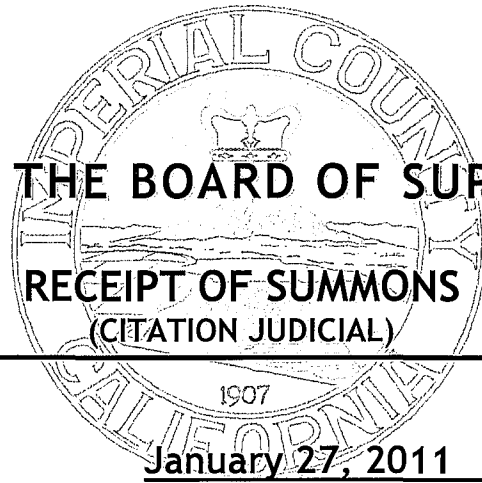


CLERK OF THE BOARD OF SUPERVISORS



RECEIPT OF SUMMONS  
(CITATION JUDICIAL)

DATE RECEIVED:

January 27, 2011

PLAINTIFF:

Quechan Tribe of the Fort Yuma  
Indian Reservation

CLAIM/SUMMONS NUMBER:

10-11-S-045

RECEIVED BY COUNTY COUNSEL:

[Signature]

RECEIVED BY RISK MANAGEMENT:

[Signature]

**SUMMONS  
(CITACION JUDICIAL)**

10-115-045

SUM-100

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**ENDORSED**

JAN 26 2011

SUPERIOR COURT  
COUNTY OF IMPERIAL  
KRISTINE S. KUSSMAN, CLERK  
BY DORA HERNANDEZ  
DEPUTY

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

COUNTY OF IMPERIAL, a political subdivision of the State of California; IMPERIAL COUNTY BOARD OF SUPERVISORS, a body politic DOES 1 through 10, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:**

**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**  
QUECHAN TRIBE OF THE FORT YUMA INDIAN RESERVATION, a federally recognized Indian Tribe

RECEIVED  
CLERK BOARD OF SUPERVISORS  
2011 JAN 27 AM 11 29

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

**¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):  
SUPERIOR COURT OF CALIFORNIA, COUNTY OF IMPERIAL  
939 WEST MAIN STREET  
EL CENTRO, CA 92243

CASE NUMBER (Número del Caso): **ECU 06233**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Mitchell A. Driskill (SBN 157046) WALKER & DRISKILL, PLC  
3205 S. DOGWOOD RD., STE. B (760) 352-4001  
EL CENTRO, CA 92243

DATE: **JAN 26 2011**  
(Fecha)

**Kristine Kusseman** Clerk, by **D. HERNANDEZ**, Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

**NOTICE TO THE PERSON SERVED:** You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):  
under:
 

|  |   |
|--|---|
| <input type="checkbox"/> CCP 416.10 (corporation)                | <input type="checkbox"/> CCP 416.60 (minor)             |
| <input type="checkbox"/> CCP 416.20 (defunct corporation)        | <input type="checkbox"/> CCP 416.70 (conservatee)       |
| <input type="checkbox"/> CCP 416.40 (association or partnership) | <input type="checkbox"/> CCP 416.90 (authorized person) |
| <input type="checkbox"/> other (specify):                        |   |
- by personal delivery on (date):

ENDORSED

JAN 26 2011

SUPERIOR COURT  
COUNTY OF IMPERIAL  
KRISTINE S. KUSSMAN, CLERK  
BY DORA HERNANDEZ  
DEPUTY

1 Mitchell Driskill, California Bar No. 157046  
WALKER & DRISKILL  
2 3205 S. Dogwood Road, Suite B  
El Centro, CA 92243  
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E-mail: [m.driskill@sbcglobal.net](mailto:m.driskill@sbcglobal.net)  
5 Local Counsel for Petitioner Quechan Indian Tribe

6 Frank R. Jozwiak, Wash. Bar No. 9482  
Thane D. Somerville, Wash. Bar No. 31468  
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[t.somerville@msaj.com](mailto:t.somerville@msaj.com)  
11 Attorneys for Petitioner Quechan Indian Tribe (pro hac vice)

Assigned for all purpose to Judge  
including trial

DONAL R. DONNELLY

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 IN AND FOR THE COUNTY OF IMPERIAL

15 QUECHAN TRIBE OF THE FORT YUMA )  
INDIAN RESERVATION, a federally recognized )  
16 Indian Tribe )

Case No.

**ECU06233**

17 Petitioner, )

PETITION FOR WRIT OF MANDATE

18 v. )

[Code of Civil Procedure § 1085  
Public Resource Code §§ 21167, 21168.5,  
21000 *et seq.*, Government Code §§ 65300  
20 *et seq.*]

19 COUNTY OF IMPERIAL, a political subdivision )  
20 of the State of California; IMPERIAL COUNTY )  
BOARD OF SUPERVISORS, a body politic; )  
21 DOES 1 through 10, inclusive, )

22 Respondents )  
23 )  
24 )

25 WINDZERO GROUP, INC., a business entity; )  
and DOES 11 through 20, inclusive, )  
26 )

27 Real Parties-In-Interest )  
28 )

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**INTRODUCTION**

1. On December 27, 2010, the County of Imperial filed a Notice of the Imperial County Board of Supervisors' Determination to approve a proposed development project known as Coyote Wells, which would consist of multiple private shooting ranges, a private automobile race track, and other features, on 944 acres of land near Ocotillo/Nomirage. Imperial County and the Board of Supervisors are referred to herein as "Respondents."

2. The Coyote Wells project is proposed for land that is within the traditional territory of the Quechan Tribe and which contains numerous historical and archaeological resources. A cultural resources survey report prepared for the project identified 119 independent cultural sites located on the property. Preliminary surveys have also confirmed the presence of human remains on the project site, which are presumed Native American in origin.

3. The Coyote Wells project would damage and destroy dozens of cultural sites of significance to the Quechan Tribe and would result in desecration of an Indian burial ground.

4. In 2010, Respondents prepared an Environmental Impact Report (EIR), which was approved and certified by the Board of Supervisors in the December 27, 2010 Notice of Determination.

5. The Tribe, as Petitioner herein, disputes the legal adequacy of the Respondents' EIR under Public Resources Code § 21000 *et seq.*, and the CEQA Guidelines, California Code of Regulations (CCR) Title 14, § 15000 *et seq.* The Tribe also disputes Respondents' compliance with provisions of the Government Code that mandate meaningful consultation with the Tribe, and which mandate proper and respectful treatment of Native American remains and burial grounds.

6. Based on the Respondents' violations of law, the Tribe petitions for a writ of mandate directing the County and the Board of Supervisors to vacate, set aside, and rescind the approvals relating to the Coyote Wells project, and the Tribe also seeks appropriate injunctive relief to preserve the status quo pending final adjudication on the merits.

**JURISDICTION AND VENUE**

7. This Court has jurisdiction pursuant to Public Resources Code §§ 21167 and 21168.5 and Code of Civil Procedure § 1085.

1 8. Venue is proper in the County of Imperial because the challenged action occurred in the  
2 County of Imperial, the subject property and project are located in the County of Imperial, and all  
3 parties operate and reside in the County of Imperial.

