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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PICAYUNE RANCHERIA OF THE CHUKCHANSI INDIANS,

Plaintiff,

v.

THE CHAIR OF THE NATIONAL INDIAN GAMING COMMISSION, et al.,

Defendants.

Case No. 1:26-cv-04343-KES-SAB

NOMINAL DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION AND STAY

Date:	October 5, 2026
Time:	1:30 PM
Place:	Courtroom 6, 7th Floor
Judge:	Hon. Kirk E. Sherriff

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INTRODUCTION

Plaintiff Picayune Rancheria of the Chukchansi Indians ("Picayune") seeks eleventh-hour extraordinary equitable relief, but its request falls miles short of every applicable standard. Pls.' Mem. of Points & Authorities in Supp. of Mot. for Stay & Prelim. Inj. ("PI Mot.") (ECF 34-1). Picayune has not demonstrated a likelihood of success on the merits. It has not presented any concrete, competent evidence of irreparable harm, nor explained its lengthy delay in seeking relief. And it fails to confront the equitable and public-interest factors that weigh heavily against enjoining a federally authorized project that has been repeatedly upheld against challenges in this Court, the United States District Court for the District of Columbia, and the D.C. Circuit. The motion should be denied.

LEGAL AND FACTUAL BACKGROUND

To avoid unnecessary repetition, Nominal Defendants highlight the information most pertinent to resolving the PI Motion while incorporating by reference the more detailed background contained in their Memorandum of Points and Authorities in Support of their Motion to Dismiss the First Amended Complaint ("Motion to Dismiss"). ECF 35-1 at 2-7.

I. Statutory and Regulatory Background

The Indian Gaming Regulatory Act ("IGRA") provides a statutory basis for Indian tribes to engage in gaming "as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments." 25 U.S.C. § 2702(1). IGRA generally prohibits class III gaming on Indian lands acquired after 1988, subject to several exceptions. *Id.* § 2719. The exception relevant here is the so-called "two-part determination," through which Indian lands acquired after 1988 are eligible for gaming if the Secretary of the Interior determines that gaming is "in the best interest of the Indian tribe and its members" and "would not be detrimental to the surrounding community," and the relevant state Governor concurs in the Secretary's determination. *Id.* § 2719(b)(1)(A).

IGRA also authorizes tribes to contract with non-tribal entities to manage class III gaming operations, subject to review and approval by the NIGC Chair. *Id.* § 2710(d)(9); *see also id.* § 2711. The Chair's review of a management contract is governed by the statute and its

implementing regulations, including 25 C.F.R. Part 531. By its plain language, Part 531 requires some contract terms, prohibits others, and specifies the information that must be submitted to the NIGC Chair for review. 25 C.F.R. §§ 531.1, 531.2; *see also id.* §§ 533.3, 533.6(a). The regulations require that management contracts include a statement making readers aware that "gaming covered by the contract will be conducted in accordance with [IGRA]," *id.* at § 531.1(a), but nothing in the regulations or IGRA itself authorizes (or requires) the Chair to reopen or reevaluate earlier predicate determinations made by the Secretary, including determinations regarding the gaming eligibility of the relevant site.

II. The North Fork Project

In 2005, the North Fork Rancheria of Mono Indians ("North Fork") applied to the Department of Interior to have a 305-acre parcel of land in Madera County (the "Madera Site") taken into trust to develop a casino project ("Project"). Pl.'s First Amended Complaint ("FAC") (ECF 28) ¶ 8. In 2011, after six years of federal review, the Secretary issued a "two-part determination," concluding that North Fork's project was in the best interest of the tribe and its citizens and would not be detrimental to the surrounding community. *Id.* ¶ 47; *see also* 25 U.S.C. § 2719(b)(1)(A). In August 2012, California's Governor concurred in the Secretary's determination. *Id.* ¶ 48. In February 2013, the Secretary took the Madera Site into trust for North Fork, at which point the land became eligible for gaming under IGRA. *Id.* ¶ 8.

Alongside his concurrence, the Governor of California signed a compact with North Fork to govern gaming on the Madera Site. *Club One Casino, Inc. v. Bernhardt*, 959 F.3d 1142, 1145 (9th Cir. 2020). Though the California Legislature ratified the compact, California voters rejected that ratification in a later referendum ("Proposition 48"). *Id.* The Governor's office thereafter refused to negotiate a new compact, leading the Secretary to issue the North Fork Secretarial Procedures for gaming at the Madera Site in 2016. *Stand Up for Cal.! v. U.S. Dep't of Interior*, 959 F.3d 1154, 1157 (9th Cir. 2020); 25 U.S.C. § 2710(d)(7)(B)(vii).

