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8 Attorneys for Federal Defendants

9 **UNITED STATES DISTRICT COURT**

10 **EASTERN DISTRICT OF CALIFORNIA**

11 THE AGUA CALIENTE TRIBE OF
CUPEÑO INDIANS OF THE PALA
12 RESERVATION,

13 Plaintiff,

14
15 LAWRENCE S. ROBERTS, *et al.*,

16 Defendants.

Case No. 2:15-cv-02329-JAM-KJN

**JOINT STIPULATION OF THE
PARTIES AND ORDER
CONCERNING SUMMARY
ADJUDICATION**

Hon. John A. Mendez

FILED

JAN 17 2017

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY

DEPUTY CLERK

1 Plaintiff Agua Caliente Tribe of Cupeño Indians and Defendant Lawrence S.
2 Roberts hereby stipulate, subject to Court approval, that this matter shall be presented
3 for adjudication under the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701–
4 706, and Federal Rule of Civil Procedure 56, as follows:

5 1. Defendant shall file the Administrative Record within five business days
6 of entry of the Court's order approving this Stipulation. The Administrative Record
7 shall be filed on computer disk, with copies of the disk made for Chambers and for
8 Plaintiff. The requirement of submitting a paper copy of the Administrative Record
9 to Chambers is waived. (Should the Court require a paper Chambers copy, Defen-
10 dant shall submit the paper copy within 30 days of filing the copy on computer disk.)

11 2. Plaintiff shall file its opening memorandum in support of its motion for
12 summary judgment within 30 days after the Administrative Record is filed.

13 3. Defendant shall file its opening memorandum in opposition to Plaintiff's
14 motion for summary judgment and in support of its cross-motion for summary judg-
15 ment within 30 days after Plaintiff's opening memorandum is filed.

16 4. Plaintiff shall file its reply memorandum within 14 days after Defendant's
17 opening memorandum is filed.

18 5. Defendant shall file its reply memorandum with 14 days after Plaintiff's
19 reply is filed.

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6. Because this action will be reviewed under the APA, the requirement that Statements of Undisputed Facts be filed is waived. *See Occidental Engineering Co. v. I.N.S.*, 753 F.2d 766, 769–70 (9th Cir. 1985) (in an APA action, “there are no disputed facts that the district court must resolve. That court is not required to resolve any facts in a review of an administrative proceeding. Certainly, there may be issues of fact before the administrative agency. However, the function of the district court is to determine whether or not as a matter of law the evidence in the administrative record permitted the agency to make the decision it did.”).

7. The Court shall set the matter for oral argument as it deems appropriate.

SO STIPULATED

DATED: January 12, 2017

FOR PLAINTIFF

/s/ Andrew W. Twietmeyer
(As authorized January 11, 2017)
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FOR DEFENDANT

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/s/ David B. Glazer
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1 **ORDER**

2 The Court, having considered the Joint Stipulation of the Parties Concerning
3 Summary Adjudication, hereby orders as follows:

4 1. Defendant shall file the Administrative Record within five business days
5 of entry of the Court's order approving this Stipulation. The Administrative Record
6 shall be filed on computer disk, with copies of the disk made for Chambers and for
7 Plaintiff. ~~The requirement of submitting a paper copy of the Administrative Record~~
8 ~~to Chambers is waived.~~ ~~[OR: Defendant shall submit a paper Chambers copy of the~~
9 Administrative Record within 30 days of filing the copy on computer disk.]

10 2. Plaintiff shall file its opening memorandum in support of its motion for
11 summary judgment within 30 days after the Administrative Record is filed.

12 3. Defendant shall file its opening memorandum in opposition to Plaintiff's
13 motion for summary judgment and in support of its cross-motion for summary judg-
14 ment within 30 days after Plaintiff's opening memorandum is filed.

15 4. Plaintiff shall file its reply memorandum within 14 days after Defendant's
16 opening memorandum is filed.

17 5. Defendant shall file its reply memorandum with 14 days after Plaintiff's
18 reply is filed.

19 6. Because this action will be reviewed under the APA, the requirement that
20 Statements of Undisputed Facts be filed is waived.

1 7. The Court shall set the matter for oral argument on

2 May 16, 2017 at 1:30 p.m

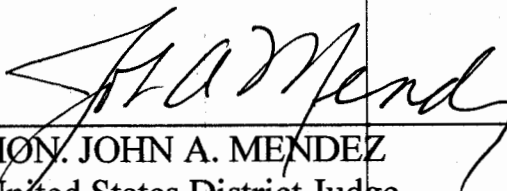
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4 So Ordered

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6 Dated: 1-13-2017

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HON. JOHN A. MENDEZ
United States District Judge

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