4 9. Petitioner has complied with the requirements of Public Resources Code § 21167.5 by  
5 serving a written notice of intent to commence this action on Respondents prior to filing this petition.  
6 A true and correct copy of the written notice is attached hereto as Exhibit A, and a separate Proof of  
7 Service is filed herewith, and incorporated herein by reference.

8 10. Petitioner has complied with the requirements of Public Resources Code § 21167.6(a)  
9 by filing herewith a request that the County prepare the record of proceedings related to the subject of  
10 this action.

11 11. Petitioner has performed any and all conditions precedent to filing this action and has  
12 exhausted any and all administrative remedies to the extent required by law.

13 12. Petitioner has no plain, speedy, or adequate remedy at law and a writ of mandamus,  
14 and/or other appropriate injunctive or equitable relief, is necessary to protect Petitioner's rights and  
15 interests.

16 13. Petitioner is entitled to attorney's fees pursuant to Code of Civil Procedure § 1021.5,  
17 Government Code § 800, and other applicable law.

18 **PARTIES**

19 14. Petitioner Quechan Indian Tribe is a federally-recognized Indian tribe with a governing  
20 body recognized by the Secretary of the Interior.

21 15. By filing this action, the Tribe does not waive its sovereign immunity and does not  
22 consent to suit as to any claim, demand, offset, or cause of action by any person or entity in this or any  
23 other court.

24 16. For thousands of years, the Quechan Tribe and tribal ancestors traditionally occupied,  
25 traveled, traded, and utilized resources within a broad geographical area located within the desert lands  
26 of modern-day Arizona and Southern California. The Tribe's traditional territory extends beyond the  
27 exterior boundaries of the Fort Yuma Indian Reservation, encompassing lands that are the subject of  
28

1 this action. The western traditional territory of the Tribe extended to the area surrounding California's  
2 Cahuilla mountains.

3 17. Protection and preservation of the Tribe's cultural heritage is of significant importance  
4 to the Tribe. The Tribal Council has established the Quechan Cultural Committee to promote, protect,  
5 and preserve Quechan culture, language, religion, history, and ancient sites and artifacts and to advise  
6 the Tribe on matters relating to cultural protection. The Committee works closely with the Tribal  
7 Historic Preservation Officer and the Tribal Council to ensure protection and preservation of cultural  
8 resources of significance to the Tribe, whether located within or outside Reservation boundaries.

9 18. The Tribe's cultural resources are historically and culturally interrelated and  
10 interconnected over many miles of desert land within the Tribe's traditional territory and outside  
11 Reservation boundaries. Cultural resources of significance to the Tribe are located on the lands that  
12 are the subject of this action and adjacent lands.

13 19. Destruction or damage to any one cultural resource contributes to destruction of the  
14 Tribe's culture, history, and religion. Injury to the Tribe's cultural resources causes injury to the Tribe  
15 and its people.

16 20. The Tribe, at the direction of the Tribal Council and with the support of the Cultural  
17 Committee and the Tribal Historic Preservation Officer, has participated in the administrative process  
18 relating to the Coyote Wells project.

19 21. Respondent County of Imperial is a public agency with jurisdiction over the land where  
20 the Coyote Wells project is located. The County of Imperial is identified as the lead agency under  
21 CEQA.

22 22. Respondent Imperial County Board of Supervisors is the decision-making body of the  
23 County of Imperial. The Board of Supervisors has the authority and duty to deny the Project and  
24 refuse to certify the EIR if the procedural and substantive requirements of CEQA and other applicable  
25 California law are not complied with. The Board of Supervisors has authority to approve or deny the  
26 Project and authority to rescind its approvals. Petitioner seeks a writ that will order the Board of  
27 Supervisors to rescind its certification of the EIR and rescind all approvals for the Coyote Wells  
28 Project.

1 23. WindZero Group, Inc., is a business entity, form unknown. WindZero Group, Inc., is  
2 being named as real party-in-interest, pursuant to Public Resources Code § 21167.6.5, because  
3 WindZero Group, Inc., is the owner of the subject property and the applicant seeking approval of the  
4 Coyote Wells project.

5 24. The true names and capacities of DOES 1 through 10, inclusive, are unknown to  
6 Petitioner. Petitioner alleges that each of said DOE parties 1 through 10 has jurisdiction or other  
7 authority over the Project and that each of DOE parties 11 through 20 has an interest, ownership or  
8 otherwise, in the project or property at issue. Petitioner will amend this complaint as necessary to set  
9 forth the true names and capacities of said DOE respondents and/or real parties-in-interest as soon as  
10 such information is ascertained.

#### 11 PRELIMINARY ALLEGATIONS

12 25. In 2008, WindZero Group, Inc., applied for approval of a Specific Plan, General Plan  
13 amendment, and other related approvals in order to allow a mixed use, three phase development known  
14 as the Coyote Wells project on approximately 944 acres of land in western Imperial County. The  
15 project would consist of a privately owned law enforcement training and motorsports facility  
16 consisting of shooting ranges and an automobile race track.

17 26. On January 23, 2009, the County of Imperial, acting as the lead agency under CEQA,  
18 published a Notice of Preparation (NOP) of an EIR and an Initial Study for the Coyote Wells project.

19 27. The County did not initiate consultation with the Tribe as required by Government  
20 Code § 65352.3.

21 28. The Tribe's Historic Preservation Officer made multiple attempts to obtain information  
22 about the Project in early 2009, but received no response from the County.

23 29. In April 2009, Laguna Mountain Environmental, Inc., prepared a document entitled  
24 Cultural Resource Survey of the Coyote Wells Specific Plan Area. Laguna's report identified a total of  
25 119 independent historic and prehistoric sites. To date, the sites have not been evaluated for eligibility  
26 on the California Register of Historic Places. The Quechan Tribe was not consulted in the preparation  
27 of the Cultural Resource Survey.

28

1            30.    The Tribe made repeated requests to consult with Imperial County in 2009, but no such  
2 consultation occurred.

3            31.    On January 26, 2010, the County published Notice of Availability of a Draft  
4 Environmental Impact Report for the Coyote Wells Specific Plan.

5            32.    Staff members of the Imperial County Planning Department met with the Tribal Council  
6 regarding the Coyote Wells project for the first and only time in June 2010.

7            33.    In July 2010, the County published its Final Environmental Impact Report.

8            34.    Between April 2009 and September 2010, the Tribe submitted multiple written  
9 comment letters into the record regarding the Coyote Wells project noting its opposition to the Project  
10 due to the impacts that would result to cultural resources and Native American burial grounds. The  
11 comment letters also objected to the County's EIR and failure to engage in proper consultation. Tribal  
12 representatives also made oral comments in opposition to the project at public hearings held by the  
13 County.

14           35.    On September 28, 2010, the California Native American Heritage Commission notified  
15 Imperial County that the project site constitutes a Native American burial ground and that approval of  
16 the Coyote Wells project would violate state cultural preservation and burial protection statutes.

17           36.    On December 20, 2010, the State of California Historic Preservation Office notified  
18 Imperial County that the County "has not fully complied with the consultations required under CEQA  
19 for Native American burials and remains" and that "the Coyote Wells project could have devastating  
20 and permanent impacts on significant cultural resources."

