NAVI SINGH DHILLON (SBN 279537)
navidhillon@paulhastings.com
CHRISTOPHER J. CARR (SBN 184076)
chriscarr@paulhastings.com
SEAN D. UNGER (SBN 231694)
seanunger@paulhastings.com
LUCAS V. GRUNBAUM (SBN 314180)
lucasgrunbaum@paulhastings.com
PAUL HASTINGS LLP
101 California Street, 48th Floor
San Francisco, California 94111
Telephone: (415) 856-7000

Attorneys for Plaintiff
PICAYUNE RANCHERIA OF THE
CHUKCHANSI INDIANS

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

PICAYUNE RANCHERIA OF THE CHUKCHANSI INDIANS, a federally recognized Indian tribe,

Plaintiff,

v.

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

Defendants.

STATION CASINOS LLC, a Nevada limited liability corporation, et al.,

Nominal Defendants.

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

**PICAYUNE'S OMNIBUS REPLY IN SUPPORT OF MOTION FOR STAY AND PRELIMINARY INJUNCTION**

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

Action Filed: June 5, 2026
Trial Date: None

**TABLE OF CONTENTS**

**Page**

INTRODUCTION ..... 1

ARGUMENT ..... 2

A. Interim Relief Is Needed To Prevent Illegal Gaming and Preserve the Status Quo. 2

B. The Court Can Easily Reject Defendants' Oppositions. ..... 3

C. Illegal Gaming by North Fork Will Cause Irreparable Harm. ..... 7

D. The Balance of Equities Fully Supports Enjoining Illegal Activities. ..... 12

E. The Public Interest Supports the Requested Relief. ..... 13

F. This Court Should Not Require a Bond. ..... 15

CONCLUSION ..... 15

# TABLE OF AUTHORITIES

**Page(s)**

**Cases**

*Amador Cnty. v. Salazar*,
640 F.3d 373 (D.C. Cir. 2011) ..... 6

*Arc of Cal. v. Douglas*,
757 F.3d 975 (9th Cir. 2014) ..... 10

*Associated Home Builders of Greater Eastbay, Inc. v. City of Livermore*,
18 Cal. 3d 582 (1976) ..... 14

*AT & T Corp. v. Coeur d'Alene Tribe*,
295 F.3d 899 (9th Cir. 2002) ..... 2, 4, 5

*Beltran v. Myers*,
677 F.2d 1317 (9th Cir. 1982) ..... 9

*Blue Lake Rancheria v. Kalshi, Inc.*,
No. 25-7504, 2026 WL 2728466 (9th Cir. Sept. 16, 2026) ..... 1, 4

*Caribbean Marine Servs. Co. v. Baldrige*,
844 F.2d 668 (9th Cir. 1988) ..... 8

*Cherokee Nation v. U.S. Dep't of the Interior*,
643 F. Supp. 3d 90 (D.D.C. 2022) ..... 6

*Confederated Tribes of Siletz Indians of Or. v. United States*,
110 F.3d 688 (9th Cir. 1997) ..... 4, 14

*Daviton v. Columbia/HCA Healthcare Corp*,
241 F.3d 1131 (9th Cir. 2001) ..... 6

*Diamond Alternative Energy, LLC v. EPA*,
606 U.S. 100 (2025) ..... 6

*Golden Gate Rest. Ass'n v. City & Cnty. of San Francisco*,
512 F.3d 1112 (9th Cir. 2008) ..... 14

*Johnson v. Couturier*,
572 F.3d 1067 (9th Cir. 2009) ..... 15

*Lambert v. Commonwealth Land Title Ins. Co.*,
53 Cal.3d 1072 (1991) ..... 6

*League of Women Voters v. U.S. Citizenship & Immigr. Servs.*,
No. 25-cv-3777-ABA, 2026 WL 2224637 (D. Md. Aug. 3, 2026) ..... 6, 15

*Loper Bright Enters. v. Raimondo*,
603 U.S. 369 (2024) ..... 5

*Make the Rd. N. Y. v. Noem*,
No. 25-5320, 2025 WL 3563313 (D.C. Cir. Nov. 22, 2025) ..... 7

*Neguse v. U.S. Immigr. & Customs Enf't*,
813 F. Supp. 3d 45 (D.D.C. 2025) ..... 15

*Newton-Nations v. Rogers*,
316 F. Supp. 2d 883 (D. Ariz. 2004) ..... 9

*Nintendo of America, Inc. v. Lewis Galoob Toys, Inc.*,
16 F.3d 1032 (9th Cir. 2004) ..... 15

*Novedades Y Servicios, Inc. v. Fin. Crimes Enf't Network*,
181 F.4th 961 (9th Cir. 2026) ..... 7

*People of State of California ex rel. Van De Kamp v. Tahoe Reg'l Plan. Agency*,
766 F.2d 1319 (9th Cir.), *amended,* 775 F.2d 998 (9th Cir. 1985) ..... 15

*Picayune Rancheria of the Chukchansi Indians v. N. Fork Rancheria of Mono Indians*, 117 Cal. App. 5th 91 (2025) ..... *passim*

*Picayune Rancheria of Chukchansi Indians v. U.S. Dep't of the Interior*,
No. 16-cv-950, 2017 WL 3581735 (E.D. Cal., Aug. 18, 2017) ..... 6

*Reno-Sparks Indian Colony v. Haaland*,
663 F. Supp. 3d 1188 (D. Nev. 2023) ..... 10

*Rivers v. Roadway Express Inc.*,
511 U.S. 298 (1994) ..... 5

*Sac and Fox Nation of Mo. v. LaFaver*,
905 F. Supp. 904 (D. Kan. 1995) ..... 10

*Save Our Sonoran, Inc. v. Flowers*,
408 F.3d 1113 (9th Cir. 2005) ..... 15

*Scalia v. Dep't of Transp. & Pub. Facilities*,
985 F.3d 742 (9th Cir. 2021) ..... 5

