

1 ROBERT G. DREHER
 Acting Assistant Attorney General
 2 REUBEN S. SCHIFMAN
 Trial Attorney
 3 United States Department of Justice
 4 Environment & Natural Resources Division
 Natural Resources Section
 5 P.O. Box 7611
 6 Washington, D.C. 20044-7611
 Telephone (202) 305-4224
 7 Reuben.Schifman@usdoj.gov

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U.S. DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA
 DEPUTY

8 Attorneys for Federal Defendants

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 10 IN THE UNITED STATES DISTRICT COURT
 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

12 13 TIFFANY L. (HAYES) AGUAYO, et al., 14 Plaintiffs, 15 vs. 16 17 S.M.R. JEWELL, the Secretary of the Department of the Interior et al., 18 Defendants. 19)) Case Number: 13-CV-1435-WQH-KSC)) JOINT STIPULATION AND) PRIVACY ACT) PROTECTIVE ORDER)))))))
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 21 **JOINT STIPULATION**

22 In order to litigate this matter, the parties to the above-referenced action will
 23 need to assess information in the official files of the Department of the Interior
 24 (“DOI”) relating to the decision of the Assistant Secretary - Indian Affairs, dated
 25 June 12, 2013, regarding a dispute within the Pala Band of Mission Indians
 26 concerning eligibility for tribal membership (“Decision”), including genealogical
 27 information that is protected by the Privacy Act, 5 U.S.C. § 552a. The parties wish
 28 to protect living individuals referenced in the administrative record from

JOINT STIPULATION

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1 unwarranted invasions of personal privacy. In addition, the disclosure of some
2 documents in the administrative record may be limited under the Freedom of Information Act,
3 5 U.S.C. § 552.

4 Accordingly, in order to address these concerns, the parties hereby
5 STIPULATE, AGREE, and JOINTLY REQUEST that the Court, pursuant to 5
6 U.S.C. § 552a(b)(11), order the following:

7 1. The parties shall have access to documents contained in the official
8 files of DOI relating to the Decision, including submitted genealogy and tribal or
9 group membership lists, which would be covered by the Privacy Act (hereinafter
10 “privacy documents”).

11 2. The parties shall not use the privacy documents obtained from the
12 official files of DOI, or their contents, for any purpose other than this litigation,
13 including any appeals. No person having access to these documents covered by
14 the Privacy Act shall make public disclosure of them or their contents without
15 further order of this Court.

16 3. Documents containing private information of individuals, such as
17 names, addresses, age, parentage, marital status and other personal information that
18 is protected from public disclosure by the Privacy Act, shall not be released to the
19 public, unless the individual referenced in the materials agrees to the disclosure in
20 writing prior to the date of disclosure, or by order of this Court. If a party receives
21 a request, made pursuant to any federal or state law, from any person not subject to
22 this Order for access to or copies of any such documents provided to the party
23 pursuant to this Order, the party shall not provide such access or copies but shall
24 refer such request to the Department for consideration under applicable federal
25 law.
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27 4. The documents which are protected from release to the general public
28 by the Privacy Act and which are part of the official files of the Department

1 relating to the Decision may be included in the administrative record and thus
2 ultimately disclosed to the Court and to the parties in this matter, by the filing of
3 that record under seal. Similarly, these documents may be disclosed to the Court
4 and to the parties in this litigation as attachments to briefs filed in these Court
5 proceedings and may be utilized in a deposition or for other permissible discovery
6 in this case or in any related administrative proceedings. This Protective Order is
7 not intended to prohibit introduction of these documents at a court hearing, trial or
8 other proceeding in this case or in a related administrative proceeding as allowed
9 under the Federal Rules of Evidence. However, in all circumstances, the protected
10 documents will be filed under seal, unless otherwise ordered by the Court.