21           37.    On December 21, 2010, the Board of Supervisors for the County of Imperial voted 4-1  
22 in favor of approving the Coyote Wells project and certifying the Final EIR.

23           38.    The County filed its Notice of Determination on December 27, 2010, concluding that  
24 the project "will not" have a significant effect on the environment.

25                                    **FIRST CAUSE OF ACTION**

26                                    **[Violations of CEQA]**

27           39.    Petitioner re-alleges and incorporates herein by reference each and every allegation  
28 contained above as though fully set forth herein.



1           40.     As alleged herein, the County of Imperial and the Imperial County Board of Supervisors  
2 have failed to proceed in the manner required by the Public Resources Code § 21000 *et seq.*, and CCR  
3 Title 14, § 15000 *et seq.*, and Respondents have abused their discretion, to the prejudice of Petitioner  
4 and the general public.

5           41.     Respondents failed to determine whether there are “unique archaeological resources” in  
6 the Project area as required by Public Resources Code § 21083.2.

7           42.     Respondents failed to adequately mitigate or avoid impacts to historic, cultural, and  
8 archaeological resources identified in the Project area as required by CCR Title 14, § 15064.5(b) and  
9 § 15126.4.

10          43.     Respondents failed to conduct a lawful analysis of alternatives to the Coyote Wells  
11 Project as required by CCR Title 14, § 15126.6.

12          44.     Respondents failed to adequately analyze the cumulative impact to cultural resources  
13 that will result from the Coyote Wells project, in conjunction with other existing and reasonably  
14 foreseeable projects in the area, as required by CCR Title 14, § 15130.

15          45.     Respondents failed to comply with the consultation requirements of CCR Title 14,  
16 § 15064.5(d); (e); and Public Resources Code § 5097.98.

17          46.     Respondents failed to ensure avoidance and proper treatment of Native American burial  
18 sites identified in the Project area under CCR Title 14, § 15064.5(d); (e); and Public Resources Code  
19 § 5097.98.

20          47.     Respondents failed to develop and require an adequate monitoring and reporting  
21 program to ensure compliance with mitigation and permit conditions as required by Public Resources  
22 Code § 21081.6.

23          48.     Respondents abused their discretion by determining that the Coyote Wells project  
24 would not have a significant effect on the environment.

25          49.     Respondents abused their discretion by approving the Coyote Wells project given the  
26 significant damage and destruction that will occur to identified historic and archaeological resources  
27 and given the Project’s location within a Native American burial ground.  
28

1           50. Respondents have failed to adequately address and respond to comments made by  
2 representatives of the Quechan Tribe, the Native American Heritage Commission, State Historic  
3 Preservation Office, and other concerned members of the public.

4           51. Findings made by the Respondents in the Notice of Determination and in the Final EIR  
5 are not supported by substantial evidence.

6           52. Based on the violations of the Public Resources Code and CEQA Guidelines alleged  
7 herein, the Quechan Tribe petitions this Court for the issuance of a Writ of Mandate directing  
8 Respondents to vacate, annul, rescind, set aside, and void its approvals for the Coyote Wells project  
9 and its certification of the Final EIR, as reflected in the December 27, 2010 Notice of Determination.

10   **SECOND CAUSE OF ACTION**

11   **[Failure to Consult]**

12           53. Petitioner re-alleges and incorporates herein by reference each and every allegation  
13 contained above as though fully set forth herein.

14           54. As alleged herein, the County of Imperial and the Imperial County Board of Supervisors  
15 have failed to proceed in the manner required by Government Code 65300 *et seq.*, and abused their  
16 discretion, to the prejudice of Petitioner and the general public.

17           55. Respondents failed to meaningfully consult with the Quechan Tribe regarding the  
18 Coyote Wells project prior to their amendment of the General Plan as required by Government Code  
19 § 65352.3.

20           56. Respondents failed to meaningfully consult with the Quechan Tribe regarding the  
21 Coyote Wells project prior to their approval of the Specific Plan as required by Government Code  
22 § 65352.3 and § 65453.

23           57. Based on the violations of the Government Code alleged herein, the Quechan Tribe  
24 petitions this Court for the issuance of a Writ of Mandate directing Respondents to vacate, annul,  
25 rescind, set aside, and void its approvals for the Coyote Wells project and its certification of the Final  
26 EIR, as reflected in the December 27, 2010 Notice of Determination.

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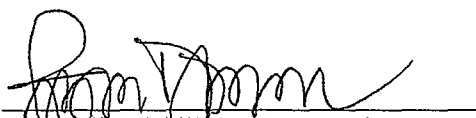
**PRAYER FOR RELIEF**

WHEREFORE, the Petitioner Quechan Tribe of the Fort Yuma Indian Reservation prays for the following relief:

1. For a preliminary injunction prohibiting Respondents and Real Parties-In-Interest from engaging in any implementation or other ground disturbing activities relating to the Coyote Wells Project that is the subject of the December 27, 2010 Notice of Determination pending final adjudication on the merits of the Tribe's petition;
2. For a writ of mandate directing: (a) Respondents to vacate, annul, rescind, set aside, and void its certification of the Coyote Wells EIR and all other approvals of the Coyote Wells Project that are the subject of the December 27, 2010 Notice of Determination; (b) Respondents and Real Parties-In-Interest to suspend all ground disturbing activities in the Project area until Respondents have complied with their obligations under CEQA and the Government Code; and (c) Respondents to prepare, circulate and consider a new EIR that complies with CEQA and to fulfill its obligations to consult with Petitioner;
3. For costs of suit incurred;
4. For an award of attorneys fees; and
5. For such other and further relief as the Court deems proper.

DATED this 25 day of January, 2011.

WALKER & DRISKILL

  
\_\_\_\_\_  
Mitchell Driskill, SBN 157046  
Local Counsel for Petitioner

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kfh:1/24/11

LAW OFFICES  
**MORISSET, SCHLOSSER, JOZWIAK & SOMERVILLE**  
A PROFESSIONAL SERVICE CORPORATION

FRANK R. JOZWIAK (WA)  
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FACSIMILE: (206) 386-7322

WWW.MSAJ.COM

January 21, 2011

**Via USPS First Class Mail - Overnight Delivery**

Imperial County Board of Supervisors  
c/o Clerk of Imperial County Board of Supervisors  
940 Main Street, Suite 209  
El Centro, CA 92243

Re: Notice of Commencement of Legal Action Against Imperial County and Imperial County Board of Supervisors Pursuant to California Public Resources Code § 21167: Coyote Wells/WindZero (GP08-0003/SP08-0001/ZC08-0003/TR00985/Development Agreement/FEIR/CUP08-0030/CUP08-0031)

Dear Imperial County Board of Supervisors:

Pursuant to California Public Resources Code (PRC) § 21167.5, we hereby notify the County of Imperial that the Quechan Tribe of the Fort Yuma Indian Reservation intends to commence a legal action against the County and the Board of Supervisors in Imperial County Superior Court pursuant to Cal. PRC § 21167 on or before January 26, 2011. The purpose of the legal action will be to challenge, set aside, and enjoin implementation of the Coyote Wells/WindZero project approvals (GP08-0003/SP08-0001/ZC08-0003/TR00985/ Development Agreement/ FEIR/CUP08-0030/CUP08-0031). The Notice of Determination for the Coyote Wells/WindZero project approvals was filed on December 27, 2010.

