. Montana Wilderness Ass'n,</i>	
647 F.3d 893 (9th Cir. 2011)	8, 10, 13, 14
<i>Dep't. of Fair Emp't. & Hous. v. Lucent Techs., Inc.,</i>	
642 F.3d 728 (9th Cir. 2011)	16
<i>Dine Citizens Against Ruining Our Env't v. Bureau of Indian Affs.,</i>	
932 F.3d 843 (9th Cir. 2019)	15
<i>Donnelly v. Glickman,</i>	
159 F.3d 405 (9th Cir. 1998)	16
<i>Emp. Staffing Servs., Inc. v. Aubry,</i>	
20 F.3d 1038 (9th Cir. 1994)	16
<i>League of United Latin Am. Citizens v. Wilson,</i>	
131 F.3d 1297 (9th Cir. 1997)	10
<i>Maverick Gaming LLC v. United States,</i>	
123 F.4th 960 (2024).....	8
<i>McClendon v. United States,</i>	
885 F.2d 627 (9th Cir. 1989)	9
<i>Northwest Forest Resource Council v. Glickman,</i>	
82 F.3d 825 (9th Cir. 1996)	10
<i>Oakland Bulk & Oversized Terminal, LLC v. City of Oakland,</i>	
960 F.3d 603 (9th Cir. 2020)	9
<i>Protect the Peninsula's Future v. Haaland,</i>	
2024 WL 4751512 (W.D. Wash., Nov. 12, 2024)	8
<i>Sw. Ctr. for Biological Diversity v. Berg,</i>	
268 F.3d 810 (9th Cir. 2001)	8, 10, 14
<i>Trbovich v. United Mine Workers of Am.,</i>	
404 U.S. 528 (1972).....	14

1	<i>United States v. City of Los Angeles,</i>	
2	288 F.3d 391 (9th Cir. 2002).	13
3	<i>Venegas v. Skaggs,</i>	
4	867 F.2d 527 (9th Cir. 1989), <i>aff'd</i> , 495 U.S. 82 (1990).	16
5	<i>W. Watersheds Project v. Haaland,</i>	
6	22 F.4 th 828 (9 th Cir. 2022)	9
7	<i>White v. Univ. of Calif.,</i>	
8	765 F.3d 1010 (9th Cir. 2014)	15
9	Federal Statutes	
10	Fed. R. Civ. P. 12(b)(7).	5, 6, 8, 10, 17
11	Fed. R. Civ. P. 19	5, 6, 8, 10
12	Fed. R. Civ. P. 19(a)(1)(B)(ii).	15
13	Fed. R. Civ. P. 24	5, 8, 13
14	Fed. R. Civ. P. 24(a)	6, 9, 10, 16
15	Fed. R. Civ. P. 24(a)(2).	8, 13, 17
16	Fed. R. Civ. P. 24(b)	6, 16
17	Fed. R. Civ. P. 24(b)(1)(B)	8, 16, 17

**SPECIALLY APPEARING CHER-AE HEIGHTS INDIAN COMMUNITY
OF THE TRINIDAD RANCHERIA'S MOTION FOR LIMITED INTERVENTION AND
[PROPOSED] MOTION TO DISMISS**

Cher-Ae Heights Indian Community of the Trinidad Rancheria (Trinidad Rancheria, or Tribe), a federally recognized Indian tribe, specially appears in this matter, expressly without waiving its sovereign immunity, for the sole purpose of limited intervention under Fed. R. Civ. P. 24 so the Tribe—a necessary and required party—might file its Proposed Motion to Dismiss Plaintiff Yurok Tribe's (Plaintiff, or Yurok) Complaint pursuant to Fed. R. Civ. P. 12(b)(7) and 19 (Motion to Dismiss) on the basis of the Tribe's sovereign immunity.