*Seneca-Cayuga Tribe of Okla. v. Oklahoma*,
874 F.2d 709 (10th Cir. 1989) ..... 10

*Shin v. Holder*,
607 F.3d 1213 (9th Cir. 2010) ..... 4

*Small v. Avanti Health Sys., LLC*,
661 F.3d 1180 (9th Cir. 2011) ..... 7

*Stand Up for California! v. California*,
64 Cal. App. 5th 197 (2021) ..... 2, 4, 5, 14

*Stand Up for California! v. U.S. Dep't of the Interior*,
204 F. Supp. 3d 212 (D.D.C. 2016) ..... 5, 6, 11

*Stand Up for California! v. U.S. Dep't of Interior*,
879 F.3d 1177 (D.C. Cir. 2018) ..... 11

*Washington v. Trump*,
145 F.4th 1013 (9th Cir. 2025) ..... 8

**Statutes**

5 U.S.C. § 705 ..... 6, 7, 15

5 U.S.C. § 706 ..... 2, 5, 7, 12

25 U.S.C. § 2710 ..... 1, 4

25 U.S.C. § 2719 ..... 1, 2, 3, 11

**Regulations**

25 C.F.R.
§ 531.1(a) ..... 2
§ 533.6(a) ..... 2

**Rules**

Fed. R. Civ. P. 65 ..... 15

**Articles**

Virginia W. Boylan, *Reflections on IGRA 20 Years After Enactment*,
42 Ariz. St. L.J. 1 (2010) ..... 14

Picayune respectfully submits this reply in support of its motion for a stay and preliminary injunction. ECF No. 34. Mindful of the multiple oppositions before the Court, Picayune submits this single, omnibus reply to the separate oppositions filed by Defendants. ECF Nos. 39, 42, 43.

## INTRODUCTION

As shown in Picayune's opening papers, Defendants lose decidedly on the merits. What's more, a centerpiece of the defense collapsed last week. North Fork has contended it was immune from suit based on a claim for violations of the Secretarial Procedures, and along with Red Rock contended dismissal of Picayune's IGRA claim was warranted under Rule 12(b)(7). The Ninth Circuit firmly ***rejected*** that flawed interpretation of IGRA in a published decision. *Blue Lake Rancheria v. Kalshi, Inc.*, No. 25-7504, 2026 WL 2728466, at *6-7 (9th Cir. Sept. 16, 2026).

Beyond that, Defendants concede, as they must, the essential points. Defendants do not dispute IGRA makes gaming on land like the Madera Parcel illegal unless an exception applies. 25 U.S.C. § 2719. Nor do they dispute that the IGRA exception here at issue has many requirements. *Id.* §§ 2710, 2719. Likewise, Defendants do not dispute that one independent requirement is a valid Governor's concurrence. *Id.* § 2719(b)(1)(A). And Defendants do not dispute that under controlling California law the concurrence relied upon by North Fork has never existed. *See Picayune Rancheria of the Chukchansi Indians v. N. Fork Rancheria of Mono Indians*, 117 Cal. App. 5th 91 (2025) ("*Picayune Rancheria*").

Instead, across their opposition briefs, Defendants take different approaches, and Picayune responds to each. But in the end, Picayune easily meets its burden to show a likelihood of success on the merits, and irreparable harm is likely. For its part, North Fork pivots away from discussing the merits, and instead devotes the bulk of its opposition to arguing Picayune somehow would not be harmed by off-reservation gaming right off Highway 99—a major traffic artery that serves Picayune's Rancheria lands in the Sierra foothills. That contention is belied by the multiple declarations submitted by Picayune, to which no Defendant objected. Accordingly, the record evidence fully supports a finding that Picayune is likely to suffer irreparable harm in the absence of interim relief under the circumstances here presented. It is not a close question.

Picayune goes through the various contentions in the oppositions below. But Picayune

observes North Fork's opposition is perhaps most noteworthy for what it does not say: North Fork does not explain in opposition why it intervened in the state court litigation if the validity of the Governor's concurrence under California law was irrelevant. Nor does North Fork explain why it appealed from an adverse judgment in state court that found no concurrence existed and was void ab initio. Likewise, North Fork does not reconcile its decision to petition for review in the California Supreme Court with the litigation position now asserted in this Court. But the California Court of Appeal found an answer, and it came from North Fork: "In seeking intervention, North Fork took the position that '[i]f Picayune were to succeed in obtaining a declaration or writ of mandamus invalidating the Governor's concurrence, North Fork's gaming project would be placed in jeopardy.'" 117 Cal. App. 5th at 102. North Fork has no answer to its own words.

Millions of Californians spoke when voting to reject North Fork's gaming at the ballot box. The California Court of Appeal has spoken *twice* through published decisions. North Fork lost. And now the time has come for North Fork to listen. Gaming is not allowed on the Madera Parcel. We ask that the Court grant this motion in full.

## ARGUMENT

### A. Interim Relief Is Needed To Prevent Illegal Gaming and Preserve the Status Quo.

As explained in Picayune's moving papers, this Court should grant its motion for stay and preliminary injunction for reasons that include:

*First*, Picayune is likely to succeed on its APA claim because it is likely to show the NIGC's approval of the Management Contract was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). Specifically, "[t]he NIGC is statutorily obliged to reject any . . . proposal that does not conform to IGRA." *AT & T Corp. v. Coeur d'Alene Tribe*, 295 F.3d 899, 909 (9th Cir. 2002); *see* 25 C.F.R. §§ 531.1(a), 533.6(a). As a matter of law, the NIGC could not approve the 2024 Management Contract in the absence of a valid concurrence, which North Fork lacked. *Stand Up for California! v. California*, 64 Cal. App. 5th 197, 200 (2021) (*Stand Up II*); *Picayune Rancheria*, 117 Cal. App. 5th at 113-14. Accordingly, the NIGC's decision was not made in accordance with law, as confirmed by *AT & T Corp*.