North Fork entered into the operative Management Contract with SC Madera Management, LLC in November 2023. FAC ¶ 56; Declaration of Jeffrey T. Welch in Supp. of

Nominal Defs.' Opp'n ("Welch Decl.") ¶ 3. The Chair approved North Fork's management contract in January 2024. *See* FAC ¶ 31 n.1.

III. Prior Litigation

There is a lengthy litigation history concerning the Madera Site. For present purposes, Nominal Defendants note only the details most relevant to this brief.

Picayune challenged DOI's approval of the Project, including the Secretary's determination that the Madera Site was eligible for gaming under IGRA, in 2012. *Picayune Rancheria of Chukchansi Indians v. United States*, No. 12-cv-02071 (D.D.C., filed Dec. 31, 2012) (subsequently consolidated with a similar challenge filed by an advocacy organization financed by competing tribes called Stand Up for California!). The court rejected all relevant arguments, *Stand Up for Cal! v. U.S. Dep't of Interior*, 204 F. Supp. 3d 212 (D.D.C. 2016), and the D.C. Circuit unanimously affirmed, 879 F.3d 1177 (D.C. Cir. 2018).

Picayune also challenged the validity of the Governor's 2012 concurrence under state law in California state court. On the heels of earlier state court decisions, the California Court of Appeal held in May 2021 that Proposition 48 had impliedly revoked the concurrence, such that it was "no longer valid" under state law. *Stand Up for Cal.! v. State*, 278 Cal. Rptr. 3d 627, 630 (Ct. App. 2021). In December 2025, the California Court of Appeal affirmed a trial court ruling that the concurrence was "void ab initio" for state law purposes. *Picayune Rancheria of Chukchansi Indians v. North Fork Rancheria of Mono Indians*, 340 Cal. Rptr. 3d 219, 222, 236 (Ct. App. 2025).

IV. The Present Litigation

Picayune initiated this action on June 5, 2026. ECF 1. The parties filed a stipulation on July 6, 2026, to extend the deadlines for Nominal Defendants and North Fork to respond to the Complaint. ECF 11. The stipulation memorialized Picayune's intent to seek a preliminary injunction. *Id.* Nominal Defendants and North Fork moved to dismiss. ECF 21, 26. Picayune filed its FAC on August 20, 2026. ECF 28. Nominal Defendants moved again to dismiss the FAC on August 31. ECF 35. North Fork also moved to dismiss the FAC on the same day. ECF 36. Picayune did not file its PI Motion until August 28, 2026. ECF 34.

STANDARD OF REVIEW

"A preliminary injunction is an extraordinary remedy never awarded as of right." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008) (citing *Munaf v. Geren*, 553 U.S. 674, 689-90 (2008)). A plaintiff seeking a preliminary injunction must establish that it is likely to succeed on the merits, likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in its favor, and that an injunction is in the public interest. *Id.* at 20 (citations omitted). "Likelihood of success on the merits is a threshold inquiry and is the most important factor." *Simon v. City & Cnty. of San Francisco*, 135 F.4th 784, 797 (9th Cir. 2025) (quoting *Env't Prot. Info. Ctr. v. Carlson*, 698 F.3d 985, 989 (9th Cir. 2020)). When the government is the nonmoving party, the last two factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

In some circumstances, a court may apply a "sliding scale," under which a stronger showing on the balance of hardships may support issuance of a preliminary injunction where there are "serious questions on the merits," but only if "the plaintiff also shows that there is a likelihood of irreparable injury" and the balance of hardships "sharply" favors the plaintiff." *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134-35 (9th Cir. 2011). And even under the "sliding scale" approach, the party seeking injunctive relief bears the burden of meeting all four prongs of the *Winter* test. *Id*. at 1135.

Section 705 of the Administrative Procedure Act ("APA") provides that a reviewing court "may issue all necessary and appropriate process to *postpone the effective date* of an agency action or to preserve status or rights pending conclusion of the review proceedings." 5 U.S.C. § 705 (emphasis added). Section 705 stays are governed by "the same factors as preliminary injunctions." *Immigrant Defs. L. Ctr. v. Noem*, 145 F.4th 972, 984 (9th Cir. 2025).