MEMORANDUM IN SUPPORT

Plaintiff seeks declaratory and injunctive relief against Defendants City of Trinidad (City), Cheryl Kelly, and Bryce Kenny (collectively, the Defendants) to order the Partial Settlement Agreement (PSA), City of Trinidad Resolution Number 2026-04 (Resolution), and Policy Plan 69 (Policy 69) null and void. *See* Compl. (ECF No. 1), Prayer for Relief. Yet Plaintiff has neglected to name Trinidad Rancheria—which is a party to the PSA, the direct beneficiary of the City's Resolution, and the sole Tribe named in Policy 69—as a party to its Complaint. And though Plaintiff contends, without alleging any supportive facts, that the PSA, the Resolution approving the PSA, and the Tribe's resultant appointment to the Tsurai Management Team (TMT) invade Plaintiff's cultural and tribal sovereignty, Compl. ¶ 64, Plaintiff fails to recognize the impact to Trinidad Rancheria's own interests (and sovereignty) should the Court invalidate the City's actions as Plaintiff requests.

Plaintiff cannot sidestep Trinidad Rancheria's foundational interest (made clear by the dozens of references to the Tribe in Plaintiff's own Complaint) by simply omitting it from the litigation. Indeed, the Tribe appears to be the primary target of Plaintiff's litigation, as evidenced by Plaintiff's request to invalidate and/or rescind: (1) a bargained-for settlement agreement to which Trinidad Rancheria is a party and Plaintiff is not; (2) the City's appointment of Trinidad Rancheria to the TMT; and (3) a longstanding City General Plan Policy 69, which requires approval by Trinidad Rancheria, among others, for any disturbance, vegetative removal, and

1 construction within the Open Space portion of the Tsurai Study Area (TSA).¹ Because the Tribe
 2 is a necessary party to this action, the Tribe now specially appears and moves for intervention as
 3 of right under Fed. R. Civ. P. 24(a) for the limited purpose of moving to dismiss under Rules
 4 12(b)(7) and 19. In the alternative, the Tribe moves for permissive intervention under Rule 24(b)
 5 for the same limited purpose. The Tribe attaches herewith as Exhibit A its [Proposed] Motion to
 6 Dismiss, which the Tribe intends to file with this Court immediately should the Court grant the
 7 Tribe limited intervenor status.

8 For avoidance of doubt, by intervening in this action for the limited purpose of moving to
 9 dismiss under Rules 12(b)(7) and 19, the Tribe does not waive, and reserves in full, its sovereign
 10 immunity. Nothing here shall be construed as a waiver, in whole or part, of the Tribe's
 11 immunity, or as the Tribe's consent to be sued.

12 I. Background

13 Plaintiff's Complaint arises from the Trinidad Rancheria's partial settlement of a cause of
 14 action against the City in ongoing State litigation related to the City's ownership and
 15 management of land encompassing the historic Tsurai Village, to which multiple tribes lay
 16 cultural and traditional claim. *See generally* Compl. The Trinidad Rancheria, whose reservation
 17 lands are located less than one mile from the southern boundary of real property known as the
 18 TSA, which is also adjacent to property held in trust by the United States for the benefit of the
 19 Trinidad Rancheria,² is one of those tribes, Compl. ¶¶ 34; 45, as is Plaintiff, *id.* ¶ 4. Plaintiff
 20 alleges that in 2005, the TMT was formed, comprising four members: the City, Plaintiff, the
 21 Tsurai Ancestral Society, and the California Coastal Conservancy. *Id.* ¶ 32.

24
 25 ¹ This portion of Policy 69 is stated in the Complaint ¶ 35. Plaintiff's supplemental request that
 26 the Court order the City to 'rescind' the Policy establishes that Plaintiff's true target is the Tribe,
 27 and that the Tribe is therefore the proper interested party.

28 ² Cross Complaint of the Cher-Ae Heights Indian Community in *City of Trinidad v. Tsurai
 Ancestral Society, et al.*, Humboldt County Superior Court Case No. DR 180684 (Cross-
 Complaint) (Mar. 18, 2019), attached to the City's Request for Judicial Notice (hereinafter
 "RJV"), ECF No. 16, as Ex. K; *see also* PSA, Recital A, RJN, Ex. B.

