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CAUTIONS IN USING A REALTIME PARTIALLY EDITED TRANSCRIPT

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CAUTIONS IN USING A REALTIME PARTIALLY EDITED TRANSCRIPT

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GABRIELINO-TONGVA TRIBE VS. STEIN

ROUGH TRIAL TESTIMONY OF JONATHAN STEIN, 1/23/17

10:02 AM.

THE COURT: GABRIELINO-TONGVA TRIBE VERSUS  
STEIN BC361307 GOOD MORNING COUNSEL PLEASE MAKE YOUR  
APPEARANCES.

MS. IBARRA: DELIA IBARRA ON BEHALF OF THE  
PLAINTIFF, GABRIELINO-TONGVA TRIBE.

MR. FORDYCE: GOOD MORNING YOUR HONOR NIALL  
FORDYCE ON BEHALF OF MR. STEIN AND LAW OFFICES OF  
JONATHAN STEIN.

THE COURT: THANK YOU.

MR. STEIN: GOOD MORNING YOUR HONOR JONATHAN  
STEIN ON BEHALF OF SMDC AND THE CRANE GROUP.

THE COURT: OKAY THANK YOU, WHERE DID WE LEAVE  
OFF ON THURSDAY, WAS MR. STEIN STILL ON THE WITNESS  
STABBED.

MR. FORDYCE: CORRECT YOUR HONOR.

THE COURT: OKAY COME BACK UP.

MR. STEIN: YOUR HONOR BEFORE WE --.

THE COURT: NO WE SHOULD HAVE BEEN AT 9:45 IF  
WE WANTED TO TALK ABOUT SOME THINGS BEFOREHAND SO WHY  
DON'T YOU COME UP.

\*MR. STEIN\*: VERY GOOD.

THE COURT: IF YOU HAVE SOMETHING TO TAKE UP,  
YOU NEED TO BE HERE AT NINE 45.

MR. STEIN: SURE.

1 THE COURT: OKAY.

2 Q. BY MR. FORDYCE: SO MR. STEIN WE WERE IN THE  
3 MIDST OF EXHIBIT 569 WHEN WE LEFT OFF ON THURSDAY, DO  
4 YOU HAVE THAT EXHIBIT WITH YOU ON THE WITNESS STAND?

5 A. YES, I DO.

6 MR. FORDYCE: AND YOUR HONOR DO YOU HAVE 569.

7 THE COURT: I DO THANK YOU.

8 MR. FORDYCE: AH SUPER THANK YOU.

9 Q. AND WE HAD LEFT OFF AT RESOLUTION 15, WE'RE NOW  
10 GOING TO MOVE ON TO RESOLUTION 17 WHICH IS ON THE PAGE  
11 THAT BATES STAMP IS '05 '04 SO I'LL JUST GIVE EVERYONE A  
12 CHANCE TO GET TO THAT.

13 THE COURT: OKAY.

14 Q. BY MR. FORDYCE: MR. STEIN PLEASE DESCRIBE  
15 RESOLUTION 17?

16 A. THIS RESOLUTION WAS TO RESOLVE SOME OF THE  
17 CHAOS AROUND RESOLUTION 10 -- ACTUALLY RESOLVE SOME OF  
18 THE CHAOS AROUND RESOLUTIONS ONE THROUGH 10 WHICH WERE  
19 ADOPTED BY THE GABRIELINO-TONGVA TRIBAL COUNCIL AND  
20 RIGHT AFTER THEY ADOPTED THEM A MAJORITY OF THE COUNCIL  
21 RESIGNED SO IN THE FACE OF THAT WE WANTED TO RATIFY THE  
22 ACTIONS WITH THEIR REPLACEMENTS.

23 Q. I'LL DRAW YOUR ATTENTION TO THE FIRST WHEREAS  
24 CLAUSE, CAN YOU PLEASE READ THAT.

25 THE COURT: CAN I JUST ASK, THE REPLACEMENTS  
26 WERE THOSE THE CONSENTED GROUP?

27 A. NO THESE WERE THE DUNLAP GROUP.

28 Q. BY MR. FORDYCE: SO MR. STEIN PLEASE READ THE

1 FIRST WHEREAS CLAUSE?

2 A. AND AGAIN THIS IS 2001.

3 THE COURT: I SEE A DATE THERE APRIL 29TH,  
4 2001?

5 A. RIGHT.

6 MR. FORDYCE: CORRECT?

7 A. SO THE FIRST WHEREAS CLAUSE SAYS WHEREAS THE  
8 TRIBAL COUNCIL DESIRES TO PURSUE ECONOMIC DEVELOPMENT  
9 ACTIVITIES INCLUDING GAMING OPERATIONS FOR THE BENEFIT  
10 OF THE TRIBE AND TO IMPROVE THE LIVES OF ITS MEMBERS?

11 Q. WHAT DOES THIS REFERRING TO?

12 A. IT WAS THE GENERAL THING WE PUT IN FRONT OF ALL  
13 OF THE RESOLUTIONS HAVING TO DO WITH THE CASINO.

14 Q. WHY IS IT IMPORTANT?

15 A. IT'S IMPORTANT BECAUSE IT SHOWS THE REASON FOR  
16 THE COUNCIL'S ACTING IS BECAUSE THEY WANT TO PUSH THE  
17 CASINO PROJECT FORWARD.

18 Q. THE THIRD WHEREAS CLAUSE SAYS WHEREAS FOR SOME  
19 CONSIDERABLE TIME. CAN YOU READ THAT INTO THE RECORD?

20 A. WHEREAS FOR SOME CONSIDERABLE TIME, THE TRIBAL  
21 COUNCIL HAS BEEN CONSTITUTED BY A VARYING NUMBER OF  
22 MEMBERS, MOST RECENTLY BEING 10 MEMBERS AND CHIEF JIM  
23 VELASQUES AS ACQUIESCED IN THE CHANGE OF THE NUMBER OF  
24 MEMBERS.