The legal action will challenge Imperial County's failure to comply with certain provisions of the California Public Resources Code, California Government Code, and Title 14 of the California Code of Regulations (CEQA Guidelines). Specifically, the Tribe will allege that the County's EIR does not comply with the requirements of CEQA because it fails to include a valid alternatives analysis; fails to include a valid cumulative impacts analysis; fails to adequately analyze or address impacts to historic and archaeological resources; fails to include sufficient measures to mitigate impacts to historic and archaeological resources; fails to include an adequate reporting and monitoring program; and reaches arbitrary determinations about whether mitigation measures will adequately reduce impacts on historic and archaeological resources to a non-significant level. The Tribe will also make allegations regarding the County's failure to engage in meaningful consultation with the Tribe under the Government Code and the

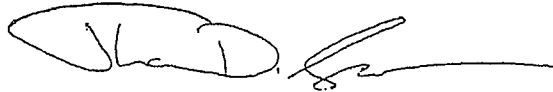
EXHIBIT A

Imperial County Board of Supervisors  
January 21, 2011  
Page 2

County's failure to follow required procedures relating to treatment of human remains identified in the project area.

Sincerely yours,

MORISSET, SCHLOSSER, JOZWIAK & SOMERVILLE



Frank R. Jozwiak  
Thane D. Somerville  
Attorneys for Quechan Indian Tribe

cc: Mike Jackson, Sr., President  
Keeny Escalanti, Sr., Vice-President  
Members of the Quechan Tribal Council  
Bridget Nash-Chrabasz, Tribal Historic Preservation Officer

T:\WPDOCS\10267\10057\Coyote Wells\Notice of Intent to Suc\_01.doc  
tds:1/21/11

EXHIBIT A

1 Mitchell Driskill, California Bar No. 157046  
2 WALKER & DRISKILL  
3 3205 S. Dogwood Road, Suite B  
4 El Centro, CA 92243  
5 Telephone: 760-352-4001  
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8 Local Counsel for Petitioner Quechan Indian Tribe

6 Frank R. Jozwiak, Wash. Bar No. 9482  
7 Thane D. Somerville, Wash. Bar No. 31468  
8 MORISSET, SCHLOSSER, JOZWIAK & SOMERVILLE  
9 801 Second Avenue, Suite 1115  
10 Seattle, WA 98104-1509  
11 Telephone: 206-386-5200  
12 Facsimile: 206-386-7322  
13 E-mail: [f.jozwiak@msaj.com](mailto:f.jozwiak@msaj.com)  
14 [t.somerville@msaj.com](mailto:t.somerville@msaj.com)  
15 Attorneys for Petitioner Quechan Indian Tribe (pro hac vice)

**ENDORSED**  
JAN 26 2011  
SUPERIOR COURT  
COUNTY OF IMPERIAL  
KRISTINE S. KUSSMAN, CLERK  
BY DORA HERNANDEZ  
DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF IMPERIAL

14 QUECHAN TRIBE OF THE FORT YUMA )  
15 INDIAN RESERVATION, a federally recognized )  
16 Indian Tribe )  
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Petitioner,

v.

COUNTY OF IMPERIAL, a political subdivision  
of the State of California; IMPERIAL COUNTY  
BOARD OF SUPERVISORS, a body politic;  
DOES 1 through 10, inclusive,

Respondents

\_\_\_\_\_

WINDZERO GROUP, INC., a business entity;  
and DOES 11 through 20, inclusive,

Real Parties-In-Interest

\_\_\_\_\_

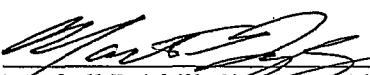
Case No. **ECU 06233**  
REQUEST TO PREPARE RECORD  
OF PROCEEDING UNDER PUBLIC  
RESOURCES CODE § 21167.6(a)

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Pursuant to Public Resources Code § 21167.6(a), the Petitioner Quechan Indian Tribe hereby requests that the Respondent Imperial County prepare the record of proceedings relating to the action described in the Notice of Determination attached hereto as Exhibit A: Coyote Wells/WindZero (GP08-0003/SP08-0001/ZC08-0003/TR00985/Development Agreement/Final Environmental Impact Report/CUP08-0030/CUP08-0031).

Dated this 26 day of January, 2011

WALKER & DRISKILL

  
Mitchell Driskill, SBN 157046 *for Mitchell*  
Local Counsel for Petitioner *Driskill*

T:\WPDOCS\0267\10116\Pleadings\Request to Prepare Record\_01.doc  
kfr:1/24/11

**EXHIBIT "A"**




Notice of Determination

Supplementary Document P

To:      Office of Planning and Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

From: Imperial County Planning Comm  
801 Main Street  
El Centro, CA 92243

FILE#  20108EIR082

**POSTED**

DEC 27 2010

IMPERIAL COUNTY  
CLERK-RECORDER  
CALIFORNIA  
Subject:

FILED  
IMPERIAL COUNTY, CALIFORNIA

DEC 27 2010

DOLORES PROVENCIO  
COUNTY CLERK

BY \_\_\_\_\_ DEPUTY

X County Clerk  
County of Imperial  
939 Main Street  
El Centro, CA 92243

Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

Coyote Wells/Wind Zero (GP08-0003/SP08-0001/ZC08-0003/TR00985/Development Agreement/Final Environmental Impact Report/CUP08-0030/CUP08-0031)  
Project Title

2009011063 IC Planning & Development Services (760) 482-4236, ext. 4310  
State Clearinghouse Number Lead Agency (contact) Area Code/Telephone/Ext.  
(If submitted to Clearinghouse)

Project Location (Include County):

The proposed project site is located in an unincorporated portion of Imperial County within the westerly portion of Ocotillo/Normirage Community Area, west of El Centro, and east of the Community of Ocotillo.

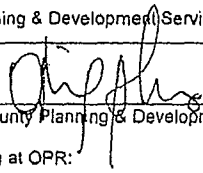
**Project Description:** The proposed project consists of a mixed-use, three-phase development on approximately 944 acres in western Imperial County. The proposed project is located within the Ocotillo/Nomirage Community Area Plan. The Coyote Wells Specific Plan Area would in large part function as a gated community with numerous amenities available to users. The project proposes to develop a privately owned law enforcement training and motorsports facilities, and commercial establishments along the State Route 98 corridor.

This is to advise that the Imperial County Board of Supervisors has approved the above-described project on  Lead Agency  Responsible Agency

12/21/2010 and has made the following determinations regarding the above described project:  
Date

1. The project ( will  will not) have a significant effect on the environment.
2.  An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.  
 A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation Measures ( were  were not) made a condition of the approval project.
4. A statement of Overriding Considerations ( was  was not) adopted for this project.
5. Findings ( were  were not) made pursuant to the provisions of CEQA.