ARGUMENT

Picayune bears a heavy burden to justify the extraordinary remedy of a preliminary injunction, and it falls short on each of the required showings: likelihood of success on the merits, irreparable harm, the balance of equities, and the public interest. Because the same four

factors apply to Picayune's request for a stay, that request fails for the same reasons. The PI Motion should be denied.

I. Picayune Is Not Likely to Succeed on the Merits of Its Claims.

Picayune has alleged two claims. The first asserts the NIGC Chair violated the APA. The second is styled as an effort to "enforce" the Secretarial Procedures against North Fork pursuant to IGRA. Neither is likely to succeed.

A. Picayune Is Not Likely to Succeed on the Merits of Its APA Claim.

Picayune's first cause of action alleges the NIGC Chair violated the APA by approving the Management Contract without first conducting a from-scratch evaluation of the Madera Site's gaming eligibility. *See* FAC ¶¶ 62-74. The claim is unlikely to succeed.

First, Picayune lacks standing to challenge the Chairman's Management Contract approval. Standing must be established "for each form of relief that is sought." *Davis v. Fed. Election Comm'n*, 554 U.S. 724, 734 (2008). So, as the party seeking to invoke this Court's jurisdiction, Picayune bears the burden to satisfy all three elements of standing for its APA claim: an "injury in fact" involving "invasion of a legally protected interest" which is "concrete and particularized" and "actual or imminent, not conjectural or hypothetical"; a "causal connection between the injury and the conduct complained of" such that the injury is "fairly traceable" to the challenged action; and a showing that it is "likely" the injury "will be redressed by a favorable decision." *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560-61 (1992) (cleaned up).

In the APA context, "the nature and extent" of the showing necessary to establish standing "depends considerably upon whether the plaintiff is [it]self an object of the action (or foregone action) at issue." *Id.* at 561. If so, causation and redressability are often routine. *Id*. But where, as here, "a plaintiff's asserted injury arises from the government's allegedly unlawful regulation (or lack of regulation) of *someone else*, much more is needed." *Id*. at 562 (emphasis original).[1]

[1] The cases cited by Picayune (PI Mot. at 11-12) do not undermine this bedrock rule. In *Diamond Alt. Energy, LLC v. EPA*, 606 U.S. 100 (2025), plaintiffs were *directly* regulated by the agency actions at issue. And in *FDA v. All. for Hippocratic Med.*, 602 U.S. 367 (2024), plaintiffs could not satisfy the causation requirement *precisely because* they (like Picayune here) challenged a government agency's regulation of others.

Picayune is not a party to the Management Contract, nor an "object" of the Contract's approval. And while the FAC generally alleges that "illegal gaming" at the Madera Site will cause future economic injury (*see, e.g.*, FAC ¶¶ 29-30), it fails to specifically allege *facts* demonstrating such injury would be caused by the Management Contract approval or could be remedied by the Management Contract's invalidation. The distinction is important. Gaming eligibility is not a prerequisite for the NIGC Chair's approval of a management contract, and a management contract is not a prerequisite for tribes to commence gaming activities. *See* 25 C.F.R. §§ 531.1-531.2, 533.6 (no requirement to conduct gaming eligibility determination); 25 U.S.C. § 2710(d)(9) (tribes "*may* enter into a management contract" for Class III gaming) (emphasis added). Picayune has not alleged, much less shown, that North Fork cannot game at the Madera Site in the absence of the Management Contract. FAC ¶¶ 62-74. Therefore, it has not met the second (causation) and third (redressability) standing requirements.

Perhaps recognizing the weakness of its position, Picayune has attempted a sort of "pre-rebuttal" of "anticipated" standing arguments. PI Mot. at 11-13. The effort is not convincing. Picayune's motion, like its FAC, speculates about economic harm resulting from gaming at the Madera Site. *Id*. at 12-13. But, also like the FAC, the PI Motion provides no competent evidence that any of the alleged harm results from the Management Contract approval itself. *Id*.

Picayune's failure to establish standing to challenge the NIGC Chair's Management Contract approval is no surprise. After all, its real objection is to the Secretary of the Interior's gaming eligibility determination, project approval, and class III gaming procedures – an entirely different set of actions by an entirely different federal decisionmaker. But those objections have been litigated and lost. And generalized concerns about the impact of gaming on the Madera Site are insufficient to give Picayune standing to pursue a repackaged APA claim against the NIGC Chair.