25 Q. WHAT DOES THIS REFER TO?

26 A. THE GABRIELINO-TONGVA TRIBAL COUNCIL ORIGINATED  
27 WITH A GROUP THAT JIM VELASQUES RAN FOR A LONG, HE  
28 CALLED HIMSELF CHIEF JIM VELASQUES, SO THIS SIMPLY

1 REFERRING BACK TO HIS HABITS.

2 Q. WHY IS THIS IMPORTANT?

3 A. IT'S IMPORTANT BECAUSE WE WERE GOING TO HAVE  
4 SET THE NUMBER OF TRIBAL COUNCIL COUNSEL AND RATIFY THE  
5 PAST WORK.

6 Q. THE NEXT WHEREAS CLAUSE SAYS WHEREAS PURSUANT  
7 TO ECONOMIC DEVELOPMENT RESOLUTION NUMBER ONE, PLEASE  
8 READ THAT INTO THE REGARD?

9 A. WHEREAS PURSUANT TO ECONOMIC DEVELOPMENT  
10 AGREEMENT RESOLUTION NUMBER ONE ADOPTED ON MARCH 4,  
11 2001, INVITED THE FRACTIOUS COUNCILS IN CATALINA, WEST  
12 LOS ANGELES, BEAUMONT, AND SAN GABRIEL THAT HAVE ACTED  
13 AS INFORMAL REPRESENTATIVE OF SEGMENTS OF THE TRIBE AND  
14 INVITED THEIR INDIVIDUAL LEADERS TO RECOGNIZE THIS  
15 TRIBAL COUNCIL AS A LEGAL AND TRADITIONAL GOVERNING BODY  
16 OF THE GABRIELINO-TONGVA INDIAN PEOPLE AND ITS IDENTITY  
17 AS THE ELECTED TRIBAL COUNCIL OF THE GABRIELINO-TONGVA  
18 NATION.

19 Q. WHAT DOES THIS REFER TO?

20 A. JUST IT'S ANOTHER POINT ABOUT HOW RESOLUTIONS 1  
21 TO 10 CAME ABOUT, THE ORIGIN WAS ORIGINALITY TO PULL IN  
22 THE VARIOUS COUNCIL'S UNDER CHIEF JIM VELASQUES'  
23 LEADERSHIP AND SEE HEY WE'RE ALL GOING TO TRY TO YOU  
24 NIGHT HAVE HAVE A CASINO PROJECT.

25 Q. WHY IS IT IMPORTANT?

26 A. BECAUSE IT PROVIDED CONTEXT TORT RESOLUTIONS  
27 BELOW.

28 Q. NEXT RESOLUTION -- I'M SORRY THE NEXT WHEREAS

1           CLAUSE, PLEASE READ THAT INTO THE RECORD?

2           A.     WHEREAS TO IMPLEMENT THE ADOPTED POLICIES SET  
3           FORTH IN ECONOMIC RESOLUTION NUMBER ONE, EDGAR PEREZ OF  
4           THE SAN GABRIEL GROUP, CINDY ALVITRI, CATALINA GROUP,  
5           AND MARTIN ALCALA, THE WEST L.A. GROUP HAVE BEEN  
6           APPOINTED TO FILL EXISTING VACANCIES ON THE 10 PERSON  
7           TRIBAL COUNCIL.

8           Q.     SAME QUESTION, WHAT DOES THIS REFER TO?

9           A.     WHEN THE PEOPLE -- WHEN THE PEOPLE HAVE SIGNED  
10          RESOLUTION ONE THROUGH 10 RESIGNED, THESE INDIVIDUALS  
11          WERE APPOINTED IN THEIR PLACE, THEY ALSO REPRESENTED  
12          FAMILY GROUPS THAT HAD BEEN ACTIVE WITH THE TRIBE AS  
13          WELL SO EDGAR PEREZ HAD BEEN ACTIVE WITH THE SAN GABRIEL  
14          GROUP, CINDY ALVITRI WAS LEADER OF THE CATALINA ISLAND  
15          GROUP AND MARTIN ALCALA WAS LEADER OF THE WEST L.A.  
16          GROUP THAT HAD DONE THE WORK AT UNIVERSITY HIGH SCHOOL  
17          ON THEIR TONGVA SPRINGS.

18          Q.     WHY WAS THIS IMPORTANT?

19          A.     AGAIN IT WAS TO SHOW THERE'S A CONTINUITY  
20          BETWEEN THE PEOPLE THAT HAD RESIGNED, A MAJORITY HAD  
21          RESIGNED, SOME ARE CONTINUED AND THEIR APPOINTEE -- AND  
22          THE PEOPLE APPOINTED IN THEIR PLACE.

23          Q.     PLEASE READ THE NEXT WHEREAS CLAUSE INTO THE  
24          RECORD?

25          A.     WHEREAS NEGOTIATIONS ARE CONTINUING WITH  
26          VIRGINIA CARMELO OF THE SAN GABRIEL GROUP, THE BLOUNT  
27          FAMILY OF THE SAN GABRIEL GROUP, THE MORALES FAMILY OF  
28          THE SAN GABRIEL GROUP AS WELL AS FORMER MEMBERS OF THE

1 COUNCIL WHO RESIGNED VOLUNTARILY TO FILL EXISTING  
2 VACANCIES OF THE 10 PERCENT TRIBAL COUNCIL.

3 Q. AGAIN, WHAT DOES THIS REFER TO?

4 A. AGAIN, IT RECORDED WHAT WAS GOING ON AT THE  
5 TIME, WE WERE TRYING TO FIND 10 PEOPLE WILLING TO SERVE  
6 AND WE ENDED UP WITH FIVE AND THEN REDUCING THE NUMBER  
7 OF TRIBAL COUNCIL POSITIONS TO FIVE.