This is to certify that the Final EIR with comments and responses and record of project approval is available to the General Public at Imperial County Planning & Development Services Department, 801 Main Street, El Centro, CA 92243

Aramando G. Villa  12/21/2010 Director of Planning & Development Services  
Signature-Imperial County Planning & Development Services Dept Date Title

Date received for filing at OPR:



State of California—The Resources Agency  
 DEPARTMENT OF FISH AND GAME  
 2010 ENVIRONMENTAL FILING FEE CASH RECEIPT

RECEIPT# 392919  
 STATE CLEARING HOUSE # (If applicable)  
 2009 011063

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY

LEAD AGENCY: IMPERIAL COUNTY PLANNING COMMISSION  
 COUNTY/STATE AGENCY OF FILING: IMPERIAL COUNTY CLERK/RECORDER  
 PROJECT TITLE: COYOTE WELLS/WIND ZERO  
 PROJECT APPLICANT NAME: ARMANDO G. VILLA  
 PROJECT APPLICANT ADDRESS: 801 MAIN ST. CITY: EL CENTRO STATE: CA  
 DATE: 12/27/2010  
 DOCUMENT NUMBER: 2010BE12082  
 PHONE NUMBER: 760 482 4236  
 ZIP CODE: 92243

PROJECT APPLICANT (Check appropriate box):  
 Local Public Agency     School District     Other Special District     State Agency     Private Entity

CHECK APPLICABLE FEES:

|   |            |            |
|---|------------|------------|
| <input checked="" type="checkbox"/> Environmental Impact Report (EIR)                               | \$2,792.25 | \$ 2792.25 |
| <input type="checkbox"/> Mitigated/Negative Declaration (ND)(MND)                                   | \$2,010.25 | \$ _____   |
| <input type="checkbox"/> Application Fee Water Diversion (State Water Resources Control Board Only) | \$850.00   | \$ _____   |
| <input type="checkbox"/> Projects Subject to Certified Regulatory Programs (CRP)                    | \$949.50   | \$ _____   |
| <input checked="" type="checkbox"/> County Administrative Fee                                       | \$50.00    | \$ 50.00   |
| <input type="checkbox"/> Project that is exempt from fees   |            |            |
| <input type="checkbox"/> Notice of Exemption  |            |            |
| <input type="checkbox"/> DFG No Effect Determination (Form Attached)                                |            |            |
| <input type="checkbox"/> Other  |            | \$ _____   |

PAYMENT METHOD:  Cash     Credit     Check     Other # 7411600008  
 TOTAL RECEIVED \$ 2842.25

SIGNATURE: X (Dasillas) TITLE: DEPUTY CLERK/RECORDER

WHITE - PROJECT APPLICANT    YELLOW - DFG/ASB    PINK - LEAD AGENCY    GOLDEN ROD - COUNTY CLERK    FG 753.5a (Rev. 11/09)

|  |  |
|--|--|
| <p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):<br/> <b>Mitchell Driskill, California Bar No. 157046</b><br/> <b>Walker &amp; Driskill</b><br/> <b>3205 S. Dogwood Road, Suite B</b><br/> <b>El Centro, CA 92243</b></p> <p>TELEPHONE NO.: 760-352-4001 FAX NO. (Optional): 760-352-5561<br/> E-MAIL ADDRESS (Optional): mdriskill@sbcglobal.net<br/> ATTORNEY FOR (Name): <b>Quechan Tribe of the Fort Yuma Indian Reservation</b></p> | <p>FOR COURT USE ONLY</p> <p><b>ENDORSED</b></p> <p><b>JAN 26 2011</b></p> <p>SUPERIOR COURT<br/> COUNTY OF IMPERIAL<br/> KRISTINE S. KUSSMAN, CLERK<br/> BY DORA HERNANDEZ<br/> DEPUTY</p> <p>CASE NUMBER:<br/> <b>ECU06233</b></p> |
| <p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Imperial</b></p> <p>STREET ADDRESS: <b>939 W. Main Street</b></p> <p>MAILING ADDRESS:<br/> CITY AND ZIP CODE: <b>El Centro, CA 92243</b><br/> BRANCH NAME: <b>El Centro Courthouse</b></p>   |  |
| <p>PETITIONER/PLAINTIFF: <b>Quechan Tribe of the Fort Yuma Indian Reservation</b></p> <p>RESPONDENT/DEFENDANT: <b>County of Imperial; Imperial County Board of Supervisors, DOES 1 through 10</b></p>  |  |
| <p><b>PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL</b></p>   |  |

(Do not use this Proof of Service to show service of a Summons and Complaint.)

- I am over 18 years of age and not a party to this action. I am a resident of or employed in the county where the mailing took place.
  - My residence or business address is:  
801 Second Avenue, Suite 1115, Seattle, WA 98104-1509
  - On (date): **January 21, 2011** I mailed from (city and state): **Seattle, WA** the following documents (specify):  
**Notice of Commencement of Legal Action Against Imperial County and Imperial County Board of Supervisors Pursuant to California Public Resources Code Section 21167. See Attached.**
- The documents are listed in the Attachment to Proof of Service by First-Class Mail—Civil (Documents Served) (form POS-030(D)).
- I served the documents by enclosing them in an envelope and (check one):
    - depositing** the sealed envelope with the United States Postal Service with the postage fully prepaid.
    - placing** the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
  - The envelope was addressed and mailed as follows:
    - Name** of person served: **Clerk of Imperial County Board of Supervisors**
    - Address** of person served:  
**940 Main Street, Suite 209**  
**El Centro, CA 92242**

The name and address of each person to whom I mailed the documents is listed in the Attachment to Proof of Service by First-Class Mail—Civil (Persons Served) (POS-030(P)).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: **January 24, 2011**

**Kaye F. Nealy**  
(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

  
(SIGNATURE OF PERSON COMPLETING THIS FORM)

LAW OFFICES  
**MORISSET, SCHLOSSER, JOZWIAK & SOMERVILLE**  
A PROFESSIONAL SERVICE CORPORATION

FRANK R. JOZWIAK (WA)  
MASON D. MORISSET (WA)  
THOMAS P. SCHLOSSER (WA)  
THANE D. SOMERVILLE (WA, OR)

COMPTROLLER  
M. ANN BERNHEISEL

1115 NORTON BUILDING  
801 SECOND AVENUE  
SEATTLE, WA 98104-1509

TELEPHONE: (206) 386-5200  
FACSIMILE: (206) 386-7322

WWW.MSAJ.COM

January 21, 2011

**Via USPS First Class Mail - Overnight Delivery**

Imperial County Board of Supervisors  
c/o Clerk of Imperial County Board of Supervisors  
940 Main Street, Suite 209  
El Centro, CA 92243

Re: **Notice of Commencement of Legal Action Against Imperial County and Imperial County Board of Supervisors Pursuant to California Public Resources Code § 21167: Coyote Wells/WindZero (GP08-0003/SP08-0001/ZC08-0003/TR00985/Development Agreement/FEIR/CUP08-0030/CUP08-0031)**

Dear Imperial County Board of Supervisors:

Pursuant to California Public Resources Code (PRC) § 21167.5, we hereby notify the County of Imperial that the Quechan Tribe of the Fort Yuma Indian Reservation intends to commence a legal action against the County and the Board of Supervisors in Imperial County Superior Court pursuant to Cal. PRC § 21167 on or before January 26, 2011. The purpose of the legal action will be to challenge, set aside, and enjoin implementation of the Coyote Wells/WindZero project approvals (GP08-0003/SP08-0001/ZC08-0003/TR00985/ Development Agreement/ FEIR/CUP08-0030/CUP08-0031). The Notice of Determination for the Coyote Wells/WindZero project approvals was filed on December 27, 2010.