Second, even if Picayune had standing, its APA claim would fail. As explained in Nominal Defendants' Motion to Dismiss (ECF 35-1), IGRA and its implementing regulations define what a tribe must submit – and what the NIGC Chair must consider – in connection with approval of a management contract for class III gaming. *See* 25 U.S.C. § 2710(d)(9); *see also* 25 C.F.R.

§ 533.3 (specific requirements for tribal submission); 25 C.F.R. § 533.6 (Chair's review and decision). Nothing in the statute or the regulations requires the Chair to revisit an existing gaming eligibility determination. *Id*. Therefore, Picayune cannot prevail.

AT & T Corp. v. Coeur d'Alene Tribe, 295 F.3d 899 (9th Cir. 2002) is not to the contrary. That case arose from circumstances in which the Secretary had made no determinations regarding eligibility of the relevant gaming proposal under IGRA, leaving the NIGC to evaluate the tribe's gaming eligibility in the first instance. *See* ECF 35-1 at 10-11. Here, in contrast, IGRA specifically directs that the gaming eligibility determination be made by the Secretary and gives no similar role to the NIGC Chair. *See* 25 U.S.C. § 2719(b)(1)(A).

Picayune suggests 25 C.F.R. § 531.1(a) can be read to require the Chair to review from scratch the Madera Site's eligibility for gaming. PI Mot. at 9. Not so. That subsection – part of a long list of required contract terms – says only that management contracts must include a provision stating that gaming will be conducted in accordance with IGRA. *See* 25 C.F.R. § 531.1. It does not require the Chair to revisit a prior gaming eligibility determination by the Secretary of the Interior. *Id*.; *see also* Management Contract Requirements and Procedures Under the Indian Gaming Regulatory Act, 58 Fed. Reg. 5,818, 5,820 (Jan. 22, 1993) (subsection 531.1(a) intended to provide the reader with notice of IGRA); *Bruce H. Lien Co. v. Three Affiliated Tribes*, 93 F. 3d 1412, 1417-18 (8th Cir. 1996) (section 531.1 requires "presence of . . . essential contract terms").

B. Picayune Is Not Likely to Succeed on Its IGRA Claim.

Picayune is not likely to succeed on the merits of its IGRA claim either. Indeed, as explained in Nominal Defendants' Motion to Dismiss (ECF 35-1 at 12-17), the statute's plain language *forecloses* the claim. Congress was clear: Secretarial Procedures may only be enforced by "the Secretary." 25 U.S.C. § 2710(d)(7)(A)(iii).

Moreover, Picayune's IGRA claim is barred by the four-year statute of limitations for breach of contract. *See* ECF 35-1 at 19-21. Under Picayune's theory of the case, the factual basis for this claim has been available for nearly a decade. *Id*. at 20. The North Fork project has been moving forward ever since, and Picayune has been well aware of that fact. *Id*. But rather than

promptly filing suit, the tribe elected to pursue other litigation strategies. *Id.* The limitations period has now expired, and Picayune's claim is barred. *Id*. at 20-21. For this reason, too, the tribe cannot succeed on the merits.

II. Picayune Has Not Established Likely Irreparable Harm.

Picayune's motion relies on speculative assertions about the anticipated consequences of the North Fork casino in general rather than evidence demonstrating that such harms are likely absent *preliminary* relief. Because its claimed injuries are unsupported and untethered to the specific relief requested, Picayune's motion must be denied.

Picayune must demonstrate that irreparable injury is "likely," not just possible, "in the absence of an injunction." *Winter*, 555 U.S.at 22. Although an injury need not be "certain or even nearly certain," *Small v. Avanti Health Sys., LLC*, 661 F.3d 1180, 1191 (9th Cir. 2011), a plaintiff "must *demonstrate* immediate threatened injury" that is likely to occur "before a decision on the merits can be rendered." *Boardman v. Pac. Seafood Grp.*, 822 F.3d 1011, 1022-23 (9th Cir. 2016) (emphasis in original). "Subjective apprehensions and unsupported predictions of revenue loss are not sufficient to satisfy a plaintiff's burden of demonstrating an immediate threat of irreparable harm." *Caribbean Marine Serv. Co. v. Baldrige*, 844 F.2d 668, 675-76 (9th Cir. 1988).