1 The City adopted the Tsurai Management Plan (TMP) in 2007. *Id.* ¶ 34; PSA, Recital C,
 2 attached to City's Request for Judicial Notice (hereinafter "RJN"), ECF No. 16-1, as Ex. B. On
 3 or about February 13, 2013, the City passed a motion to support Trinidad Rancheria's
 4 longstanding request to join the TMT. Cross-Complaint of the Cher-Ae Heights Indian
 5 Community (Cross-Complaint), *City of Trinidad v. Tsurai Ancestral Society, et al.*, Humboldt
 6 County Superior Court Case No. DR 180684, (hereinafter "State Case"), RJN, Ex. K, ¶ 19.
 7 Later that year, the City sought declaratory relief in state court related to the TSA, TMT, and
 8 general management of the area with respect to the asserted tribal interests (including those of
 9 the Trinidad Rancheria and of Plaintiff). *See* State Case; Complaint for Declaratory Relief
 10 (hereinafter "City Complaint"), RJN, Ex. J); Compl. ¶ 35. In its State Case complaint, the City
 11 named Plaintiff and the Tribe, among others, and asked the Humboldt Superior Court to confirm
 12 the City's authority to appoint the Tribe to the TMT. *See generally*, City Complaint, ¶¶ 4–5, 8,
 13 15, RJN, Ex. J.

14 On March 8, 2019, after Plaintiff's dismissal from the State Case on its own motion and
 15 on the grounds of sovereign immunity, Trinidad Rancheria filed a Cross-Complaint seeking,
 16 among other things, declaratory relief as to whether the Trinidad Rancheria could be added to the
 17 TMT, from which it had been expressly excluded for almost 20 years, and allowed to attend and
 18 participate equally in TMT meetings. *See* Cross-Compl., ¶¶ 20–32, RJN, Ex. K; *see also* City
 19 Resolution, RJN, Ex. C.

20 In response to the Tribe's Cross-Complaint, the City and Trinidad Rancheria negotiated
 21 the PSA, which established in relevant part that the City would approve a resolution unilaterally
 22 appointing the Tribe to the TMT and "condition the City's participation in future TMT meetings
 23 on the Trinidad Rancheria participation as a member of the TMT." Compl. ¶ 45. On May 6,
 24 2026, the City passed the Resolution, *see* RJN, Exhibit C. The City and Trinidad Rancheria
 25 subsequently signed the PSA. Compl. ¶¶ 51–53; *see* Resolution, RJN, Ex. C; *see also* PSA, RJN,
 26 Ex. B.
 27
 28

1 In response, Plaintiff filed the instant Complaint in federal court to: seek declaratory and
 2 injunctive relief against the City; cause the City to rescind its actions approving the PSA,
 3 appointing Trinidad Rancheria to the PSA, and recognizing Trinidad Rancheria's cultural
 4 affiliation with the historic village located adjacent to the Trinidad Rancheria's reservation lands
 5 settlement; invalidate the PSA resolving one of the Trinidad Rancheria's causes of action in the
 6 State case; and order City to rescind Policy 69. *See* Compl., Prayer for Relief.

7 **II. Legal Standard**

8 Rule 24 provides for intervention as of right to anyone who, by timely motion, "claims an
 9 interest relating to the property or transaction that is the subject of the action, and is so situated
 10 that disposing of the action may as a practical matter impair or impede the movant's ability to
 11 protect its interest, unless existing parties adequately represent that interest." Fed. R. Civ. P.
 12 24(a)(2). Courts construe this rule "liberally in favor of potential intervenors," and their review is
 13 "guided primarily by practical considerations, not technical distinctions." *Sw. Ctr. for Biological*
 14 *Diversity v. Berg*, 268 F.3d 810, 818 (9th Cir. 2001) (internal quotations and citations omitted);
 15 *see also Citizens for Balanced Use v. Montana Wilderness Ass'n*, 647 F.3d 893, 897 (9th Cir.
 16 2011).