8 Q. WHY IS THIS IMPORTANT?

9 A. IT SHOWED THE CONTEXT THAT THE RESOLUTIONS  
10 RATIFYING THE PREVIOUS ACTIONS WERE TAKEN.

11 Q. PLEASE READ THE NEXT WHEREAS CLAUSE?

12 A. WHEREAS THE COUNCIL CONSIDERED IT TO BE IN THE  
13 BEST INTEREST OF THE TRIBE TO CONTINUE COUNCIL  
14 MEMBERSHIP AS 10 MEMBERS IN ORDER TO PROVIDE SUFFICIENT  
15 REPRESENTATION FOR THE MANY FAMILIES CONSTITUTED GT  
16 NATION.

17 Q. WHAT IS THIS REFERRING TO?

18 A. THE CURRENT THING TRIBAL COUNCIL PEOPLE LET'S  
19 HAVE 10 SLOTS BECAUSE WE'LL FILL THEY WILL ALL AND WE'LL  
20 HAVE MOST OF THE FAMILY GROUPS INVOLVED BECAUSE WE'VE  
21 GOT THE CASINO PROPERTY MANAGER.

22 Q. WHY IS THIS IMPORTANT?

23 A. IT GAVE CONTEXT TO THE RESOLUTION AND SHOWED  
24 CONTINUITY BETWEEN THE ORIGINAL ACTION APPROVING THE  
25 SMDC AGREEING AND APPROVING THE OTHER NINE RESOLUTIONS  
26 AND THIS ONE.

27 Q. MOVING ON TO THE THEREFORE, BE IT RESOLVED  
28 CLAUSE AT THE BOTTOM OF PAGE '05 '04 PLEASE READ THAT

1 INTO THE RECORD?

2 A. THEREFORE, BE IT RESOLVED THAT THE TRIBAL  
3 COUNCIL SHALL BE AND CONTINUES TO BE COMPOSED OF 10  
4 MEMBER POSITIONS, THAT ARTICLE THREE OF THE CONSTITUTION  
5 OF THIS TRIBE BE AND HEREBY IS AMENDED TO PROVIDE FOR  
6 THE 10 MEMBER COUNCIL.

7 Q. WHAT IS THIS REFERRING TO?

8 A. AGAIN IT WAS CONTINUITY FROM THE ORIGINAL 10  
9 PEOPLE OF CHIEF JIM VELASQUES' TRIBAL COUNCIL AND HOW WE  
10 WOULD CONTINUE TO HAVE 10 PEOPLE BUT THEY WOULD BE  
11 DIFFERENT PEOPLE.

12 Q. WHY IS IT IMPORTANT?

13 A. TO AGAIN MAKE BINDING, TO MAKE SURE BINDING THE  
14 ORIGINAL RESOLUTIONS ONE THROUGH 10 INCLUDE TH THE SMDC  
15 AGREEMENT APPROVAL.

16 Q. MOVING ON TO THE NEXT PAGE THAT'S BATES NUMBER  
17 0505 THERE ARE MORE BE IT RESOLVED FURTHER CLAUSES  
18 PLEASE READ THE PHYSICAL ONE I HAVE THE?

19 A. HERE TO FOR INCLUDING ALL ECONOMIC DEVELOPMENT  
20 AGREEMENT RESOLUTIONS ARE RATIFIED AND ADOPTED AS  
21 ACTIONS OF THIS TRIAL AND OF THIS TRIBAL COUNCIL.

22 Q. WHAT IS THIS REFERRING TO?

23 A. IT IS THE ACTUAL RATIFICATION OF THE ORIGINAL  
24 AGREEMENT, IT WAS THESE FIVE PEOPLE, SAM DUNLAP, SHIRLEY  
25 MACHADO, VIRGINIA CARMELO, MARTIN ALCALA, EDGAR PEREZ,  
26 TELLING ME THAT I HAD A VALID APPROVAL FROM RESOLUTION  
27 10 AND THAT THEY WERE RATIFYING IT AND ADOPTING IT EVEN  
28 THOUGH THE MAJORITY OF THE COUNCIL HAD RESIGNED.



1 Q. AND WHY IS THIS IMPORTANT?

2 A. BECAUSE I WOULD NOT WORK GOING FORWARD UNLESS I  
3 HAD A VALID AND BINDING AGREEMENT AND HAD THEM IN  
4 WRITING TELL ME SO.

5 Q. AND THE NEXT BE IT RESOLVED CLAUSE, THAT'S THE  
6 SECOND ONE ON THE PAGE PLEASE READ THAT?

7 A. BE IT RESOLVED FURTHER THAT IS IT IS THE  
8 INSURANCE TENSE OF THE COUNCIL TO BIND THE TRIBE AND ANY  
9 SUCCESSOR RELATED ENTITY THAT MAY ACHIEVE FEDERAL  
10 RECOGNITION AS AN INDIAN TRIBE OR TRIBE TABLE GAMING  
11 COMPACT.

12 Q. OKAY WHAT DOES THIS REFER?

13 A. IT'S A TYPICAL SUCCESSOR AND ASSIGNS CLAUSE  
14 THAT SAYS HEY WE'RE HERE TO BIND NOT JUST OURSELVES, BUT  
15 OUR SUCCESSORS-IN-INTEREST, NEW COUNCILS IF THEY MERGE  
16 WITH ANOTHER GROUP, THIS THEY SPLIT IN TWO.

17 Q. ANYTHING UNUSUAL ABOUT THIS CLAUSE?

18 A. NO.

19 Q. HAVE YOU USED CLAUSES LIKE THIS IN OTHER  
20 AGREEMENTS?

21 A. WELL THIS WAS ORIGINAL EYE WRITTEN BY SEYFARTH  
22 SHAW BASED ON THEIR CORPORATE WORK AND I'VE SEEP IT USED  
23 A LOT IN THE CORPORATE WORLD, I WAS A CORPORATE LAWYER  
24 MYSELF.

25 Q. IS IT IMPORTANT.

26 MS. IBARRA: I'M GOING TO OBJECT THAT IT LACKS  
27 FOUNDATION THAT IT WAS DRAFTED BY SEYFARTH SHAW.

28 MR. FORDYCE: WE'VE HAD TESTIMONY TO THAT

1 EFFECT, YOUR HONOR.

2 THE COURT: I THINK THERE WAS SOME TESTIMONY  
3 BUT TERMS OF WHAT THEY DID AND WHAT REVISIONS THEY MADE  
4 AND WHO MADE REVISIONS AND WHO PROPOSED, I MEAN I --.