*Second*, Picayune is likely to succeed on its IGRA claim, because it is likely to show that gaming on the Madera Parcel violates the Secretarial Procedures. As Picayune has explained, the Secretarial Procedures provide that North Fork may conduct class III gaming only "on eligible Indian Lands held in trust for the Tribe . . . and on which Class III Gaming may lawfully be conducted under IGRA." ECF No. 34-2, Ex. C (Secretarial Procedures § 4.2). Because North Fork lacks a valid concurrence, the Madera Parcel is not "eligible" for gaming. 25 U.S.C. § 2719.

*Third*, the remaining injunction factors heavily favor Picayune: North Fork's unlawful gaming will impose immediate irreparable harm on Picayune based on: (1) a loss of government functions and tribal sovereignty, (2) a reduction in essential services and benefits, and (3) significant nonrecoverable economic damages. *See* ECF No. 34-1 at 27:11-30:15; ECF No. 34-3 at 2:18-5:8, ¶¶ 4-17; Suppl. Kamalani Decl., Exs. A, B; ECF No. 34-8 at 2:22-5:2, ¶¶ 4-17. The interests in upholding the People's vote and in Picayune's own lawful gaming eclipse North Fork's interest in illegal gaming. And that is even before the Court gets to the public interest in having the law (IGRA) followed. As the California Court of Appeal has twice held, the People of California overwhelmingly voted to reject gaming at the Madera Parcel. North Fork asks that this Court look past three *different* government branches: Congress, which made state law controlling here; state appellate courts, which held that the concurrence is missing; and the People of California, who exercised their democratic and constitutional rights. Its request should be rejected. Interim relief is plainly warranted. North Fork intends to offer illegal gaming that will harm Picayune. It's that simple.

**B. The Court Can Easily Reject Defendants' Oppositions.**

The Defendants' arguments in opposition seek at all costs to ignore the absence of a Governor's concurrence and its dispositive effect under IGRA. Instead, Defendants offer a scattershot approach. In claiming Picayune is unlikely to succeed on the merits, North Fork incorporates its motion to dismiss arguments, ECF No. 43 at 15:12-17:12, the Government fights Ninth Circuit law, ECF No. 42 at 8:8-13:2, and Red Rock advances a standing argument, ECF No. 39 at 10:10-11:24. None convince.

North Fork's incorporated procedural arguments fail for reasons Picayune previously explained in its opposition to North Fork's motion to dismiss. And, indeed, after Picayune filed its opposition, the Ninth Circuit confirmed in a published decision that Picayune's interpretation of 25 U.S.C. § 2710(d)(7)(A)(ii) is correct: In *Blue Lake*, the Ninth Circuit held that § 2710(d)(7)(A)(ii) "confers upon tribes a cause of action to enjoin class III gaming activity in violation of implemented secretarial procedures." *Blue Lake Rancheria*, 2026 WL 2728466, at *7 n.4. And it expressly rejected the view advanced by Defendants here that "only the Secretary of the Interior has a cause of action to enforce secretarial procedures." *Id.* at *7. North Fork's arguments that it is immune from Picayune's IGRA claim under § 2710(d)(7)(A)(ii) are accordingly dead on arrival. Needing only one claim for interim relief to issue, North Fork's main argument has now been rejected on the merits by the Ninth Circuit. And its arguments that it and the Secretary are required parties fail for reasons already discussed. *See* ECF No. 34-1 at 19:12-27:10. [1]

North Fork's other arguments and parallel arguments advanced by the Federal Defendants on Picayune's APA claim also fail: Their position regarding the scope of NIGC review, for example, is directly at odds with Ninth Circuit precedent. *See AT & T Corp.*, 295 F.3d at 909 ("The NIGC is statutorily obliged to reject any . . . proposal that does not conform to IGRA."); ECF No. 36-1 at 26:7-27:15. Likewise, North Fork's arguments regarding federalism misunderstand the role that IGRA assigns to state law, are they are both wrong and barred by the doctrine of issue preclusion. North Fork already made those arguments, and the California Court of Appeal rejected them expressly. *See id.* at 20-24; *Picayune Rancheria*, 117 Cal. App. 5th at 112.

North Fork and the Federal Defendants also argue that the NIGC's 2024 approval of the Management Contract cannot be vacated based on the 2025 decision in *Picayune Rancheria*. *See* ECF No. 43 at 16:24-19:2; *see also* ECF No. 42 at 9:17-10:6 (similar). [2] That argument ignores the

[1] Because North Fork is properly named as a defendant to Picayune's IGRA claim, it cannot argue that its interests are not adequately represented with respect to Picayune's APA claim. The legal issues underlying the two claims are materially identical, and North Fork can accordingly represent its own interests.