17 Under Rule 24(b)(1)(B), governing permissive intervention, the Court has discretion to
 18 permit a non-party to intervene when the party has "a claim or defense that shares with the main
 19 action a common question of law or fact."

20 Federal courts may grant a party's motion to intervene under Rule 24 for the limited
 21 purpose of moving to dismiss a complaint under Rules 19 and 12(b)(7). *See, e.g., Protect the*
 22 *Peninsula's Future v. Haaland*, 2024 WL 4751512 (W.D. Wash., Nov. 12, 2024) (granting
 23 tribe's motion to intervene as of right for limited purpose of filing motion to dismiss under Rule
 24 24); *Maverick Gaming LLC v. United States*, 123 F.4th 960, 979 (2024) ("Accordingly, where, as
 25 here, a tribe intervenes for the limited purpose of a motion to dismiss the action because it is a
 26 required party that cannot be joined due to its sovereign immunity, the court's jurisdiction is
 27
 28

1 limited to the issues necessary to decide that controversy, only.”) (internal quotations omitted)
 2 (quoting *McClendon v. United States*, 885 F.2d 627, 630 (9th Cir. 1989)e).

3 **III. Argument**

4 In its requests for declaratory and injunctive relief, Plaintiff asserts that it has a sovereign
 5 right to exclude the Trinidad Rancheria from a City advisory committee, which provides
 6 guidance on the management of City-owned land (the TSA) immediately adjacent to the
 7 Trinidad Rancheria’s reservation lands—an advisory committee on which Plaintiff sits. *See*
 8 *generally* Cross-Comp., RJN, Ex. K. However, Plaintiff has misused its position on the TMT to
 9 exclude the Trinidad Rancheria from an equal seat at the table for almost 20 years, and Plaintiff
 10 now seeks to deny Trinidad Rancheria the benefits of a partial settlement of the Trinidad
 11 Rancheria’s Cross-Complaint seeking to resolve this long-standing injustice by appointing the
 12 Trinidad Rancheria to the TMT.

13 And despite the Complaint’s dozens of express references to Trinidad Rancheria and its
 14 cultural ties to the TSA, Plaintiff has excluded the Tribe from an action which—if granted—
 15 would void a settlement agreement between the Trinidad Rancheria and the City resolving a
 16 Trinidad Rancheria cause of action against the City, which cause of action has been dismissed
 17 pursuant to the PSA. Plaintiff’s requested relief will also effectively enjoin Trinidad Rancheria
 18 from participating on a City advisory committee, on which Plaintiff sits, regarding the
 19 management of City-owned land located adjacent to the Trinidad Rancheria’s reservation lands
 20 and within its own ancestral homelands. The Trinidad Rancheria therefore maintains a vital
 21 interest in the subject matter of this litigation.

22 Under Rule 24(a), “a nonparty is entitled to intervention as of right when it (i) timely
 23 moves to intervene; (ii) has a significantly protectable interest related to the subject of the action;
 24 (iii) may have that interest impaired by the disposition of the action; and (iv) will not
 25 be adequately represented by existing parties.” *W. Watersheds Project v. Haaland*, 22 F.4th 828,
 26 835 (9th Cir. 2022) (internal quotations omitted) (quoting *Oakland Bulk & Oversized Terminal,*
 27 *LLC v. City of Oakland*, 960 F.3d 603, 620 (9th Cir. 2020)).