11 5. Privacy documents which are subject to this order may be disclosed
12 only to the parties to this litigation, or their affiliates, the attorneys of record for the
13 parties, persons in the employ of such attorneys and expert witnesses retained by
14 the parties having a need for the information in the performance of their duties.
15 Except for the Court and its employees, and the employees of DOI, all individuals
16 having access to these records and all individuals to whom these records or the
17 information therein are disclosed shall be required to sign a copy of the
18 Acknowledgment of Privacy Act Protective Order form attached hereto as Exhibit
19 A, indicating that they have read and agree to abide by the terms of this Order.
20 Each counsel of record will send to the attorney of record for Defendants a list of
21 all such attorneys or members of the firm so designated. Signed acknowledgment
22 forms shall be retained by counsel for Defendants and be available upon request to
23 attorneys of record and the Court.
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25 6. All individuals to whom privacy documents or copies which are
26 subject to this Order are disclosed shall return to counsel for the Defendants or
27 destroy any and all documents, copies and the portions of notes containing
28 information from such documents in their possession immediately upon the

1 termination of this litigation, including all applicable appeals, or the termination of
2 the related administrative proceedings, whichever occurs later. The obligation to
3 return or destroy shall occur prior to the termination of this litigation when an
4 individual or entity is no longer a party or when an attorney or expert is no longer
5 retained to work on this case, whichever comes earlier. Individuals returning
6 documents under any circumstance shall certify in writing that the documents,
7 copies and notes have been returned or have been destroyed. This obligation
8 includes the return of the DVD that includes privacy documents.

9 7. Defendants, their officers, agents, employees and representatives are
10 hereby relieved of any obligation under 5 U.S.C. § 552a(c) to make or keep any
11 accounting of any disclosure or, under 5 U.S.C. § 552a(e)(8), to provide notice of
12 any disclosure to any individual, made under the authority of this order.

13 8. This Order does not constitute a ruling on the question of whether any
14 particular record is properly discoverable and does not constitute any ruling on any
15 potential objection to the discoverability of any record, other than objections based
16 on the Privacy Act.

17 9. This Order applies only to records and documents (in whatever form)
18 provided by DOI in these proceedings and does not apply to records and
19 documents obtained through other means.

20 10. This order shall survive the termination of this case and is binding for
21 all time without further order of the Court.

22 11. Nothing shall be filed under seal, and the Court shall not be required
23 to take any action, without separate prior order by the Judge before whom the
24 hearing or proceeding will take place, after application by the affected party with
25 appropriate notice to opposing counsel. The parties shall follow and abide by
26 applicable law, including Civ. L.R. 79.2, ECF Administrative Policies and
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1 Procedures, Section II.j, and the chambers' rules, with respect to filing documents
2 under seal. However, with respect to the chambers' rules and Section II.j of the
3 ECF Procedures, the Parties agree, and respectfully request that the Court allow the
4 lodging Administrative Record in non redacted form and with service completed
5 by providing a disc containing .PDF documents that comprise the Record, rather
6 than in paper format, as the Record consists of hundreds of documents and
7 thousands of pages.
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11 12. The Court may modify the protective order in the interests of justice
12 or for public policy reasons.
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14 Dated: December 17, 2013

ROBERT G. DREHER
Acting Assistant Attorney General

/s/ Reuben S. Schifman
REUBEN S. SCHIFMAN
Trial Attorney
United States Department of Justice
Environment & Natural Resources Division
Natural Resources Section
P.O. Box 7611
Washington, D.C. 20044-7611
Telephone (202) 305-4224
Reuben.Schifman@usdoj.gov

OF COUNSEL:

BARBARA COEN
Office of the Solicitor
United States Department of the Interior
1849 C St. NW
Mail-Stop 6513
Washington, DC 20240

1 Tel: (202) 208-6060
2 Fax: (202) 208-4115
3 Barbara.Coen@sol.doi.gov
4

5 Attorney for Plaintiffs:

6 /s/ Thor Olav Emblem¹
7 THOR OLAV EMBLEM
8 205 West 5th Avenue Suite 105
9 Escondido, CA 92025
10 Tel: (760)738-9301
11 Fax: (760)738-9409
12 Email:Thor@emblemLaw.Com
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27 ¹ Plaintiffs' counsel has authorized Federal Defendants' counsel to include his
28 signature herein.

1 **ORDER ON JOINT STIPULATION FOR PROTECTIVE ORDER**

2 The Parties have so stipulated and agreed to the above, and IT IS HEREBY
3 ORDERED.

4 Dated: Dec. 18, 2013

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8 KARENS. CRAWFORD
9 United States District Court

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