The legal action will challenge Imperial County's failure to comply with certain provisions of the California Public Resources Code, California Government Code, and Title 14 of the California Code of Regulations (CEQA Guidelines). Specifically, the Tribe will allege that the County's EIR does not comply with the requirements of CEQA because it fails to include a valid alternatives analysis; fails to include a valid cumulative impacts analysis; fails to adequately analyze or address impacts to historic and archaeological resources; fails to include sufficient measures to mitigate impacts to historic and archaeological resources; fails to include an adequate reporting and monitoring program; and reaches arbitrary determinations about whether mitigation measures will adequately reduce impacts on historic and archaeological resources to a non-significant level. The Tribe will also make allegations regarding the County's failure to engage in meaningful consultation with the Tribe under the Government Code and the

EXHIBIT A

Imperial County Board of Supervisors  
January 21, 2011  
Page 2

County's failure to follow required procedures relating to treatment of human remains identified in the project area.

Sincerely yours,

MORISSET, SCHLOSSER, JOZWIAK & SOMERVILLE

A handwritten signature in black ink, appearing to read 'Frank R. Jozwiak', with a long horizontal flourish extending to the right.

Frank R. Jozwiak  
Thane D. Somerville  
Attorneys for Quechan Indian Tribe

cc: Mike Jackson, Sr., President  
Keeny Escalanti, Sr., Vice-President  
Members of the Quechan Tribal Council  
Bridget Nash-Chrabasz, Tribal Historic Preservation Officer

T:\WPDOCS\0267\10057\Coyote Wells\Notice of Intent to Sue\_01.doc  
rds:1/21/11

EXHIBIT A

|   |   |
|---|---|
| <p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):<br/> <b>Mitchell Driskill, California Bar No. 157046</b><br/> <b>Walker &amp; Driskill</b><br/> <b>3205 S. Dogwood Road, Suite B</b><br/> <b>El Centro, CA 92243</b></p> <p>TELEPHONE NO.: 760-352-4001 FAX NO. (Optional): 760-352-5561<br/>         E-MAIL ADDRESS (Optional): mdriskill@sbcglobal.net<br/>         ATTORNEY FOR (Name): Quechan Tribe of the Fort Yuma Indian Reservation</p> | <p style="text-align: center;">FOR COURT USE ONLY</p> <p style="font-size: 2em; text-align: center;">ENDORSED</p> <p style="text-align: center;">JAN 26 2011</p> <p style="text-align: center;">SUPERIOR COURT<br/>         COUNTY OF IMPERIAL<br/>         KRISTINE S. KUSSMAN, CLERK<br/>         BY DORA HERNANDEZ<br/>         DEPUTY</p> |
| <p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Imperial</b></p> <p>STREET ADDRESS: 939 W. Main Street<br/>         MAILING ADDRESS:<br/>         CITY AND ZIP CODE: El Centro, CA 92243<br/>         BRANCH NAME: El Centro Courthouse</p>   |   |
| <p>PETITIONER/PLAINTIFF: Quechan Tribe of the Fort Yuma Indian Reservation<br/>         RESPONDENT/DEFENDANT: County of Imperial; Imperial County Board of Supervisors, DOES 1 through 10</p>   |   |
| <p style="text-align: center;"><b>PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL</b></p>  | <p>CASE NUMBER:<br/> <span style="font-size: 1.5em;">ECU 06233</span></p>   |

(Do not use this Proof of Service to show service of a Summons and Complaint.)

- I am over 18 years of age and not a party to this action. I am a resident of or employed in the county where the mailing took place.
- My residence or business address is:  
801 Second Avenue, Suite 1115, Seattle, WA 98104-1509
- On (date): January 24, 2011 I mailed from (city and state): Seattle, WA the following documents (specify):  
Notice of Hearing and Verified Applications of Thane D. Somerville and Frank R. Jozwiak to Appear as Counsel Pro Hac Vice, Proposed Orders (2), Petition for Writ of Mandate

The documents are listed in the Attachment to Proof of Service by First-Class Mail—Civil (Documents Served) (form POS-030(D)).

- I served the documents by enclosing them in an envelope and (check one):
  - depositing the sealed envelope with the United States Postal Service with the postage fully prepaid.
  - placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

- The envelope was addressed and mailed as follows:
  - Name of person served: State Bar of California
  - Address of person served:  
Office of Certification  
180 Howard Street  
San Francisco, CA 94105

The name and address of each person to whom I mailed the documents is listed in the Attachment to Proof of Service by First-Class Mail—Civil (Persons Served) (POS-030(P)).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: January 24, 2011

Kaye F. Nealy  
(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

  
(SIGNATURE OF PERSON COMPLETING THIS FORM)



The State Bar of California  
 Office of Special Admissions/Specialization  
 180 Howard Street • San Francisco, CA 94105-1639  
 (415) 538-2100

FOR OFFICIAL USE ONLY

File # \_\_\_\_\_

\$ \_\_\_\_\_ Rec'd by \_\_\_\_\_

**Credit Card Payment Form - Pro Hac Vice, OSAAC, PTLs**

**1) CONTACT INFORMATION**

Name: Thane D. Somerville

Address 1: Morisset, Schlosser, Jozwiak & Somerville

Address 2: 802 Second Avenue, Suite 1115

City: Seattle State: WA Zip: 98104 + 1509

E-mail: t.somerville@msaj.com Phone: (206) 386 - 5200

**2) CREDIT CARD INFORMATION**

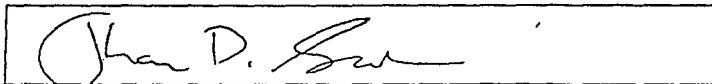
Visa  MasterCard Receipt  Y  N

Card #:  Expires: Month:  Year: 

Name on Card: Thane D. Somerville

Billing Address: 214 16th Avenue E. #302  
Seattle, WA 98112

Signature:



Date: February 24, 2011

By my signature on this document, I/we hereby authorize the State Bar of California to charge my/our Visa or MasterCard account for the amount listed in the 'total' box below.

**3) FEES**

| Title        | Description                               | Fee          | Qty | Total        |
|--------------|---|--------------|-----|--------------|
| Pro Hac Vice | Pro Hac Vice <b>SAMPLE</b>                | \$50/atty    | 2   | \$100        |
| Pro Hac Vice | Pro Hac Vice                              | \$50/atty    | 2   | \$100        |
| OSAAC        | Out of State Attorney Arbitration Counsel | \$50/atty    |     |              |
| PTLS         | Practical Training of Law Students        | \$55/student |     |              |
| <b>TOTAL</b> |   |              |     | <b>\$100</b> |

**4) FULFILLMENT INFORMATION**



Be sure to attach the appropriate forms and documents to this payment form.