1 Because the Tribe's instant motion for limited intervention ("Motion") meets the requirements
 2 for intervention as of right under Fed. R. Civ. P. 24(a), the Tribe must be joined as a necessary
 3 party. But because the Trinidad Rancheria is a sovereign vested with immunity from litigation,
 4 and because it has neither waived its immunity nor consented to this Court's jurisdiction,
 5 Plaintiff's Complaint must be dismissed under Fed. R. Civ. P. 12(b)(7) and 19, as detailed in the
 6 attached Motion to Dismiss.³

7 **A. Trinidad's Motion for Limited Intervention Is Timely.**

8 Determining whether a motion to intervene is timely requires a "nuanced, pragmatic"
 9 evaluation that considers the stage of the proceedings, the prejudice to other parties, and the
 10 reasons for and length of the delay. *League of United Latin Am. Citizens v. Wilson*, 131 F.3d
 11 1297, 1302–03 (9th Cir. 1997). The Complaint in this matter was filed on June 2, 2026, and the
 12 Tribe's Motion is filed within six (6) days of the City's Motion to Dismiss. *See Citizens for*
 13 *Balanced Use*, 647 F.3d at 897 (motion timely where filed at early stage of proceeding and less
 14 than two weeks after the defendant filed an answer). To this end, no substantive action has taken
 15 place in this case. *Northwest Forest Resource Council v. Glickman*, 82 F.3d 825, 837 (9th Cir.
 16 1996) (no prejudice where "the motion was filed before the district court made any substantive
 17 rulings"). Nor will this Court's grant of Trinidad Rancheria's Motion prejudice any existing
 18 parties, or delay the resolution of the litigation. Indeed, the sole purpose of Trinidad Rancheria's
 19 limited intervention is to move to dismiss this litigation in its entirety for failure to join the Tribe,
 20 a required party which cannot be joined due to tribal sovereign immunity.

21 **B. Trinidad Rancheria Has a Significant Protectable Interest in the Subject**
 22 **Matter of the Litigation.**

23 Both the "interest" and "relationship" requirements of Rule 24(a) are satisfied when
 24 "injunctive relief sought by plaintiffs will have direct, immediate, and harmful effects upon a
 25 third party's legally protectable interests." *Sw. Ctr. for Biological Diversity*, 268 F.3d at 818.
 26 The Tribe's interests in this action are clear, substantial, and evident on the face of the
 27

28 ³ Trinidad Rancheria's Motion to Dismiss will be filed upon this Court's grant of this Motion.

1 Complaint. So too are the obvious and immediate adverse effects on those interests should
2 Plaintiff's requested relief be granted.

3 First, Plaintiff seeks to invalidate the PSA, which is a negotiated contract between
4 Trinidad Rancheria and the City (but not Plaintiff). The PSA resolves one of the Tribe's causes
5 of action against the City in the ongoing State Case that the parties have been litigating since
6 2018. *See* PSA at 1, RJN, Ex. B; Compl. ¶ 45. Indeed, the Tribe only dismissed its cause of
7 action against the City in the State Case because of, and in reliance upon, the commitments the
8 City made in the PSA. PSA at 1, RJN, Ex. B ("In 2019, the Trinidad Rancheria filed a Cross-
9 Complaint in Action No. DR 180684, in which the First Cause of Action against the City seeks
10 declaratory relief to resolve an actual controversy as to whether the Trinidad Rancheria should
11 and can be added to the TMT and allowed to attend and participate equally in meeting of the
12 TMT . . . in consideration of the mutual covenants and promises herein contained and other good
13 and valuable consideration, receipt of which is hereby acknowledged, it is hereby agreed . . . The
14 City of Trinidad City Council . . . will approve a resolution unilaterally appointing the [Tribe] to
15 the [TMT]"). Setting aside the baseline jurisdictional concerns raised by Plaintiff's request for a
16 federal court to invalidate a settlement agreement between two non-Plaintiff parties in an
17 ongoing State case,⁴ Plaintiff's requested relief—if granted—would eliminate the grounds on
18 which the Tribe negotiated its settlement with the City, and would impair (and potentially deny
19 altogether) Trinidad Rancheria's ability to pursue the cause of action it forewent in exchange for
20 the Settlement.