5 MR. FORDYCE: AND MR. STEIN HAS --.

6 THE COURT: HAS ALL PAR OF SEYFARTH SHAW'S  
7 TESTIMONY SO I'LL OVERRULE IT BUT WHAT THE WITNESS WAS  
8 THE TESTIMONY ISN'T THE TESTIMONY, THAT'S WHAT HE  
9 REMEMBERS. THE COURT IS THE ONE WHO NEEDS TO REMEMBER  
10 WHAT THE TESTIMONY WAS WHICH I WILL DO IT'S IN A  
11 TRANSCRIPT SO -- BUT I UNDERSTAND YOU'RE MAKING YOUR  
12 OBJECTION FOR THE RECORD.

13 MR. FORDYCE: THANK YOU YOUR HONOR.

14 Q. BY MR. FORDYCE: MR. STEIN WHY IS THIS  
15 IMPORTANT?

16 A. IT WAS AGAIN WE TALKED ABOUT THIS TYPICAL  
17 SUCCESSOR AND ASSIGNS CLAUSE AND IT'S IMPORTANT TO MAKE  
18 SURE YOU HAVE A VALID AND BINDING AGREEMENT, USUALLY YOU  
19 DO IT SEVERAL TIMES.

20 Q. OKAY. PLEASE READ THE NEXT BE IT RESOLVED  
21 FURTHER CLAUSE INTO THE RECORD?

22 A. IT BE RESOLVED FURTHER THAT THE TRIBAL  
23 SECRETARY BE AUTHORIZED AND EMPOWERED TO CERTIFIED THESE  
24 RESOLUTIONS AND DELIVER COPY SO CERTIFIED TO SUCH  
25 PERSONS AND ENTITIES AS MAY BE NECESSARY OR  
26 APPROPRIATE.

27 Q. TO WHAT DOES THIS REFER?

28 A. IT JUST REFERS TO THE CERTIFICATION OF THE

1 TRIBAL COUNCIL SECRETARY WHICH WAS SAM DUNLAP, THAT'S  
2 THE NEXT PAGE 506 AND IT WAS THEIR WAY OF TELLING ME  
3 THAT EVERYTHING WAS CORRECT AND PROPER AND IN WRITING  
4 AND THAT THE TRIBAL COUNCIL SECRETARY WAS CERTIFYING  
5 THAT YES THESE GUYS ACTUALLY DID APPROVE IT.

6 Q. WHY IS THIS IMPORTANT?

7 A. AGAIN, IT'S JUST TO MAKE SURE THAT YOU HAVE A  
8 BINDING AGREEMENT AND THAT ALL CLAUSES AND THINGS THAT  
9 THEY SAID INCLUDING THAT THERE WAS NO ATTORNEY-CLIENT  
10 RELATIONSHIP THAT THEY WERE TELLING ME THEY'RE TRUE.

11 Q. AND YOU JUST REFERRED TO BATES NUMBER 0506  
12 WHICH IS THE NEXT PAGE, DRAW YOUR ATTENTION TO THAT MR.  
13 STEIN AND IT APPEARS THAT ON 0505 AND 0506 MR. SAM  
14 DUNLAP HAS SIGNED THIS RESOLUTION TWICE. CAN YOU  
15 EXPLAIN THIS PLEASE?

16 A. RIGHT. HE WAS THE TRIBAL COUNCIL PERSON BUT HE  
17 ALSO CERTIFIED IF YOU SEE BEGINNING ON 505 THE ABOVE  
18 DID -- AT THE VERY BOTTOM IT'S WRITTEN THE ABOVE  
19 ASCRIBED SIGNATORY ARE DULY ELECTED PRESENTLY SERVING  
20 AND PROPERLY ACTING MEMBERS OF THE TRIBAL COUNCIL ON THE  
21 DATE ABOVE AND THE RESOLUTION IS CERTIFIED AS BEING AN  
22 ACTION TAKEN IN ACCORDANCE WITH FORMALITIES AND  
23 SUBSTANTIVE REQUIREMENTS GOVERNING THE TRIBAL COUNCIL.

24 Q. AND MR. DUNLAP DID YOU KNOW SIGNED THAT TO YOUR  
25 KNOWLEDGE?

26 A. RIGHT, HE WAS IN RIVERSIDE WHEN HE SIGNED IT.

27 Q. GOING BACK TO BATES ZERO 50 OH FIVE THE FINAL  
28 BE IT RESOLVED CLAUSE PLEASE READ THAT INTO THE RECORD?

1           A.     BE IT REV SOLVED THAT THE OFFICE THE COUNCIL BE  
2     AND THIS HEREBY ARE AUTHORIZED AND EMPOWERED TO DO OR  
3     CAUSE TO BE DONE SUCH FURTHER ACTS AS MAY BE DEEMED  
4     NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSES OF  
5     THE FOREGOING RESOLUTIONS.

6           Q.     WHAT DOES THIS REFER TO?

7           A.     IT'S TO MAKE SURE THEY HAVE FULL AUTHORIZATION  
8     SO THAT IF YOU FOLLOW UP ON THIS WITH CERTAIN ACTIONS  
9     THOSE ACTIONS ARE ALSO AUTHORIZE.