[2] North Fork additionally faults Picayune for not discussing an NIGC advisory opinion. *See* ECF No. 43 at 18:3-19:2. North Fork itself never cited that opinion before the *Picayune Rancheria* courts. *See, e.g., Picayune Rancheria v. N. Fork Rancheria*, 117 Cal. App. 5th 91 (No. F088551), 2025 WL 637423 (February 14, 2025), and 2025 WL 2455807 (June 16, 2025). And for good reason. The advisory opinion on its face is not a final agency action and it does not mention the effect of the *Stand Up II* decision. *See* ECF No. 43-

People's vote in 2014, and it fails to appreciate the distinction between judicial review of administrative determinations of fact versus review of administrative determinations of law. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 391-92 (2024) (APA challenges based on errors of law afforded no deference by courts). The NIGC's decision is not insulated from review just because a court later holds that the agency misapplied the law when evaluating those facts. The Court of Appeal's decision in *Picayune Rancheria* was not a new fact. "A judicial construction of a statute is an authoritative statement of what the statute meant before as well as after the decision of the case giving rise to that construction." *Rivers v. Roadway Express Inc.,* 511 U.S. 298, 312-13 (1994). Thus, when the Court of Appeal in *Picayune Rancheria* confirmed that the People's vote on Proposition 48 (a legislative act) annulled the Governor's concurrence and rendered it void ab initio, it merely explained the law as it always was. And, under *Loper Bright* and the very basics of judicial review of law in APA cases, this Court is free to look at it, confirming the NIGC's error of law and abuse of discretion. 5 U.S.C. § 706(2)(A).

Nor can Defendants fault Picayune for relying on the Court of Appeal's decision in *Stand Up II*. *See* ECF No. 43 at 17:13-19:2 (citing *Stand Up II*, 64 Cal. App. 5th 197). Even if *Stand Up II* did not use the words "void ab initio," the NIGC should have slowed after the court confirmed the concurrence had been annulled as a matter of state law. From the Federal Defendants' opposition, we now know why the NIGC did not. The Federal Defendants believe the NIGC need not conduct *any* IGRA compliance review whatsoever. ECF No. 42 at 10:7-12:15. But Ninth Circuit law rejects that view. As discussed, *AT & T* held that "management contracts must meet IGRA requirements before they can win NIGC approval," and that the "NIGC must consider the legality of Class III gaming before approving . . . management contracts." 295 F.3d at 907-08.

North Fork also suggests that Picayune delayed bringing this suit, but the argument ignores North Fork's own conduct. North Fork refused for over a decade to concede that the People's vote

---

1, Ex. B. Nor does it mention this Court's decision in *Confederated Tribes of Siletz Indians of Or. v. United States*, 110 F.3d 688 (9th Cir. 1997). Rather it offers a single, cursory paragraph on the concurrence that warrants no deference. *See Shin v. Holder*, 607 F.3d 1213, 1219 (9th Cir. 2010) ("Because the BIA's opinion is conclusory and lacks any meaningful analysis, we owe it no deference here."); *Scalia v. Dep't of Transp. & Pub. Facilities*, 985 F.3d 742, 750 (9th Cir. 2021).

annulled the concurrence and rendered it void ab initio. And federal courts repeatedly directed Picayune to resolve the validity of the Governor's concurrence in state court. *See, e.g.*, *Stand Up for California! v. U.S. Dep't of the Interior*, 204 F. Supp. 3d 212 (D.D.C. 2016); *Picayune Rancheria of Chukchansi Indians v. U.S. Dep't of the Interior*, No. 16-cv-950, 2017 WL 3581735 (E.D. Cal., Aug. 18, 2017). Picayune cannot be faulted for doing so. Rather, as Picayune has already explained, that forced state-court fight has an equitable tolling effect. *See* ECF No. 35-1 at 25:1-27; *Daviton v. Columbia/HCA Healthcare Corp*, 241 F.3d 1131, 1135-38 (9th Cir. 2001); *Lambert v. Commonwealth Land Title Ins. Co.*, 53 Cal.3d 1072, 1080 (1991).

Red Rock alone challenges Picayune's standing. *See* ECF No. 39 at 10:10-11:24. As Picayune has explained, though, "commonsense economic inferences about" a given market can support standing, *Diamond Alternative Energy, LLC v. EPA*, 606 U.S. 100, 120 (2025), and the harm that North Fork's casino will inflict on Picayune is nothing if not common sense. Red Rock does not meaningfully dispute that the NIGC's approval of the Management Contract will likely lead to a reduction in Picayune's revenues, or that Picayune's harm can likely be redressed by an order setting aside that decision. Picayune accordingly has done more than enough to show that it has standing.[3] Picayune has cited two cases confirming a tribe and those in neighboring communities have both Article III and APA standing in such circumstances. *Cherokee Nation v. U.S. Dep't of the Interior*, 643 F. Supp. 3d 90, 110 (D.D.C. 2022) and *Amador Cnty. v. Salazar*, 640 F.3d 373, 379 (D.C. Cir. 2011). Defendants addressed neither.

Lastly, North Fork claims that the Court is powerless under the APA to stay the effectiveness of the NIGC approval because the approval has already happened. ECF No. 43 at 14:27-15:10. That is wrong. The text of the APA confirms that a court may take "all necessary

[3] Red Rock also argues that the NIGC is not required to decide whether a tribe is eligible to offer gaming. *See* ECF No. 39 at 11:25-12:19; *see also* ECF No. 42 at 10:7-12:15 (similar). That is impossible to reconcile with *AT & T*'s admonition that "[t]he NIGC is statutorily obliged to reject any . . . proposal that does not conform to IGRA." 295 F.3d at 909. Red Rock's argument that North Fork may choose to offer gaming even without a management agreement, ECF No. 39 at 11:1-12, misses the point that North Fork seeks to offer gaming under *this* Management Contract, which made the NIGC's IGRA review *required* under *AT & T* and further confirms standing. Last, Red Rock repeats their MTD argument that Picayune's IGRA claim is time-barred, but that argument fails for reasons Picayune explained in opposition. *See* ECF No. 35-1 at 22:22-26:7.