21 Second, Plaintiff's Complaint seeks to invalidate the City's Resolution appointing
22 Trinidad Rancheria to the TMT—a City advisory committee for overseeing ownership and
23 management of City-owned land to which Trinidad Rancheria maintains ancestral ties—
24 following nearly twenty years' exclusion. Because Trinidad Rancheria's reservation lands near
25 Tsurai Village were acquired by the United States in 1908, and because a majority of Tribal
26

27 ⁴ These concerns are comprehensively addressed in Defendants' June 30, 2026 Notice of Motion
28 and Motion to Dismiss Complaint; Memorandum of Points and Authorities in Support Thereof
[Docket No. 16] at 1.

members are lineal descendants of the Tsurai Village, *see* Cross-Compl. ¶¶ 1–6, appointment to the TMT is of critical cultural importance to Trinidad Rancheria. RJN, Ex. K. Yet Plaintiff's Complaint seeks to nullify the Trinidad Rancheria's appointment to that committee by the City pursuant to the PSA, and deny Trinidad Rancheria the right to represent its cultural and historical interests on the TMT, without joining the Trinidad Rancheria itself. Though Plaintiff may attempt to dispute the Tribe's ancestral and cultural ties to the TSA, Trinidad Rancheria asserts them nonetheless (just as Plaintiff asserts its own ties).

Third, Plaintiff seeks to eliminate the City's longstanding recognition of the Trinidad Rancheria embodied in Policy 69 by seeking an order directing the City to rescind that Policy. Rescission of Policy 69 would have obvious and immediate adverse effects on the Trinidad Rancheria. For example, it would adversely affect the Trinidad Rancheria's standing as a stakeholder with interest in the TSA and Trinidad Rancheria's approval authority regarding proposed projects in the TMP. *See* Cross-Compl., ¶ 16, RJN, Ex. K ("Citing among other things Policy 69, the TMP expressly recognizes the Trinidad Rancheria as a stakeholder with interest in the TSA, and the TMP must be consistent with the City's General Plan including Policy 69"); *id.* ¶ 34 ("The TMP must be consistent with the City General Plan, including Policy 69 . . ."). Additionally, Policy 69 is a significant element of multiple causes of action in the Cross Complaint, *see id.* ¶ 16, and its rescission would adversely affect the Trinidad Rancheria's ability to litigate the ongoing State Case. Moreover, the City also cites Policy 69 in its Resolution as a fact underlying the City Council's appointment of Trinidad Rancheria to the TMT. PSA § I.5, RJN, Ex. B.

Trinidad Rancheria has a significant and protectable legal interest in the benefits of the settlement agreement it entered with the City to resolve one of its causes of action against the City in the State Case, and the Tribe's ability to pursue its remaining causes of action. The Tribe likewise has a significant protectable interest in its own appointment to the TMT, for which the Tribe fought for eighteen years. The Court cannot adjudicate this litigation, which would immediately directly threaten the Tribe's legally protectable interests, in the Tribe's absence.

C. If Plaintiff Succeeds in This Case, the Tribe's Interests Will as A Practical Matter Be Severely Impaired or Impeded.

The third element of the intervention test under FRCP 24(a)(2) requires the Tribe to show that disposition of the action may impair or impede its interests. *Citizens for Balanced*, 647 F.3d at 898.. Here, the applicant's burden is minimal. "If an absentee would be substantially affected in a practical sense by the determination made in an action, he should, as a general rule be entitled to intervene . . ." *Id.* (quoting Fed. R. Civ. P. 24 advisory committee note). Impairment need not be a certainty; rather, the proposed intervenor need only show that impairment of its legal interest is possible if intervention is denied. *United States v. City of Los Angeles*, 288 F.3d 391, 401 (9th Cir. 2002).

If Plaintiff's requested relief is granted, Trinidad Rancheria would be immediately harmed by the following: (1) losing the benefit of the PSA, a bargained contract which partially resolved a Trinidad Rancheria cause of action in long-standing litigation between the City and Trinidad Rancheria; (2) losing the right to participate as a member of the TMT and to represent the interests of Trinidad Rancheria and its members regarding the management of City-owned lands located within the ancestral homelands and adjacent to Trinidad Rancheria reservation lands, with and in which Trinidad Rancheria has significant cultural affiliation and interests; (3) impairing Trinidad Rancheria's ability to pursue the cause of action in its Cross-Complaint that it forewent in exchange for the PSA in the ongoing State Case litigation as well as remaining causes of action in which Policy 69 is an integral part; and (4) negatively affecting the Trinidad Rancheria's status as a recognized stakeholder under the TMP. Impairment is not simply possible, but assured, if the Court were to enjoin the City's actions and order the City to rescind Policy 69.