10          Q.     WHY IS THIS IMPORTANT?

11          A.     WELL BECAUSE BESIDES THE RESOLUTION APPROVING  
12     SOMETHING, YOU THEN GO FORWARD AND YOU ACT UNDER THE  
13     AGREEMENT AND WHAT THIS SAYS IS THOSE ACTIONS ARE  
14     AUTHORIZED SO FOR EXAMPLE IF YOU WERE TO SAY OH GUESS  
15     WHAT, WE THINK THERE'S AN ATTORNEY-CLIENT RELATIONSHIP,  
16     YOU WOULD HAVE TO GO FORWARD AND DO SOMETHING IN WRITING  
17     BECAUSE OTHERWISE YOU'RE VIOLATES-G THIS RESOLUTION  
18     WHERE THEY'RE SAYING THAT THEY WANT TO CARRY OUT THE  
19     PURPOSES AND INTENT OF THE APPROVAL OF THE SMDC  
20     AGREEMENT SO IF THEY ACT AGAINST THOSE PURPOSES AND  
21     INTENT THEY'RE ACTING AGAINST WHAT THEY RESOLVED TO DO,  
22     THAT CARRIES FORWARD THE APPROVAL FROM THAT DAY TO THE  
23     FOLLOWING DAY AND THE NEXT DAY AND THE NEXT YEAR.

24          Q.     WERE YOU EVER PRESENTED IN THE CONTEXT OF SMDC  
25     ANY SORT OF WRITTEN AGREEMENT OR AMENDMENT MAKING YOU  
26     THE TRIBES ATTORNEY?

27          A.     NO, NO.

28          Q.     AT ANY POINT FROM 2001 TO 2006?

1           A.     NO.

2           Q.     DIRECTING YOUR ATTENTION TO THE CERTIFICATION  
3 SECTION, THERE ARE FIVE PEOPLE THAT HAVE SIGNED, YOU  
4 THINK YOU MENTIONED THIS EARLIER, MR. DUNLAP, MS.  
5 CARMELO, MS. MACHADO, MR. ALCALA, AND MR. PEREZ WAS THAT  
6 SUFFICIENT TO APPROVING ADOPT THIS RESOLUTION?

7           A.     YES THEY TURNED INTO THE FIVE PEOPLE THAT RAN  
8 THE TRIBE FOR THROUGH THE ADAM LOYA EVENTUALLY BECAME A  
9 SIXTH PERSON BUT THEY WERE THE PEOPLE THAT RAN THE TRIBE  
10 THROUGH THE TIME OF THE SMDC AGREEMENT TERMINATION IN  
11 2006.

12          Q.     AND WE'VE ALREADY DISCUSSED MR. DUNLAP'S  
13 SIGNATURE ON BATES NUMBER 0506?

14          A.     YES, SIR.

15          Q.     SO IF WE GO, LET'S MOVE ON TO THE ECONOMIC  
16 DEVELOPMENT RESOLUTION APRIL 29TH, 2001, THIS IS  
17 RESOLUTION NUMBER 20, ON PAGE BATES 0507. WHAT IS THIS  
18 DOCUMENT MR. STEIN?

19          A.     THIS WAS ATTORNEY ED HAMBURGER'S IDEA THAT HE  
20 WANTED TO AS TRIBAL GENERAL COUNSEL HE WANTED TO PUT  
21 FORWARD A PLAN FOR WHAT -- FOR MEASURING THE PROGRESS  
22 UNDER THE SMDC AGREEMENT.

23          Q.     WE'LL GET TO THAT BUT LET ME GO THROUGH THIS  
24 PAGE. THE FIRST WHEREAS CLAUSE, THIS IS THE SAME AS THE  
25 WHEREAS CLAUSE ON RESOLUTION 17 CORRECT?

26          A.     YES.

27          Q.     AND THAT WAS JUST A STANDARD OPENING AS IT WERE  
28 IS THAT CORRECT?

1           A.     YES.

2           Q.     ASK THE SECOND WHEREAS CLAUSE, CAN YOU READ  
3 THAT PLEASE?

4           A.     WHEREAS THE TRIBAL COUNCIL ADOPTED ECONOMIC  
5 DEVELOPMENT RESOLUTION NUMBERS 12 THROUGH 11 ON MARCH 1,  
6 2001 TO RECOGNIZE THIS ROLE AS THE SOLE AND STATE  
7 RECOGNIZED REPRESENTATIVE AS THE ENTIRE GT TRIBE TO HIRE  
8 PROFESSIONALS AND OFFICERS TO GUIDE THE TRIBE THROUGH  
9 THE FEDERAL RECOGNITION PROCESS, THE PROCESS OF  
10 ESTABLISHING A TRIBAL STATE GAMING COMPACT, THE PROCESS  
11 OF LOCATING AND OBTAINING LANDS TO BE PLACED INTO TRUST  
12 TO FORM A RESERVATION, AND THE PROCESS OF CONSTRUCTING  
13 AND OPENING A CASINO THEREON.

14          Q.     WHAT DOES THIS REFER TO?

15          A.     THAT IS BASICALLY THE OUTLINE OF THE ECONOMIC  
16 DEVELOPMENT TASKS AS THEY WERE UNDERSTOOD IN APRIL 2001  
17 AND IT REFERS BACK TO THE FACT THAT THERE WERE 11  
18 RESOLUTIONS TO SET THE FOUNDATION FOR THAT NOT JUST THE  
19 SMDC APPROVAL, THAT WAS JUST ONE OF THE 11.

20          Q.     WHY IS THIS IMPORTANT?

21          A.     BECAUSE IT IS ESTABLISHED IN THE CONTEXT FOR  
22 THE ACTION TAKEN IN RESOLUTION 20.

23          Q.     AND THAT MIDDLE -- THE MIDDLE OF THAT  
24 PARAGRAPH, IT SAYS TO HIRE PROFESSIONALS AND OFFICERS TO  
25 GUIDE THE TRIBE THROUGH THE FEDERAL RECOGNITION PROCESS  
26 THAT WAS AN OBLIGATION OF GT TRIBE CORRECT?