**MAIL or FAX this form to:**  
 The State Bar of California  
 Office of Special Admissions/Specialization  
 180 Howard Street  
 San Francisco, CA 94105-1639  
 Fax (415) 538-2180

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|---|--|---|
| <b>SUPERIOR COURT OF STATE OF CALIFORNIA<br/>COUNTY OF IMPERIAL</b>   |  | <b>ENDORSED</b><br>JAN 26 2011<br>SUPERIOR COURT<br>COUNTY OF IMPERIAL<br>KRISTINE S. KUSSMAN, CLERK<br>BY DORA HERNANDEZ<br>DEPUTY |
| <b>Quechan Tribe</b><br><br><b>Plaintiff,</b><br><br><b>vs.</b><br><br><b>County of Imperial, et al.</b><br><br><b>Defendant.</b> |  |   |
| <b>NOTICE OF CASE MANAGEMENT CONFERENCE</b>   |  | <b>CASE NO. ECU06233</b>  |

1. NOTICE is given that a CASE MANAGEMENT CONFERENCE has been scheduled as follows:

|   |                 |          |
|---|-----------------|----------|
| Date: 7-25-2011   | Time: 8:30 a.m. | Dept.: 9 |
| Address of court: Imperial County Courthouse, 939 West Main Street, El Centro, CA 92243 |                 |          |

2. You must file and serve a completed Case Management Conference Statement at least fifteen (15) days before the case management conference.
3. You must be familiar with the case and be fully prepared to participate effectively in the case management conference.
4. At the case management conference the court may make pretrial orders, including the following:
  - a) An order establishing a discovery schedule.
  - b) An order referring the case to arbitration.
  - c) An order dismissing fictitious defendants.
  - d) An order scheduling exchange of expert witness information.
  - e) An order setting subsequent conferences and the trial date.
  - f) Other orders to achieve the goals of the Trial Court Delay Reduction Act (Gov. Code § 68600 et seq.).
5. Parties wishing to appear by telephone must comply with CRC 3.670 and Local Rule 3.8.6.
6. DATED: January 26, 2011

Kristine Kussman, Clerk

by D. HERNANDEZ, Deputy

**-- SANCTIONS --**

**If you do not file the Case Management Conference Statement required by CRC 3.725, or attend the case management conference or participate effectively in the conference, the Court may impose sanctions (including dismissal of the case, striking of the answer, and payment of money).**

**NOTICE OF CASE MANAGEMENT CONFERENCE**

CRC 3.725 and Imperial County Local Rule 3.1.2  
Government Code §68600 et seq.



ENDORSED

JAN 26 2011

SUPERIOR COURT  
COUNTY OF IMPERIAL  
KRISTINE S. KUSSMAN, CLERK  
BY DORA HERNANDEZ  
DEPUTY

1 Mitchell Driskill, California Bar No. 157046  
2 WALKER & DRISKILL  
3 3205 S. Dogwood Road, Suite B  
4 El Centro, CA 92243  
5 Telephone: 760-352-4001  
6 Facsimile: 760-352-5561  
7 E-mail: [mdriskill@sbeglobal.net](mailto:mdriskill@sbeglobal.net)  
8 Local Counsel for Petitioner Quechan Indian Tribe

6 FRANK R. JOZWIAK  
7 Washington State Bar No. 9482  
8 [f.jozwiak@msaj.com](mailto:f.jozwiak@msaj.com)

8 THANE D. SOMERVILLE  
9 Washington State Bar No. 31468  
10 [t.somerville@msaj.com](mailto:t.somerville@msaj.com)

10 MORISSET, SCHLOSSER, JOZWIAK & SOMERVILLE  
11 801 Second Avenue, Suite 1115  
12 Seattle, Washington 98104-1509  
13 Telephone: 206-386-5200  
14 Facsimile: 206-386-7322  
15 Attorneys for Petitioners

SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
COUNTY OF IMPERIAL

15 QUECHAN TRIBE OF THE FORT YUMA )  
16 INDIAN RESERVATION, a federally recognized )  
17 Indian Tribe )

18 Petitioner, )

19 v. )

20 COUNTY OF IMPERIAL, a political subdivision )  
21 of the State of California; IMPERIAL COUNTY )  
22 BOARD OF SUPERVISORS, a body politic; )  
23 DOES 1 through 10, inclusive, )

23 Respondents )

24 \_\_\_\_\_ )  
25 WINDZERO GROUP, INC., a business entity; )  
26 and DOES 11 through 20, inclusive, )

27 Real Parties-In-Interest )  
28 \_\_\_\_\_ )

Case No: ECU 06233

NOTICE OF HEARING AND VERIFIED  
APPLICATION OF  
THANE D. SOMERVILLE TO APPEAR  
AS COUNSEL PRO HAC VICE  
[CALIFORNIA RULE OF COURT,  
RULE 9.40]

Honorable \_\_\_\_\_

Telephonic Hearing Requested

DATE: February 28, 2011  
TIME: 8:30 a.m.

1 TO: The State Bar of California at San Francisco, Pro Hac Vice, 180 Howard Street,  
2 San Francisco, CA 94105;

3 NOTICE IS HEREBY GIVEN that on February 28, 2011, at the hour of 8:30 a.m., or as soon  
4 thereafter as the matter may be heard, in the Superior Court for the County of Imperial, applicant  
5 Thane D. Somerville will request leave to appear as counsel pro hac vice on behalf of the Quechan  
6 Indian Tribe in the above-entitled proceeding.

7 The request is based on this notice and the verified application of Thane D. Somerville herein,  
8 served and filed herewith, and on such evidence as may be presented at the hearing on the application.

9 **VERIFIED APPLICATION**

10 I, THANE D. SOMERVILLE, desiring to appear as counsel pro hac vice in the  
11 above-captioned matter, declare:

12 1. I hereby request leave of this Court to appear in this proceeding as counsel pro hac vice.  
13 The Quechan Indian Tribe ("Tribe") has retained the law firm of Morisset, Schlosser, Jozwiak &  
14 Somerville, of which I am an employee and Director, to represent Petitioner in this matter in  
15 association with Mitchell Driskill, of Walker & Driskill, who is California counsel of record for the  
16 Tribe and is an active member in good standing of the State Bar of California.

17 2. My office address is Morisset, Schlosser, Jozwiak & Somerville, 1115 Norton Building,  
18 801 Second Avenue, Seattle, King County, Washington, 98104. My residence address is 214 16th  
19 Avenue E. #302, Seattle, Washington 98112.

20 3. I am admitted to practice before the following courts:

- 21 a. U.S. Court of Appeals - D.C. Circuit (Bar No. 52451), July 31, 2009;  
22 b. U. S. Court of Appeals for the Federal Circuit, July 8, 2009;  
23 c. U.S. Court of Appeals for the Ninth Circuit, June 15, 2008;  
24 d. U.S. Court of Appeals for the Tenth Circuit; April 27, 2009;  
25 e. U.S. Court of Federal Claims; May 12, 2008;  
26 f. U.S. District Court for the District of Arizona; April 6, 2007 (phv);  
27 g. U.S. District Court for the Western District Washington; August 21, 2006;

Via PDF

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h. U.S. District Court for the District of Oregon; November 16, 2009.