D. No Party Adequately Represents the Tribe's Interests.

The final requirement for intervention as a matter of right is to show that the existing parties do not adequately represent Trinidad Rancheria's interests. The burden of demonstrating inadequate representation is minimal, and can be satisfied by a showing that the existing parties'

representation “may be” inadequate. *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n. 10 (1972); *Citizens for Balanced Use*, 647 F.3d at 898. In evaluating whether this “minimal” threshold is met, courts consider “(1) whether the interest of a present party is such that it will undoubtedly make all of a proposed intervenor’s arguments; (2) whether the present party is capable and willing to make such arguments; and (3) whether a proposed intervenor would offer any necessary elements to the proceeding that other parties would neglect.” *Citizens for Balanced Use*, 647 F.3d at 898. These factors are satisfied here.

Although the City and the Trinidad Rancheria entered into the PSA in the ongoing State Case, the PSA only resolved one of the Trinidad Rancheria’s causes of action against the City (and Plaintiff’s Complaint seeks to rescind that agreement). But the Trinidad Rancheria and the City remaining opposing parties with respect to a number of claims related to the TSA and the TMT, which constitute the subject matter of Plaintiff’s Complaint.

Trinidad Rancheria cannot rely on an opposing party in ongoing litigation (the State Case) to make all the arguments the Tribe would in a federal action directly arising from that litigation. For example, the City repeatedly failed up until very recently to address Trinidad Rancheria’s interests in being appointed to the TMT, finally making that appointment over the objections of Plaintiff. *See generally* Cross-Compl., RJN, Ex. K (describing Tribe’s repeated efforts dating back to 2011 to seek admission to the TMT). Trinidad Rancheria maintains in the State Case that its exclusion from the TMT was a violation of the Tribe’s constitutional right to equal protection under the law. *Id.* ¶¶ 49–56.

As established and borne out by the history of the State Case litigation, the City will almost assuredly not make Trinidad Rancheria’s arguments regarding the harm caused to Trinidad Rancheria by its exclusion from the TMT or Trinidad Rancheria’s right to be appointed to the TMT. Trinidad Rancheria also cannot rely on the City to make the Tribe’s arguments related to Policy 69, which implicate remaining Cross-Complaint causes of action. Such differences in interest are sufficient to establish that the City will not adequately represent the Tribe’s position here. *See Sw. Ctr. for Biological Diversity*, 268 F.3d at 824 (“It is sufficient for

1 Applicants to show that, because of the difference in interests, it is likely that Defendants will not
 2 advance the same arguments as Applicants. Resolution of this case will decidedly affect
 3 Applicants' legally protectable interests and there is sufficient doubt about the adequacy of
 4 representation to warrant intervention." (internal quotations omitted)).

5 In analogous cases wherein federal agencies are facially aligned with tribal interests,
 6 courts have reasoned that the federal government cannot adequately represent tribal interests
 7 when the relief sought would create a conflict between the government and the tribe. *Dine*
 8 *Citizens Against Ruining Our Env't v. Bureau of Indian Affs.*, 932 F.3d 843,855 (9th Cir. 2019),
 9 *cert. denied*, 591 U.S. 1016 (2020)); *White v. Univ. of Calif.*, 765 F.3d 1010, 1027 (9th Cir.
 10 2014) ("At present, their interests are aligned. There is some reason to believe that they will not
 11 necessarily remain aligned."). The same is true here: if this Court grants Plaintiff's request, and
 12 enjoins the PSA and Resolution as a matter of law, Defendants' interests will diverge from the
 13 Tribe's.