27          A.     YES AND TOWARDD AT THAT END THEY HIRED ED  
28 HAMBURGER, THEY HAD TRIED TO HIRE STEVE OTTO, THAT

1 DIDN'T WORK SO THEY HIRED ED HAMBURGER AFTER THAT.

2 Q. OKAY. PLEASE READ THE NEXT WHEREAS CLAUSE?

3 A. WHEREAS IN ECONOMIC DEVELOPMENT RESOLUTION  
4 NUMBER 10, THE TRIBAL COUNCIL, ONE, ADOPTED AND APPROVED  
5 THE DEVELOPMENT AGREEMENT WITH SMDC AS AN ACTION OF AND  
6 ON BEHALF OF THIS TRIBAL COUNCIL AND THERE WAS A COPY  
7 ATTACHED, NUMBER 2 THE TRIBAL COUNCIL DECLARED THE  
8 DEVELOPMENT AGREEMENT TO BE IMMEDIATELY EFFECTIVE VALID  
9 AND BINDING AND NUMBER 3, THEY AUTHORIZED MARY AGUILERA  
10 TO EXECUTE THE DEVELOPMENT AGREEMENT AND SHE DID EXECUTE  
11 IT ON BEHALF OF THE TRIBAL COUNCIL AND THE TRIBE.

12 Q. TO WHAT DOES THIS REFER?

13 A. THIS WILL REFERS TO THE APPROVAL OF THE SMDC  
14 AGREEMENT IN RESOLUTION 10 IN MARCH OF 2001.

15 Q. WHY IS IT IMPORTANT?

16 A. BECAUSE WHAT THIS IS SETTING UP IS THIS IS THEM  
17 TELLING ME THAT WE HAD AN EFFECTIVE VALID AND BINDING  
18 AGREEMENT A MONTH AND A HALF LATER WITH THE NEW COUNCIL,  
19 SO THIS WAS THE SUCCESSOR IF YOU WILL, THE SUCCESSOR  
20 COUNCIL SAYING HEY WE'RE TELLING YOU MR. STEIN AND SMDC  
21 THAT YOU HAVE A VALID AGREEMENT WITH THE TRIBE, YOU CAN  
22 GO AHEAD EVEN THOUGH YOU'RE NOT GETTING PAID AND ACT OWN  
23 OUR BEHALF.

24 Q. THE NEXT WHEREAS CLAUSE, THE SHORT ONE JUST  
25 BELIEF THE MIDDLE OF THE PAGE?

26 A. WHEREAS ATTORNEY ED HAMBURGER WROTE A SUMMARY  
27 OF RECOMMENDATIONS FOR FURTHER TRIBAL COUNCIL A COPY OF  
28 WHICH IS ATTACHED.

1 Q. WHAT DOES THIS REFER TO?

2 A. ED HAMBURGER HAD BEEN HIRED AS TRIBAL GENERAL  
3 COUNSEL AND HE HAD COME UP WITH THIS PLAN IN  
4 CONSULTATION WITH THE TRIBAL COUNCIL AS TO WHAT HE  
5 THOUGHT WAS THE BEST NEXT MOVES.

6 Q. DID SMDC HIRE MR. HAMBURGER?

7 A. NO I ACTUALLY HAD NEVER MET HIM BEFORE.

8 Q. OKAY. WHY IS THIS IMPORTANT?

9 A. BECAUSE IT SHOWED THAT HE WAS ACTING AS TRIBAL  
10 GENERAL COUNSEL BY APRIL 29TH OF 2001.

11 Q. PLEAD READ THE NEXT WHEREAS CLAUSE.

12 THE COURT: IS EXHIBIT ABOUT ATTACHED HERE.

13 MR. FORDYCE: I DON'T THINK SO YOUR HONOR?

14 A. I DON'T KNOW.

15 THE COURT: PARDON.

16 MR. FORDYCE: I DON'T THINK SO YOUR HONOR.

17 THE COURT: CAN WE GET THAT OTHERWISE IT  
18 DOESN'T -- ALL YOU HAVE IS EXHIBIT A WHICH IS A BUNCH OF  
19 RESOLUTIONS.

20 MR. FORDYCE: YOUR HONOR I THINK WE HAVE AN  
21 ISSUE OF WHAT WAS TAKEN FROM MR. STEIN'S OFFICE WHEN THE  
22 SPLIT OCCURRED AND ACROMONY, I'M NOT SURE IF WE HAVE  
23 THAT. IF WE HAVE IT, I'LL OBVIOUSLY FIND IT.

24 MS. IBARRA: I'VE NEVER SEEN IT, I'VE NEVER  
25 SEEN ANY OF THESE EXHIBITS?

26 A. AND THERE'S NO EXHIBITS ON HERE. EXHIBIT A IS  
27 ALSO MISSING.

28 THE COURT: I HAVE EXHIBIT A.



1           A.     OH, YOU DO? GOOD.

2           THE COURT: YES. EXHIBIT A TO RESOLUTION 46,  
3 RESOLUTION A TO 37. SO WE DON'T HAVE THE FULL COPY?

4           A.     RIGHT AND WE DON'T HAVE THE EXHIBIT D EITHER,  
5 EXHIBIT D IS THE SMDC AGREEMENT.

6           THE COURT: WELL IS THERE SOMEBODY WHO HAS A  
7 FULL --

8           MS. IBARRA: I'VE NEVER SEEN ANY OF THESE  
9 EXHIBITS.

10          THE COURT: -- SOMEBODY WHO HAS A FULL COPY OF  
11 THESE DOCUMENTS OTHERWISE --.

12          MR. FORDYCE: MY CONCERN YOUR HONOR IS WE DON'T  
13 KNOW IT STILL EXISTS TO BE QUITE FRANK.

14          THE COURT: HOW CAN BE IT ENFORCED THEN IF YOU  
15 DON'T HAVE ALL YOUR -- WELL I GUESS I'LL LEAVE THAT UP  
16 TO YOU. OKAY.

17          MS. IBARRA: YEAH I'VE NEVER SEEN ANY OF THE  
18 EXHIBITS TO THIS?

19          A.     WELL AND YOU HAVE ALREADY PERFORMED THE  
20 AGREEMENT AND YOU HAVE SOME EVIDENCE THAT IT WAS  
21 APPROVED SO I THINK THOSE TWO THINGS TOGETHER MAKE IT A  
22 MEANING AGREEMENT.

23          THE COURT: WELL WE NEED TO LOOK AT THE TERMS.  
24 HOW MANY EXHIBITS ARE REFERENCED IN THIS SMDC AGREEMENT  
25 BECAUSE I NOTICE --?

