

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BIG LAGOON RANCHERIA, a Federally
Recognized Indian Tribe,

Plaintiff,

v.

STATE OF CALIFORNIA,

Defendant.

No. C 09-01471 CW

ORDER APPOINTING
MEDIATOR AND
VACATING CASE
MANAGEMENT
CONFERENCE

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On November 22, 2010, the Court granted Plaintiff Big Lagoon Rancheria's motion for summary judgment, concluding that Defendant State of California failed to negotiate with the Tribe in good faith for a tribal-state gaming compact. Pursuant to the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §§ 2701, et seq., the Court directed the parties to conclude a compact within sixty days. If they failed to do so, the parties were each required to submit a proposed compact to the Court, along with a joint proposal for a mediator under 25 U.S.C. § 2710(d)(7)(B)(iv). If the parties could not agree on a mediator, they were instructed to file separate proposals. The parties were not able to conclude a compact and have submitted to the Court their last best offers and separate

1 proposals for a mediator.

2 Pursuant to 25 U.S.C. § 2710(d)(7)(B)(iv), the Court appoints
3 the Honorable Eugene F. Lynch (Ret.) of JAMS as mediator. Within
4 seven days of the date of this Order, the parties shall attempt to
5 retain Judge Lynch as mediator and provide him with a copy of this
6 Order. If the parties are not able to retain Judge Lynch, the
7 parties shall immediately inform the Court.

8 If Judge Lynch agrees to serve as mediator, Big Lagoon and the
9 State shall submit to him the proposed compacts they have lodged
10 with the Court, as well as the Court's November 22, 2010 Order on
11 the parties' motions for summary judgment and any other relevant
12 prior orders of the Court. Judge Lynch "shall select from the two
13 proposed compacts the one which best comports with the terms of
14 [IGRA] and any other applicable Federal law and with the findings
15 and order of" this Court. 25 U.S.C. § 2710(d)(7)(B)(iv). Judge
16 Lynch may schedule briefing or oral argument as he sees fit. Once
17 he decides, Judge Lynch shall submit to the State and the Tribe the
18 compact he selected, id. § 2710(d)(7)(B)(v), and inform the Court
19 of his selection. If the State consents to the compact selected by
20 Judge Lynch "during the 60-day period beginning on the date on
21 which the proposed compact is submitted by [Judge Lynch] to the
22 State . . . , the proposed compact shall be treated as a
23 Tribal-State compact entered into under [§ 2710(d)(3)]." Id.
24 § 2710(d)(7)(B)(vi). If the State does not so consent, the parties
25 shall immediately inform the Court and the State may renew its
26 motion to the stay the proceedings in this case; no further action
27 shall be taken without a further order of the Court.

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1 The Court continues the case management conference set for May
2 10, 2011 to August 2, 2011 at 2:00 p.m. Within three days of the
3 date of this Order, the parties shall file on the public docket
4 their respective last best offers for a gaming compact.

5 IT IS SO ORDERED.

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7 Dated: 5/4/2011


CLAUDIA WILKEN
United States District Judge

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