4. I am a member in good standing in each of the courts listed in paragraph 3, and I am not currently suspended or disbarred from practice in any court.

5. I am not regularly employed in the State of California, nor regularly engaged in substantial business, professional, or other activities in the State of California.

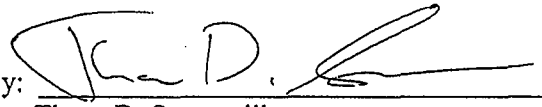
6. Within the preceding two years, I filed an application to appear as counsel pro hac vice in the state of California in *Quechan Indian Tribe v. E-Tickets Software, Inc., et al*, Case No. 37-2009-00097998, Superior Court of California, County of San Diego; and *Jerry Manchatta v. Bonnie Manchatta*, Case No. ECU05909, Superior Court of California, County of Imperial.

7. The attorney of record for Petitioners is Mitchell Driskill, an active member of the State Bar of California whose office is located at 3205 S. Dogwood Road, Suite B, El Centro, California 92243, telephone 760-352-4001.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

DATED this 24 day of January, 2011

MORISSET, SCHLOSSER, JOZWIAK & SOMERVILLE

By:   
Thane D. Somerville  
Washington State Bar No. 31468  
Attorneys for the Quechan Indian Tribe

ENDORSED

JAN 26 2011

SUPERIOR COURT  
COUNTY OF IMPERIAL  
KRISTINE S. KUSSMAN, CLERK  
BY DORA HERNANDEZ  
DEPUTY

1 Mitchell Driskill, California Bar No. 157046  
2 WALKER & DRISKILL  
3 3205 S. Dogwood Road, Suite B  
4 El Centro, CA 92243  
5 Telephone: 760-352-4001  
6 Facsimile: 760-352-5561  
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8 Local Counsel for Petitioner Quechan Indian Tribe

6 FRANK R. JOZWIAK  
7 Washington State Bar No. 9482  
8 [f.jozwiak@msaj.com](mailto:f.jozwiak@msaj.com)  
9 THANE D. SOMERVILLE  
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14 Seattle, Washington 98104-1509  
15 Telephone: 206-386-5200  
16 Facsimile: 206-386-7322  
17 Attorneys for Petitioners

13 SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
14 COUNTY OF IMPERIAL

15 QUECHAN TRIBE OF THE FORT YUMA )  
16 INDIAN RESERVATION, a federally recognized )  
17 Indian Tribe )  
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Case No: ECU 06233

NOTICE OF HEARING AND VERIFIED  
APPLICATION OF FRANK R. JOZWIAK  
TO APPEAR AS COUNSEL PRO HAC  
VICE [CALIFORNIA RULE OF COURT,  
RULE 9.40]

Honorable \_\_\_\_\_  
Telephonic Hearing Requested  
DATE: February 28, 2011  
TIME: 8:30 a.m.

Petitioner,  
v.  
COUNTY OF IMPERIAL, a political subdivision  
of the State of California; IMPERIAL COUNTY  
BOARD OF SUPERVISORS, a body politic;  
DOES 1 through 10, inclusive,  
Respondents  
  
WINDZERO GROUP, INC., a business entity,  
and DOES 11 through 20, inclusive,  
Real Parties-In-Interest

1 TO: The State Bar of California at San Francisco, Pro Hac Vice, 180 Howard Street, San Francisco,  
2 CA 94105;

3 NOTICE IS HEREBY GIVEN that on February 28, 2011, at the hour of 8:30 a.m., or as soon  
4 thereafter as the matter may be heard, in the Superior Court for the County of Imperial, applicant Frank  
5 R. Jozwiak will request leave to appear as counsel pro hac vice on behalf of the Quechan Indian Tribe  
6 as attorney in the above-entitled proceeding.

7 The request is based on this notice and the verified application of Frank R. Jozwiak herein,  
8 served and filed herewith, and on such evidence as may be presented at the hearing on the application.

9 **VERIFIED APPLICATION**

10 I, FRANK R. JOZWIAK, desiring to appear as counsel pro hac vice in the above-captioned  
11 matter, declare:

12 1. I hereby request leave of this Court to appear in this proceeding as counsel pro hac vice.  
13 The Quechan Indian Tribe ("Tribe") has retained the law firm of Morisset, Schlosser, Jozwiak &  
14 Somerville, of which I am an employee and director, to represent Petitioner in this matter in  
15 association with Mitchell Driskill, of Walker & Driskill, who is California counsel of record for the  
16 Tribe in this action and is an active member in good standing of the State Bar of California.

17 2. My office address is Morisset, Schlosser, Jozwiak & Somerville, 1115 Norton Building,  
18 801 Second Avenue, Seattle, King County, Washington, 98104. My residence address is P.O.  
19 Box 10954, Bainbridge Island, Kitsap County, Washington, 98110.

- 20 3. I am admitted to practice before the following courts:
- 21 a. Supreme Court of Washington (October 30, 1979, WSBA #9482);
  - 22 b. United States District Court for the Western District of Washington  
23 (December 7, 1979);
  - 24 c. United States Tax Court (January 22, 1980);
  - 25 d. United States Court of Appeals for the Ninth Circuit (January 15, 1981);
  - 26 e. United States Court of Federal Claims (December 13, 1989);
  - 27 f. United States District Court for the Northern District of California  
28 (November 26, 1990);

Via PDF

- 1 g. United States District Court for the Eastern District of Michigan (April 1991);
- 2 h. United States District Court for the Western District of Michigan
- 3 (September 1991);
- 4 i. United States Court of Appeals for the Sixth Circuit (July 31, 1992);
- 5 j. United States Court of Appeals for the Tenth Circuit (December 14, 1994);
- 6 k. Supreme Court of the United States (July 18, 1997); and
- 7 l. various Indian tribal courts.

8 4. I am a member in good standing in each of the courts listed in paragraph 3, and I am not  
 9 currently suspended or disbarred from practice in any court.

10 5. I am not regularly employed in the State of California, nor regularly engaged in  
 11 substantial business, professional, or other activities in the State of California.

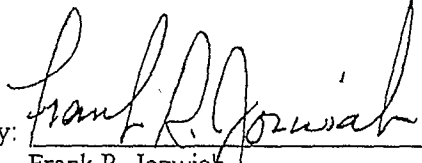
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 14 00097998, Superior Court of California, County of San Diego; and *Jerry Manchatta v. Bonnie*  
 15 *Manchatta*, Case No. ECU05909, Superior Court of California, County of Imperial.

16 7. The attorney of record for Petitioner is Mitchell Driskill, Walker & Driskill, an active  
 17 member of the State Bar of California whose office is located at 3205 S. Dogwood Road, Suite B, El  
 18 Centro, CA 92243, telephone 760-352-4001.

19 I declare under penalty of perjury under the laws of the state of California that the foregoing is  
 20 true and correct.

21 DATED this 24th day of January, 2011.

23 MORISSET, SCHLOSSER, JOZWIAK & SOMERVILLE

24  
 25  
 26 By:   
 27 Frank R. Jozwiak  
 28 Washington Bar No. 9482  
 Attorneys for the Petitioners