26          A.     THIS IS NOT THE AGREEMENT, THIS IS THE  
27 RESOLUTION -- APPROVAL RESOLUTION, THERE WERE SIX.

28          THE COURT: WELL THERE'S 569 SAYS DEVELOPMENT

1 AGREEMENT, FEBRUARY 1, 2001, AND THEN IT'S REFERENCING  
2 ON THE TABLE OF CONTENTS EXHIBIT A AND B AND IT SEEMS AS  
3 THOUGH THE EXHIBITS ARE EXHIBITS TO RESOLUTIONS BUT NOT  
4 EXHIBITS TO THE CONTRACT?

5 A. WELL --.

6 THE COURT: DOES SOMEONE WANTS TO POINT ME TO  
7 THE EXHIBITS TO THE CONTRACT? IT LOOKS LIKE WHAT'S  
8 REFERRED TO AS EXHIBITS A AND B ET CETERA, ARE EXHIBITS  
9 TO RESOLUTIONS SO NOT EXHIBITS TO THE ACTUAL SMDC  
10 AGREEMENT?

11 A. RIGHT. AND THEN IF YOU -- IF YOU WANTED TO  
12 TREAT IT DIFFERENTLY, EXHIBIT 69, 569 WOULD BE DIVIDED  
13 TO 569, THE APPROVAL WOULD BE 570, WHAT WE DID IS WE PUT  
14 IN ONE DOCUMENT ALL THE APPROVALS BECAUSE THE AGREEMENT  
15 WAS MODIFIED AGAIN THAT DAY SO WE PUT IT UNDER ONE  
16 EXHIBIT BECAUSE THE FINAL AGREEMENT AND ITS APPROVALS  
17 WERE ALL IN ONE PLACE.

18 THE COURT: WELL MAYBE WE OUGHT TO CALL IT 569  
19 A AND 569 B SO THAT IT'S CLEAR THAT THESE OTHER  
20 DOCUMENTS WEREN'T ATTACHED TO THE AGREEMENT OTHERWISE  
21 IT'S UNCLEAR. THEY'RE NOT EXHIBITS A AND B .

22 MR. FORDYCE: YOUR HONOR.

23 THE COURT: YES.

24 MR. FORDYCE: IS YOUR HONOR SUGGESTING FOR  
25 EXAMPLE SPLITTING IT AT BATES ZERO 49 SEVEN WHICH IS THE  
26 ECONOMIC DEVELOPMENT RESOLUTION MARCH 4, 2001,  
27 RESOLUTION 10 AND HAVING THE REMAINDER OF THE EXHIBIT BE  
28 569 B .

1 THE COURT: OR A SEPARATE EXHIBIT THIS THE END.  
2 IT'S JUST THEY'RE NOT THE SAME DOCUMENT.

3 A. THAT'S CORRECT BECAUSE --.

4 THE COURT: I SAW EXHIBIT A ASSUMING IT WAS  
5 EXHIBIT A TO THE DEVELOPMENT AGREEMENT BUT UPON LOOKING  
6 AT THE FOOTERS IT LOOKS LIKE THEY'RE EXHIBITS TO THE  
7 RESOLUTIONS NOT THE EXHIBITS TO THE DEVELOPMENT  
8 AGREEMENT SOY JUST WANT TO BE CLEAR YOU DON'T HAVE THE  
9 EXHIBITS TO THE DEVELOPMENT AGREEMENT.

10 MR. FORDYCE: RIGHT.

11 MS. IBARRA: RIGHT BECAUSE --?

12 A. I DON'T THINK THERE WAS ANY EXHIBITS A AND B  
13 BUT I CAN DOUBLE CHECK ALL OF THIS. AGAIN THE AGREEMENT  
14 WAS RATIFIED SIX DIFFERENT TIMES OVER FIVE YEARS.

15 THE COURT: WHICH I'M ASSUMING ALSO INCLUDED  
16 THE A AND B BUT WE DON'T HAVE THE A AND B SO.

17 MS. IBARRA: SO EXHIBIT A SAYS -- AND THE TABLE  
18 OF CONTENTS FOR THE AGREEMENT SAYS IT STARTS AT PAGE 19,  
19 BUT PAGE 19 IS AS THE COURT NOTED THE FIRST RESOLUTION  
20 MARCH 4TH, 2001 BUT THE PAGE NUMBER BELOW IT SAYS PAGE  
21 33 SO.

22 THE COURT: WELL IT'S JUST NOT PART OF THE  
23 AGREEMENT.

24 MS. IBARRA: YEAH THAT'S RIGHT, IT'S JUST --.

25 THE COURT: SO LET'S SEPARATE THEM, LET'S MAKE  
26 THEM SEPARATE EXHIBITS. 569 IS THE DEVELOPMENT  
27 AGREEMENT ALONE WITHOUT EXHIBITS A AND B AND THEN WE'LL  
28 MAKE THIS -- THESE ARE JUST AMENDMENTS AND MODIFICATION

1 THAT'S YOU'RE LUMPING ALL TOGETHER?

2 A. WE COULD SEPARATE EACH OF THEM INTO THE  
3 SEPARATE RESOLUTIONS.

4 THE COURT: THAT WOULD BE THE BEST WAY TO DO  
5 IT.

6 MS. IBARRA: WERE THERE RESOLUTIONS AND SOME OF  
7 THEM AMEND THE AGREEMENTS BUT SOME ARE JUST RESOLUTIONS?

8 A. AND SOME OF THEM ARE AMENDMENTS BUT AGAIN I  
9 WOULD TRY TO FOLLOW WHAT THE JUDGE WANTS TO DO.

10 MS. IBARRA: OKAY.

11 THE COURT: SO WHY DON'T WE MEET AND CONFER AND  
12 TRY TO COME UP WITH A BETTER WAY OF ORGANIZING THESE SO  
13 THAT IT'S CLEAR WHAT THE DOCUMENTS ARE, RESOLUTION,  
14 AMENDMENTS SHOULD BE SEPARATELY -- THEY SHOULD BE  
15 SEPARATE LEE TAGGED AS SEPARATE EXHIBITS.