A. Picayune's Unexplained Delay in Seeking Preliminary Relief Weighs Against Its Claims of Irreparable Harm.

At the outset, Nominal Defendants note that Picayune's unexplained delay belies its claimed urgency. The California trial court first declared the Governor's concurrence void *ab initio* for state law purposes in May 2024; the California Court of Appeal affirmed that judgment in December 2025; and the decision became final in April 2026.[2] *See Picayune Rancheria*, 340 Cal. Rptr. 3d at 222, 236, *review denied* (Cal. Apr. 1, 2026); FAC ¶ 88. Yet Picayune did not

[2] Picayune also suggests that the NIGC Chair's approval of the Management Contract in 2024 was unlawful because it was taken "nearly three years after the Court of Appeal declared that the Governor's concurrence had been annulled." PI Mot. at 10 (citing *Stand Up for Cal.!*, 278 Cal. Rptr. 3d at 627). That theory lacks merit for the same reasons Nominal Defendants have explained in their Motion to Dismiss (ECF 35-1 at 9-12) and herein (*supra* at 5-7). But if Picayune believed it to be true, then its delay in seeking federal review and preliminary relief is even more egregious, because it could have – and, under the principles of equity, should have – sought an injunction *years* earlier.

file this action until June 5, 2026 (ECF 1). Then it waited weeks before informing Nominal Defendants and North Fork of its intent to seek preliminary relief (ECF 11). And Picayune did not actually move for relief until August 28, nearly three months after filing its complaint.

Picayune's delay is especially telling in the context of this dispute. It has filed various and sundry challenges to North Fork's gaming project for well over a decade, and it cannot possibly claim to have been caught unaware of the facts or the legal theories underlying its preliminary injunction request. If the threatened harm were truly irreparable and imminent, why did Picayune allow months to pass before seeking relief? Its motion does not say. But the law is clear: Delay in seeking preliminary injunction "implies a lack of urgency and irreparable harm," and "courts have determined that a delay of two months weighs against a finding of irreparable harm." *UFW v. U.S. Dep't of Lab.*, No. 1:25-cv-1614 KES EGC, 2026 U.S. Dist. LEXIS 107190, at *49-50 (E.D. Cal. May 13, 2026) (Sherriff, J.) (collecting cases). Such is the case here.

B. Picayune Fails to Show It Will Suffer Irreparable Financial Injury Absent Preliminary Relief.

Picayune fails to support its assertions of irreparable injury. Every injury Picayune identifies rests on its prediction that North Fork's casino will reduce Chukchansi Casino's gaming revenues by 30 to 50 percent. *See, e.g.*, Decl. of Denise McCombs-Esquivel in Supp. of PI Mot. (ECF 34-8) ("McCombs-Esquivel Decl.") ¶¶ 15-17; Decl. of Deann Kamalani in Supp. of PI Mot. (ECF 34-4) ("Kamalani Decl.") ¶¶ 12-15; Decl. of Marco Alcantar in Supp. of PI Mot. (ECF 34-6) ("Alcantar Decl.") ¶ 10. Yet no declarant establishes the basis for that projected range. Alcantar attributes the estimate to a third-party analysis but does not produce the analysis, identify its author, disclose its data or methodology, or provide any other information that would allow Defendants to review it or the Court to rely on it. Alcantar Decl. ¶ 10. McCombs-Esquivel states only that "Picayune estimates" the loss at 30 to 50 percent "based on conservative assumptions." McCombs-Esquivel Decl. ¶ 15. She does not identify those assumptions, describe the methodology that produced the estimate, provide the underlying data, or authenticate the analysis in any way. The other declarations merely repeat the estimate rather than substantiating it. For example, Kamalani states that "Picayune estimates" the revenue loss and proceeds to the

conclusion that the loss "will force" service reductions of "at least 30%" and employee layoffs, without explaining the basis for either prediction. Kamalani Decl. ¶ 12.

That is the type of unsupported economic prediction the Ninth Circuit has held to be inadequate. In *American Passage Media Corp. v. Cass Communications, Inc.*, 750 F.2d 1470 (9th Cir. 1985), for example, the court did not find irreparable harm because the executive declarations predicting it were "conclusory and without sufficient support in facts." *Id.* at 1473-74. Similarly, in *Goldie's Bookstore, Inc. v. Superior Court of Cal.*, 739 F.2d 466 (9th Cir. 1984), the Ninth Circuit reversed an injunction granted on the basis of predicted loss of customers and goodwill that lacked factual grounding and "appear[ed] to be speculative." *Id.* at 472.