and appropriate" steps to "preserve status or rights pending conclusion of the review proceedings." 5 U.S.C. § 705. So, for example, just this year a Maryland court issued "a temporary stay of the Voter Assistance Ban, under 5 U.S.C. § 705," even though the ban had already gone into effect. *League of Women Voters v. U.S. Citizenship & Immigr. Servs.*, No. 25-cv-3777-ABA, 2026 WL 2224637, at *23, *32 (D. Md. Aug. 3, 2026). And the Ninth Circuit has already confirmed that "[t]he scope of interim relief under Section 705 is consistent with the scope of final relief under 5 U.S.C. § 706 . . . of the APA, which grants federal courts the authority to 'hold unlawful and set aside agency action[s]' on a nationwide basis when the challenged action is held unlawful." *Novedades Y Servicios, Inc. v. Fin. Crimes Enf't Network*, 181 F.4th 961, 981 (9th Cir. 2026). "Reading Section 705 alongside Section 706's authorization for courts to 'hold unlawful and set aside'—that is, to vacate—agency actions, a stay under Section 705 functions as a 'temporary form of vacatur.'" *Make the Rd. N. Y. v. Noem*, No. 25-5320, 2025 WL 3563313, at *16 (D.C. Cir. Nov. 22, 2025). Thus, just as the Court can grant vacatur of the NIGC's approval of the Management Contract at the end of this case when Picayune prevails, it can do so now "as a 'temporary form of vacatur.'" *Id.*

**C. Illegal Gaming by North Fork Will Cause Irreparable Harm.**

Lacking a strong case on the merits, Defendants seek to downplay the obvious consequences of illegal gaming or cast doubt on the impact to Picayune. Several tribal casinos in the Central Valley are located on reservation lands, miles away from Highway 99. North Fork has Rancheria lands, but does not seek to build a casino on reservation, as Picayune and other tribes have done. Instead, North Fork seeks to build a massive, 2,400 slot machine casino right off Highway 99, which many casino patrons drive past to reach Picayune's casino located in the foothills of the Sierra Nevada. ECF No. 34-8 at 4:12-14, ¶ 14; ECF No. 34-2, Ex. J. Record evidence shows Picayune stands to lose 30-50% of casino revenues once the North Fork Project begins gaming. ECF No. 34-3 at 4:7-11, ¶ 12. That revenue cannot be recovered and totals millions of dollars of losses. ECF No. 34-8 at 4:6-8, 15-17, ¶¶ 12, 15. Picayune depends on that gaming revenue to maintain its government, and to provide essential services and benefits for tribal members. *See* ECF No. 34-1 at 27:11-30:15; ECF No. 34-3 at 2:18-5:8, ¶¶ 4-17; ECF No. 34-8 at 2:22-5:2, ¶¶ 4-

17. On this record, it should be clear that "irreparable harm is 'likely'" in the absence of preliminary relief. *Small v. Avanti Health Sys., LLC*, 661 F.3d 1180, 1191 (9th Cir. 2011).

Defendants do not present contrary evidence, and instead present unsupported argument that Picayune's losses are not concrete enough to show irreparable harm. ECF No. 43 at 22:14-20, ECF No. 39 at 14:13-16:14. But Picayune has provided more than enough evidence to meet its burden. *See* ECF No. 34-3; Sanders Decl.; ECF No. 34-8; ECF No. 34-6; ECF No. 34-7; ECF No. 34-4; Suppl. Kamalani Decl. Moreover, Picayune necessarily *must* predict its lost revenue, because North Fork has not yet started gaming. Here, the Tribe's expected loss of 30-50% in gaming revenue was based on an economic analysis set forth in an expert report previously commissioned by the Tribal Council, along with the operational and technical expertise of Tribal staff, which includes casino operations and the finance department. Suppl. Kamalani Decl., Ex. A. The expert report used well-known modeling methodologies and fact-based assumptions to predict a gaming revenue decrease of 39.8%, and the Tribe relied on its technical expertise and further analysis from its third-party consultant to ensure that its conservative assumption of a 30-50% loss was valid. Suppl. Kamalani Decl., Exs. A (attaching expert report as Ex. B), B. Of course, common experience teaches that harm to Picayune will begin with the commencement of the challenged gaming by North Fork, who seeks to draw away patrons from Picayune by building a casino next to the Highway 99 offramp. And contrary to Defendants' position, the law does not require Picayune to precisely predict future revenue losses on a monthly basis. Defendants cite *Caribbean Marine Services Co. v. Baldrige*, 844 F.2d 668, 675-76 (9th Cir. 1988), to argue that this all amounts to "unsupported predictions of revenue loss." ECF No. 43 at 22:21-23, 23:20-23 (quoting 844 F.2d at 675-76). *Caribbean Marine* is inapposite. In that case, fishermen made unsupported (and illogical) claims that female observers on their tuna boats would result in lost revenues. *See* 844 F.2d at 675. Unlike *Caribbean Marine*, Picayune has presented substantial evidence, and the obvious logical inference to draw from "upstreaming" by a competitor is financial loss.[4]

[4] Season 8, Episode 8 of Curb Your Enthusiasm provides an everyday example of the obvious harm resulting from "upstreaming," although admittedly in a different context (hailing a taxi).

Importantly, North Fork and the Federal Defendants fail to address, and Red Rock acknowledges (ECF No. 39 at 16:5-14), that economic harm is irreparable when monetary damages are unavailable. *See* ECF No. 34-1 at 29:27-30:15; *Washington v. Trump*, 145 F.4th 1013, 1036 (9th Cir. 2025). Picayune cannot recover monetary damages in this suit, ECF No. 34-1 at 30:5-14, a fact Defendants do not contest. That Picayune will suffer economic harm is not the subject of reasonable debate, and this concession by Defendants, standing alone, supports a finding of irreparable harm.