14 In addition to the City's likely unwillingness to make certain Trinidad Rancheria
 15 arguments because the City and Trinidad Rancheria remaining opposing parties in the ongoing
 16 State Case, the City is not capable of making certain arguments under Rule 19(a)(1)(B)(ii). For
 17 example, the City is in no position to claim all Trinidad Rancheria's interests relating to the TMT
 18 and the TSA. Those interests are unique to the Tribe and are not shared by the City. In fact, City
 19 Council Resolution 2026-04 states, in Section 5(b), that "[t]he City Council further finds that the
 20 City is not qualified to be the arbiter of cultural affiliation with regard to each Tribe"
 21 Resolution, §5(b), RJN, Ex. C. For these reasons, Trinidad Rancheria is not adequately
 22 represented by Defendants, who lack the same cultural and traditional ties to the TSA.

23 Although Defendants are moving to dismiss Plaintiff's Complaint, the City and the
 24 Trinidad Rancheria remain opposing parties in the State Case, and the City's foremost interest is
 25 the protection of the City's interests, which include avoiding potential liability and litigation
 26 costs, while avoiding the risk of incurring double, multiple, or otherwise inconsistent
 27 obligations related to the PSA and Plaintiff's Complaint.

E. Request in the Alternative for Permissive Intervention

Should the Court determine that intervention as of right is not warranted, Trinidad Rancheria respectfully requests that the Court permit it to intervene under Rule 24(b)(1)(B) because it has “a claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b)(1)(B). Unlike intervention as of right under Rule 24(a), there is no requirement of a “significant protectable interest” to be able to intervene under Rule 24(b). *Emp. Staffing Servs., Inc. v. Aubry*, 20 F.3d 1038, 1042 (9th Cir. 1994) (“[T]he requirement of a legally protectable interest applies only to intervention as of right under Rule 24(a), not permissive intervention under Rule 24(b).”). Once the conditions for permissive intervention are met, the court has discretion to allow or disallow intervention, *Donnelly v. Glickman*, 159 F.3d 405, 412 (9th Cir. 1998), and may limit intervention to certain issues, *Dep’t. of Fair Emp’t. & Hous. v. Lucent Techs., Inc.*, 642 F.3d 728, 741 (9th Cir. 2011) (“The district court’s discretion . . . under Rule 24(b), to grant or deny an application for permissive intervention includes discretion to limit intervention to particular issues.”). Courts considering permissive intervention evaluate the timeliness, prejudice to existing parties, and judicial economy, among other factors which the court deems relevant. *Venegas v. Skaggs*, 867 F.2d 527, 529 (9th Cir. 1989), *aff’d*, 495 U.S. 82 (1990).

Here, whether the City possessed authority over its own lands and its own advisory committee, and thus whether the City was authorized to enter into the PSA and pass a Resolution appointing Trinidad Rancheria to the TMT, is both a question of law and a question of fact relating to the Tribe’s PSA with the City. Indeed, Plaintiff’s claims have at their center the same questions of fact motivating Trinidad’s Cross-Complaint against the City in the State Case. To the extent the Court finds Trinidad Rancheria is not entitled to intervention as of right for the limited purpose of moving to dismiss for failure to join a necessary party, the Tribe requests that the Court grant permissive intervention to Trinidad Rancheria.

IV. Conclusion

For the foregoing reasons, Trinidad Rancheria requests that the Court grant its motion to intervene pursuant to Fed. R. Civ. P. 24(a)(2), or Fed. R. Civ. P. Rule 24(b)(1)(B) in the alternative, for the limited purpose of filing a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(7) and 19.

Dated: July 06, 2026

THE RYAN LAW GROUP

By: /s/ Timothy J. Ryan
TIMOTHY J. RYAN
REBEKKA R. MARTORANO

and

HOBBS, STRAUS, DEAN & WALKER

TIMOTHY C. SEWARD

Attorneys for Defendant-Intervenor
Cher-Ae Heights Indian Community of the
Trinidad Rancheria