Comparing Picayune's motion to an adequate showing of irreparable harm highlights its deficiencies. *Novedades y Servicios, Inc. v. Fin. Crimes Enf't Network*, 181 F.4th 961 (9th Cir. 2026) illustrates what is missing here. In *Novedades*, the plaintiff estimated the additional daily work the challenged order would require based on the agency's own time estimate, explained why it could not afford the additional employee needed to perform that work, and presented evidence that it had already lost 50 to 60 percent of the customers to whom its owner explained the new requirements. *Id.* at 978-79. Picayune need not wait for North Fork's facility to open before seeking relief, but it must provide some factual basis for predicting the alleged loss. Its declarations offer only a bottom-line percentage, without analysis, data, assumptions, or any customer information to explain or permit evaluation of how that percentage was calculated. As such, the declarations do not present *evidence* of irreparable harm.

Nor do Picayune's assertions establish *when* any predicted loss would occur or otherwise attempt to show that such loss would result from the absence of *preliminary* (as opposed to final) relief. Picayune has known since at least April 1, 2026, that it would need to pursue further relief in federal court to halt gaming at the Site. *See Picayune Rancheria*, 340 Cal. Rptr. at 219 (Ct. App. 2025), *review denied* (Cal. Apr. 1, 2026). But despite having months to develop its evidentiary showing, Picayune provides no ramp-up analysis or forecast of the effect on its revenues during the time period before a decision on the merits. Nor does it explain whether the

predicted decline would occur immediately upon opening, develop over time, or arise only after North Fork reaches mature operations. Without that information, the Court has no basis to conclude that any material revenue loss, much less Picayune's asserted 30-to-50-percent loss, is likely to take place absent preliminary relief.

Finally, whether or not Picayune can recover monetary damages (PI Mot. at 21), it is not excused from demonstrating likely irreparable injury absent preliminary relief. To be sure, there may be circumstances in which absence of a damages remedy can render economic loss irreparable. But that does eliminate a movant's burden to make the requisite showing. Picayune's own cases say as much. For example, in *California v. Azar*, 911 F.3d 558 (9th Cir. 2018), the court held that "sufficiently concrete" economic harm "supported by the record" was irreparable because monetary damages were unavailable. *Id.* at 581; *see also East Bay Sanctuary Covenant v. Biden*, 993 F.3d 640, 677 (9th Cir. 2021) (plaintiffs established irreparable "loss of funding absent a preliminary injunction" for which they had no vehicle for recovery). As explained at length, Picayune has not remotely satisfied this burden.

C. Picayune Fails to Demonstrate Irreparable Injury to Governmental Programs or Sovereignty Absent Preliminary Relief.

Picayune's assertions of irreparable harm to governmental services rest on still more unsupported assumptions. Picayune explains that gaming revenue funds important programs, including healthcare, education, housing, elder care, and cultural preservation but it has not shown that any particular reduction is likely to be necessary during the period before a decision on the merits. McCombs-Esquivel Decl. ¶ 16 (predicting reductions and layoffs without identifying timing or amount); Kamalani Decl. ¶ 15 & Ex. B at 3-4 (directing preparation of a recommended reduction schedule for later Tribal Council approval). But Picayune has not established that it will need to curtail any of those programs absent preliminary relief. McCombs-Esquivel predicts that a revenue loss "will require" reductions in services and stipends and "will also force" layoffs but provides no timeline, budget, reserve, cash-flow, or expenditure evidence explaining that conclusion. McCombs-Esquivel Decl. ¶ 16. The Emergency Proclamation identifies nine categories of contemplated reductions and predicts that

reductions would take effect if North Fork begins gaming. *See* Kamalani Decl. ¶ 15 & Ex. B. But the Proclamation does not itself approve those reductions or specify their amounts. *Id.* Instead, it merely warns of possible, future reductions that would be determined "as more information becomes available" and directs the Treasurer and CFO to prepare a recommended schedule for later Tribal Council consideration. *Id.* at 3-4. Neither that schedule nor any other document identifying particular cuts to particular programs appears in the record.