The loss of gaming revenue has cascading impacts too. Picayune's members rely on gaming revenues to access medical care, education programs, elder care, housing, and to pay for food, medicine, utilities, and other life essentials. *See* ECF No. 34-8 at 4:18-22, ¶ 16; ECF No. 34-7 at 2:14-3:13, ¶¶ 4-10; ECF No. 34-5 at 2:21-3:18, ¶¶ 6-10. Picayune directed members to prepare for difficult and significant reductions of these services due to possible losses in gaming revenues. *See* ECF No. 34-3 at 4:20-27, ¶ 15, Ex. B. Defendants say expected cuts to these benefits and services do not qualify as irreparable harm because Picayune has purportedly not yet shown which exact benefits and programs it will have to cut, and when those cuts will go into effect. ECF No. 43 at 24:11-25:11; ECF No. 39 at 16:15-18:3. That is a red herring. It cannot be disputed that significant revenue will be lost, and as discussed *supra*, that is irreparable harm in and of itself. Further, Picayune had adopted Emergency Proclamations that inform its members to expect the cuts to occur immediately after gaming begins, and it outlined the procedures for those cuts and the specific cuts themselves. ECF No. 34-3 at 4:20-27, ¶ 15, Ex. B; Suppl. Kamalani Decl., Ex. A.

North Fork and the Federal Defendants' attempts to distinguish relevant case law fail. Whether it is changes in a government rule, modifications to payment programs, or adjustments to budgeting that result in cuts to benefits (as Picayune has been forced to do here), those losses qualify as irreparable harm. *Beltran v. Myers*, 677 F.2d 1317, 1322 (9th Cir. 1982) (enjoining enforcement of a regulation that "may deny" medical care); *see, e.g.*, *Newton-Nations v. Rogers*, 316 F. Supp. 2d 883, 888 (D. Ariz. 2004) (denial of medical care for inability to pay increased co-payment is irreparable harm).

Finally, a loss of gaming revenue also would irreparably harm Picayune's tribal sovereignty because Picayune relies on gaming revenue to staff its government and operate core functions like public works, law enforcement, education, and social services. ECF No. 34-8 at 4, ¶ 11; ECF No. 34-3 at 3-4, ¶¶ 7-11; ECF No. 34-5 at 2:21-3:18, ¶¶ 6-10. As confirmed in Picayune's recent resolution, an official act of a sovereign entity entitled to respect, a loss of gaming revenues would do violence to Picayune's government due to large budget cuts and staff reductions, including a 41% cut to the Tribal Council, a 41% cut to the Education Department, and a 40% cut to programs benefitting Tribal elders (Elders Department), among others. Suppl. Kamalani Decl., Ex. A. Defendants' efforts to distinguish Picayune's cases about sovereignty miss the point. *See* ECF No. 43 at 24:11-25:11; ECF No. 39 at 17:19-27; ECF No. 42 at 15:16-20. "[L]os[ing] income used to support social services" and "los[ing] jobs" results in "significant interference with [tribal] self-government." *Seneca-Cayuga Tribe of Okla. v. Oklahoma*, 874 F.2d 709, 716 (10th Cir. 1989); *see also Sac and Fox Nation of Mo. v. LaFaver*, 905 F. Supp. 904 (D. Kan. 1995) (similar).

Defendants' remaining arguments fail. They argue that Picayune's alleged delay in filing its motion cuts against finding irreparable harm. But within the Ninth Circuit, "courts are 'loath to withhold relief solely on that ground.'" *Arc of Cal. v. Douglas*, 757 F.3d 975, 990 (9th Cir. 2014).[5]

And regardless, the evidence before the Court shows that Picayune has not delayed bringing this suit or motion. "[W]aiting to file for preliminary relief until a credible case for irreparable harm can be made is prudent rather than dilatory." *Arc of Cal.*, 757 F.3d at 991. Although Picayune believed prior state court decisions made it clear that North Fork lacked IGRA's prerequisites to conduct gaming, North Fork resisted that conclusion and took the position further judicial determinations were needed.[6] Picayune had to fight for years to get them, so by North Fork's own

[5] Defendants also seek to rely on inapposite cases in which courts discounted claims of irreparable harm because the claimed harm was ongoing *before* the plaintiff sought relief. *See* ECF No. 43 at 19:19-20:7; ECF No. 39 at 13:18-14:12. For example, in *Reno-Sparks Indian Colony v. Haaland*, 663 F. Supp. 3d 1188 (D. Nev. 2023), the plaintiffs claimed irreparable harm based on construction work at a mine despite waiting either months or years after the construction started to seek injunctive relief. *Id.* at 1201-02. This case presents different facts. The challenged activities and their corresponding harm were not occurring prior to Picayune filing suit; Picayune's harm derives from unlawful gaming, not the mere construction of buildings on the Madera Parcel.

[6] As the California Court of Appeal recognized, North Fork refused to agree that the People's annulment rendered the concurrence void ab initio, forcing the *Picayune Rancheria* litigation to continue. *See Picayune*

reckoning, the very earliest that Picayune could have brought this suit was in April 2026, when the judgment in *Picayune Rancheria* became final. *See Picayune Rancheria*, No. S294956 (Cal. Sup. Ct. Apr. 1, 2026). Picayune filed suit shortly thereafter, in early June 2026. *See* ECF No. 1. It attempted to avoid the need to file this motion by requesting that North Fork self-stay gaming due to the judgment in *Picayune Rancheria*, but North Fork rejected that request. *See* Suppl. Dhillon Decl., Ex. A; ECF No. 11, at 2. And when the parties worked on a broader schedule, North Fork's counsel represented that Picayune should "use an October 15 opening date as a backstop" for filing for preliminary relief. Suppl. Dhillon Decl., Ex. A. Consistent with that representation, ECF No. 14, Picayune filed this motion so it could be briefed and argued before the October 15, 2026, opening date, *see* ECF No. 34-1. North Fork's argument that Picayune was engaging in "purely strategic" delay, ECF No. 43 at 20:20-22, must be rejected.