Picayune relies on a series of government-benefits cases that are easily distinguished. PI Mot. at 21 (citing *Beltran v. Myers*, 677 F.2d 1317, 1322 (9th Cir. 1982); *N.D. v. Reykdal*, 102 F.4th 982, 994-95 (9th Cir. 2024); and *Paxton v. Sec'y of Health & Human Servs.*, 856 F.2d 1352, 1354 (9th Cir. 1988)). Those actions sought to enjoin state regulations that would directly deny specific federal benefits to particular individuals. Actual or imminent loss of medical, educational, or subsistence benefits can constitute irreparable harm. But a plaintiff seeking preliminary relief to avoid such harm still needs to satisfy its burden. Here, Picayune has not shown that any identified member will lose any particular benefit. Its showing of harm to its governmental programs depends on a lengthy series of assumptions – that North Fork's opening will cause the asserted revenue decline, that any such decline will materially constrain the Tribe's budget, that the Council will be required to cut particular services, and that those cuts will take effect before judgment – *none* of which is substantiated in the declarations.

Picayune cannot solve these evidentiary deficiencies by recasting purported economic losses as an injury to sovereignty. Picayune cites cases involving direct interference with tribal jurisdiction or governmental authority. *See, e.g.*, PI Mot. at 21 (citing *Seneca-Cayuga Tribe v. Oklahoma*, 874 F.2d 709, 716 (10th Cir. 1989)), 19 (citing *Tohono O'odham Nation v. Schwartz*, 837 F. Supp. 1024, 1034 (D. Ariz. 1993)). But it identifies no comparable intrusion here. Its theory remains that competition will reduce the revenue available for governmental purposes. A tribe's speculative future need to adjust its governmental budget is categorically different from direct state interference with tribal jurisdiction. And in any case, the likelihood and timing of any budget reduction still require evidentiary support.

On this record, Picayune has not shown that its predicted revenue loss, or the hypothetical service reductions that may follow, would likely occur before this Court can decide the merits of the case.

III. The Balance of Hardships and the Public Interest Weigh Against Preliminary Relief.

Picayune also fails to demonstrate that "the balance of equities tips in [its] favor, and that an injunction is in the public interest." *Winter*, 555 U.S. at 22; *Nken*, 556 U.S. at 435. Halting the Project, even on a preliminary basis, would be contrary to equity and the public interest by disrupting a federally-approved and judicially-upheld tribal development project and undermining the ability of tribes and their partners to act in reliance on final and affirmed federal determinations.

Nominal Defendants are mindful of their unique status here. And, in view of that status, we offer the following information for the Court's consideration as it weighs the impact of a preliminary injunction on the two tribal parties to the dispute. In particular, we note the ways in which issuance of a preliminary injunction would have implications for tribal gaming that extend well beyond this case and pose a threat to the fundamental purposes of IGRA.

Congress designed IGRA "to promot[e] tribal economic development, self-sufficiency, and strong tribal governments" by allowing certain gaming on Indian land. 25 U.S.C. § 2702(1). In practice, that objective is realized through productive partnerships between tribes and private-sector partners. Welch Decl. ¶ 4. Developing a casino project on tribal land is an exceptionally complex endeavor, requiring substantial long-term commitment of investor capital, sizeable loans, and expertise, in a competitive market. *Id.* Tribes often lack the capital and experience to develop these projects unilaterally, making private partnership vital. *Id.* ¶ 4. Congress expressly contemplated such arrangements, providing a detailed federal framework for management contracts between tribes and private partners. *See* 25 U.S.C. §§ 2710(d)(9), 2711.

These partnerships – and by extension, the projects they concern – depend on a stable legal environment in which final, judicially-affirmed decisions can be relied on by tribes and their partners. The reliability and durability of a project's legal authorization is a critical

consideration in the decision to deploy capital, borrowed funds, and corporate resources and talent in support of the project. Welch Decl. ¶ 5. This is a particularly important consideration in the case of tribal casino projects, which are governed by a complex federal regulatory scheme governing gaming eligibility. *Id.* Issuing a preliminary injunction at this stage, fifteen years after the Secretary determined the Madera Site to eligible for gaming and after repeated judicial decisions affirming that determination and others related to it, would tell the private sector that investing in tribal gaming projects carries near-perpetual risk, even when multiple federal courts have confirmed a project' legality. Specifically, undermining the reliability of the federal authorization would increase regulatory uncertainty and perceived investment risk associated with tribal gaming projects, which would then increase costs to tribal parties and deter the investment of private capital and expertise. *Id.* ¶¶ 6-7. Increased uncertainty, risk, and cost would reduce the already limited number of qualified parties willing and able to undertake such complicated projects on behalf of tribes, undermining the purposes of IGRA. *Id.* ¶ 8.

Picayune claims North Fork and the Nominal Defendants "were proceeding at risk when developing their proposed casino" because it continued to press its state law claim in state court. PI Mot. at 23. That characterization misapprehends the timeline of the project and the overall litigation context. In actuality, North Fork and Nominal Defendants waited until the multitude of challenges to the federal determination of eligibility, the trust acquisition, and the imposition of secretarial procedures had all reached final resolution. Only after the federal courts had confirmed that the Project had all necessary approvals, did the parties commit the bulk of the resources to the project. Welch Decl. ¶ 5.

Picayune's citation to *Bettor Racing, Inc. v. Nat'l Indian Gaming Comm'n*, 812 F.3d 648 (8th Cir. 2016) is unavailing. PI Mot. at 23. In that case, NIGC had not approved the management contract when tribal gaming operations began, and the contracting parties then further modified the agreement without obtaining necessary regulatory approvals. *Bettor Racing, Inc.*, 812 F.3d at 650-51. In the court's words, "the undisputed facts establish[ed] the violations." *Id.* at 652. Here, on the other hand, North Fork worked through the NIGC's established process to secure all necessary approvals for its Management Contract.

If anything, *Bettor Racing* undermines Picayune's claims by demonstrating the appropriate regulatory pathway if unauthorized gaming does take place on Indian land. In such cases, the *federal government* is authorized to take action – not a competitor tribe. Neither IGRA, nor its regulations, nor the public interest supports allowing Picayune to wield the power of the federal government to further its own economic interests.

This context also supports the reasonableness of Nominal Defendants' actions here. When North Fork and Nominal Defendants moved forward with the Project, it had been authorized by the relevant federal officials making all necessary determinations, the validity of which had been repeatedly litigated and affirmed by federal courts. It was not unreasonable for North Fork and Nominal Defendants to move forward when given the green light by the federal government and the federal courts. It does not foster equity or the public interest to keep a federally authorized project on ice indefinitely just because an economic competitor can devise an elaborate and endless series of litigation schemes.

Picayune also claims that issuance of a preliminary injunction protects the public interest by honoring California state voters' preferences and "adher[ing] to state law determinations." PI Mot. at 24. This presents a blinkered view of the public interest. California voters are certainly part of the relevant public, but only one part. In a case governed by a comprehensive federal scheme for Indian gaming, the public interest cannot be reduced to the preferences of a single state constituency. It must also reflect the federal and tribal interests that Congress made paramount. *See Golden Gate Rest. Ass'n v. City & Cnty. of San Francisco*, 512 F.3d 1112, 1127 (9th Cir. 2008) ("The public interest may be declared in the form of a statute." (cleaned up)).[3] The public interest is not furthered by ignoring the concerns of these critical stakeholders. And, as explained, the state court proceedings on which Picayune relies only resolved a question of state law. The state court expressly declined to extend its holding to reach the *federal* actions at

[3] That is especially true where "the responsible public officials . . . have already considered" the public interest. *Golden Gate Rest.*, 512 F.3d at 1126-27. The Secretary determined that gaming at the Madera Site would be in North Fork's best interest and not detrimental to the surrounding community, 25 U.S.C. § 2719(b)(1)(A), and that determination was upheld by the U.S. District Court of the District of Columbia, *Stand Up for Cal!*, 204 F. Supp. 3d at 212, and the D.C. Circuit, 879 F.3d at 1177.

issue. The public interest is not served by allowing state-law litigation to disrupt a federally authorized gaming project and frustrate the purposes of IGRA.

CONCLUSION

For the reasons set forth above, Picayune's Motion for Preliminary Injunction and Stay should be denied.

DATED: September 11, 2026

Respectfully submitted,

By: */s/ Caitlin McCusker*
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CERTIFICATE OF SERVICE

I hereby certify that on September 11, 2026, I electronically filed the foregoing document and accompanying materials with the Clerk of Court for the U.S. District Court for the Eastern District of California using the CM/ECF system, which sent notification of such filing to all counsel of record in this case.

/s/ Caitlin McCusker
Caitlin McCusker