So too should the Court reject North Fork's suggestion that a suit filed more than a decade ago in the District of Columbia resolves the *current* imminent harm here. In December 2012, Picayune and others sued the Department of the Interior and the Bureau of Indian Affairs, challenging, among other things, the Secretary's two-part determination for the Madera Parcel. Picayune argued that the Secretary, in issuing the two-part determination, erroneously determined that gaming "would not be detrimental to the surrounding community," 25 U.S.C. § 2719(b)(1)(A), due to impacts on the Chukchansi Casino, *Stand Up*, 204 F. Supp. 3d at 227. But in rejecting that argument, the district court only found there was no evidence that gaming at the Madera Parcel "would put Chukchansi Gold out of business or have any 'destructive competitive impact' on the Picayune Tribe." *Id.* at 271-72. Being put "out of business" is not the same as suffering irreparable harm, particularly since the Ninth Circuit has been clear that economic harm is "irreparable" when monetary damages are unavailable. And the D.C. Circuit implicitly noted that Picayune more than meets that standard, explaining that the Secretary "[e]xpressly acknowledg[ed]" that "North Fork's proposed casino would reduce [Picayune's] revenues, causing job loss and reduced public services." *Stand Up for California! v. U.S. Dep't of Interior*, 879 F.3d 1177, 1189-90 (D.C. Cir. 2018). North Fork's cherry-picked statements from prior rulings concerning a different agency action, on a

*Rancheria* generally.

different record, and subject to different legal standards, simply have nothing to do with establishing irreparable harm required for injunctive relief.[7]

Finally, neither North Fork nor the Federal Defendants can be credited for invoking competition. North Fork tries to spin antitrust cases in its direction, but it doesn't work. *See* ECF No. 43 at 25:27-26:4 (citing *Boardman v. Pac. Seafood Grp.*, 822 F.3d 1011, 1023 (9th Cir. 2016)). North Fork says that competition from illegal conduct does not constitute irreparable harm, but no case about tribal gaming holds as much.[8] Nor could it. Illegal conduct is illegal.

**D. The Balance of Equities Fully Supports Enjoining Illegal Activities.**

Defendants twist themselves into knots claiming the equities somehow favor unlawful gaming over Picayune's longstanding, lawful gaming activities. They do not.

Federal Defendants claim that there should be respect for the finality of government decisions. ECF No. 42 at 15:23-16:10. Federal Defendants have it backwards. If an agency permits unlawful action, its action may be set aside. It is the very reason the APA exists. 5 U.S.C. § 706.[9]

For its part, North Fork claims the equities favor gaming in violation of IGRA because North Fork has been unable to game for many years. ECF No. 43 at 27:13-28:2. The argument is neither here nor there. If North Fork believes it should be entitled to game without complying with IGRA, that concern is properly addressed to Congress and the State of California, not this Court. There is nothing inequitable about honoring Congress's decision to give states the right to veto off-

---

[7] North Fork's other citations to *Stand Up!*, its attempt to compare economic impact studies from the record in that case to those here, ECF No. 43 at 22:2-23:23, and the Federal Defendants' reliance on the "detrimental impact" standard, ECF No. 42 at 14:18-15:7, are misleading for the same reasons.

[8] The record controverts North Fork's argument that Picayune's harm is "self-inflicted." ECF No. 43 at 26:27-27:11. The gaming compact North Fork refers to offered mitigation payments to Picayune *precisely because* the parties knew the North Fork Project would harm Picayune. *See* ECF No. 34-2 at 34, § 4.5(a) (providing compensation "[t]o mitigate the potential economic impact of the Tribe's proposed Gaming Facility on the Chukchansi Indian Tribe's gaming facility"). Although those payments were insufficient to compensate for Picayune's losses, North Fork fails to address the obvious rejoinder: Through Proposition 48, the People *annulled* the compact and the concurrence to reject gaming at the Madera Parcel.

[9] Federal Defendants' and Red Rock's arguments about the need for a "stable" environment for investors and lenders, ECF No. 42 at 16:9-10, ECF No. 39 at 18:4-19:13, fail for the same reasons. The relevant investors and lenders (like Red Rock) are sophisticated corporations making financial decisions with knowledge of risks. Indeed, North Fork concedes that it invests in these projects speculatively and knowing they are risky. ECF No. 39-1 at 2, ¶¶ 3-4. Enforcing the law is not inequitable just because a corporate investor or lender won't make a profit.

reservation gaming, or in respecting the People of California's decision to exercise that power.

Similarly, North Fork's contention that it would be inequitable to stop its project now misses the point that the People have rejected gaming at the North Fork Project, and Congress gave the People that power in IGRA. Moreover, North Fork is wrong to suggest Picayune seeks to stop the development and operation of the entire North Fork Project. Picayune acknowledges North Fork may develop the Madera Parcel to offer amenities and revenue-generating services. But North Fork cannot offer gaming. Allowing North Fork to collect unlawful gaming revenues at the expense of Picayune and its lawful gaming operations would not promote equity; it would encourage lawlessness.

Turning to Red Rock, it claims the equities favor Defendants because an injunction would disrupt a "federally-approved and judicially-upheld tribal development project." ECF No. 39 at 18:4-21:2. The argument does not survive scrutiny. The legality of the underlying gaming activities is the subject of this litigation. North Fork must meet *all* applicable requirements, and the legal record confirms it is missing a critical prerequisite for gaming: the Governor's concurrence. Moreover, Red Rock is plainly incorrect to claim it is a "judicially-upheld" project. *Picayune Rancheria* confirms a condition is missing. For more than a decade, the parties have litigated the key state-law question that strikes at the heart of whether the proposed gaming is lawful. And the State courts have held that North Fork's proposed gaming does not meet legal requirements.

Red Rock's declaration is telling nonetheless. Red Rock acknowledges it has "been retained on multiple other tribal gaming projects that did not work out for one reason or another" and that such projects have become "riskier over the three decades Station has been involved in the business." ECF No. 39-1 at 2:12-28, ¶¶ 3-4. Put differently, Red Rock and its partner North Fork have known they have been engaged in a "risk[y]" enterprise. That the risk did not pan out and that the People of California exercised their constitutional right to reject their project means the equities cannot cut in Red Rock and North Fork's favor. Fidelity to the law should always prevail.

**E. The Public Interest Supports the Requested Relief.**

Defendants argue the public interest weighs in favor of unlawful gaming because the public has an interest in the finality of agency decisions, the actions of federal officials should trump state

law, and an injunction would unduly chill financing for tribal casinos. Defendants are wrong.

As explained in Picayune's moving papers, the public interest strongly favors issuance of a stay and injunction. Defendants recognize that "[t]he public interest may be declared in the form of a statute." ECF No. 43 at 28:16-19 (quoting *Golden Gate Rest. Ass'n v. City & Cnty. of San Francisco*, 512 F.3d 1112, 1127 (9th Cir. 2008)). And here, that statute is IGRA. As Picayune has now explained at length, IGRA expressly invites state law into the analysis. In particular, IGRA conditions gaming on the existence of a valid concurrence, where the validity of the concurrence is determined by state law. *See Confederated Tribes*, 110 F.3d at 697. Under state law, the People of California rejected gaming at the Madera Parcel, and they did so in a manner that annulled Governor Brown's concurrence and rendered it void ab initio. *See Stand Up II*, 64 Cal. App. 5th at 216; *Picayune Rancheria*, 117 Cal. App. 5th at 113-14.

IGRA is thus vindicated—as is the voters' exercise of "one of the most precious rights of our democratic process," *Associated Home Builders of Greater Eastbay, Inc. v. City of Livermore*, 18 Cal. 3d 582, 591 (1976) (citation omitted)—by granting Picayune's requested relief. Federal Defendants resist that conclusion by arguing that "[t]he public has an interest in the finality of" the Secretary's two-part determination, fee-to-trust decision, and issuance of procedures. ECF No. 42 at 16:3-10. But Picayune is challenging the approval of the Management Contract, not those prior decisions. North Fork relatedly asserts that the Secretary's two-part determination should be privileged over the will of California voters in the public-interest calculus. ECF No. 43 at 28:16-30:4. Under IGRA, though, a two-part determination is not sufficient to authorize gaming; the tribe must also have a valid concurrence. And here, because North Fork lacks such a concurrence, the public interest favors enjoining the operation of its casino project.

When Congress enacted IGRA, it chose to give States "a veto or approval" in the form of a concurrence. Virginia W. Boylan, *Reflections on IGRA 20 Years After Enactment*, 42 Ariz. St. L.J. 1, 11 (2010). California, through its popular referendum process, chose to exercise that veto here. And the public interest favors honoring that choice.

**F. This Court Should Not Require a Bond.**

North Fork aggressively argues that if the Court grants Picayune's motion, a "substantial bond" should issue. ECF No. 43 at 30:16-32:10. North Fork has the law wrong. No bond is required for Picayune's APA claim, because the stay of the management contract flows through 5 U.S.C. § 705, rather than Rule 65: "A stay under APA section 705 is neither a preliminary injunction nor a temporary restraining order, and Rule 65(c) therefore does not apply." *Neguse v. U.S. Immigr. & Customs Enf't*, 813 F. Supp. 3d 45, 100 (D.D.C. 2025); *League of Women Voters*, 2026 WL 2224637, at *33 (bond has "has no application to stays pursuant to the APA"). So, if the Court agrees that the management agreement should not have been approved (or that there is a substantial question) then it simply stays the decision with no bond.

For Picayune's IGRA claim, North Fork cites *Nintendo of America, Inc. v. Lewis Galoob Toys, Inc.*, 16 F.3d 1032 (9th Cir. 1994), without mentioning that the bulk of that case dealt with bond enforcement. And while it is true that a court has discretion to require a bond under Rule 65, it is equally true that it has discretion not to require one: "Rule 65(c) invests the district court with discretion as to the amount of security required, *if any*." *Johnson v. Couturier*, 572 F.3d 1067, 1086 (9th Cir. 2009) (internal quotation marks omitted). And the Ninth Circuit has explained how to make that decision: "[L]ikelihood of success on the merits, as found by the district court, tips in favor of a minimal bond or no bond at all," *People of State of California. ex rel. Van De Kamp v. Tahoe Reg'l Plan. Agency*, 766 F.2d 1319, 1326 (9th Cir.), *amended,* 775 F.2d 998 (9th Cir. 1985), just as no or "nominal bonds [are] perfectly proper in public interest litigation," *Save Our Sonoran, Inc. v. Flowers*, 408 F.3d 1113, 1126 (9th Cir. 2005). Here, Picayune is strongly ahead on the merits and seeks to vindicate the People's vote. No bond should issue.

**CONCLUSION**

Picayune respectfully requests that the Court grant its motion in full.

Respectfully submitted,

DATED: September 21, 2026

PAUL HASTINGS LLP

By: */s/ Navi Singh Dhillon*
NAVI SINGH DHILLON

Attorneys for Plaintiff
PICAYUNE RANCHERIA OF THE CHUKCHANSI INDIANS