16 MR. FORDYCE: SO YOUR HONOR WOULD YOU BE  
17 THINKING FOR EXAMPLE THAT 569 A WOULD BE RESOLUTION 10,  
18 569 B -- OR WHATEVER 569 B , 569 C WOULD BE RESOLUTION  
19 15.

20 THE COURT: WELL, I DON'T KNOW IF THEY SHOULD  
21 BE 569 OR 570 OR 57 ONE?

22 A. WE HAVE 570.

23 MR. FORDYCE: WE ALREADY HAVE 570.

24 THE COURT: SO LET'S ADD IT AT THE END OF THE  
25 EXHIBIT LIST?

26 A. I THINK THAT WOULD BE A DISASTER.

27 THE COURT: IT DOESN'T MATTER.

28 MS. IBARRA: SO ONE OF THE COMPLICATIONS OF

1 THIS IS WHEN MS. CARMELO WAS ON THE STAND SHE TESTIFIED  
2 THAT SHE ACTUALLY NEVER SAW THE SMDC AGREEMENT UNTIL THE  
3 LITIGATION STARTED. SO SHE'D SEEN A LOT OF RESOLUTIONS  
4 SO --?

5 A. SHE ACKNOWLEDGED ALL OF HER SIGNATURES, ALL OF  
6 THIS SOMETIME.

7 MS. IBARRA: YES, SHE DID DO THAT?

8 A. SO THAT WOULD BE.

9 MS. IBARRA: SHOULD HE SAID SHE NEVER SAW THE  
10 ORIGINAL AGREEMENT SO AS FOR MYSELF, YOU HAVE KNOW WHO I  
11 CAN ASK YOU KNOW WITH REGARDS TO MY CLIENT ABOUT WHAT IT  
12 LOOKED LIKE ORIGINALLY, I'M KIND OF AT A LOSS.

13 THE COURT: RIGHT, SO --?

14 A. AND OF COURSE --.

15 THE COURT: SO THIS IS WHAT WE'RE GOING TO DO,  
16 IT LOOKS LIKE 1542, IS THAT -- NELI.

17 THE CLERK: YES.

18 THE COURT: SO 569 IS THE DEVELOPMENT AGREEMENT  
19 WITHOUT EXHIBITS, 1542 IS MARCH 4TH, 2001 RESOLUTION, 15  
20 43 IS APRIL 29TH, 2001 RESOLUTION 15;.

21 A. AND YOUR HONOR ALL OF THESE WITNESSES HAVE  
22 TESTIFIED TO IT AS EXHIBIT 569.

23 THE COURT: EXHIBIT 154 FOUR IS GOING TO BE  
24 APRIL 29TH, 2001 RESOLUTION 17. EXHIBIT 15 45 IS APRIL  
25 29TH, 2001, RESPIRATORY 20; 1546 IS JANUARY 27TH, 2002  
26 RESOLUTION 37; EXHIBIT 1547 -- 46 IS.

27 MR. FORDYCE: SHOULD BE 47.

28 MS. IBARRA: 47.

1 THE COURT: OH 47, THANK YOU. IS AMENDMENT AND  
2 MODIFICATION AS OF JANUARY 27TH, 2002?

3 A. I'M SORRY IS THAT -- FORGIVE ME IS THAT 2003  
4 THAT YOU'RE REFERRING TO.

5 MR. FORDYCE: NO THAT'S 2002?

6 A. 15 --.

7 THE COURT: 15 48 IS?

8 A. FORGIVE ME, FORGIVE ME I'VE LOST YOU.

9 THE COURT: WELL WE'LL GO OVER IT AGAIN, IS THE  
10 SEPTEMBER 28TH, 2003 RESOLUTION NUMBER 46 AND EXHIBIT  
11 15649 IS AMENDMENT -- LET'S SEE WHAT IS IT -- IT'S AN  
12 AMENDMENT AND MODIFICATION, AUGUST 10TH 2003?

13 A. WHAT NUMBER IS THAT.

14 MR. FORDYCE: THAT'S 15 49?

15 A. VERY GOOD.

16 THE COURT: AND THEN 15 50 IS AMENDMENT AND MODIFICATION  
17 AS OF AUGUST 10TH, 2003, IT SOUNDS LIKE A REPEAT BUT IT  
18 COULD BE THE SAME -- OR I'M SORRY IT COULD BE DIFFERENT,  
19 NOT THE SAME. SO I'M GOING TO GIVE IT A DIFFERENT  
20 EXHIBIT NUMBER. AND THEN THERE'S A LETTER DATED MAY  
21 20TH, 2006 SO THAT'S 15 51, LETTER DATED MAY 20TH, 2006.  
22 I THINK IT'S FROM THE TRIBE, TRIBAL COUNCIL, TO STEIN,  
23 AND THAT'S 15 51, I THINK THAT'S IT.

24 MR. FORDYCE: I THINK THAT'S IT YOUR HONOR.

25 THE COURT: SO WE NEED TO REMARK THESE.

26 A. ARE THEY ALL ADMITTED YOUR HONOR.

27 THE COURT: I THINK WE'RE GOING OVER THEM.

28 MR. FORDYCE: I THINK 569?

1           A.     569 WAS ADMITTED INTO EVIDENCE SO WE'RE TAKING  
2 THE ADMITTED EVIDENCE AND CALLING IT SOMETHING DIFFERENT  
3 NOW.

4           MS. IBARRA:   SO BUT THAT'S THE --.

5           THE COURT:   WELL IT'S --.

6           MS. IBARRA:   THAT'S THE CONTRACT.

7           THE COURT:   TRUE, WE ARE DOING THAT, WERE THOSE  
8 ATTACHED TO THIS.

9           MR. FORDYCE:   YES YOUR HONOR.

10          A.     (NODS HEAD.).

11          THE COURT:   AT THE TIME IT WAS ENTERED INTO?

12          A.     NO AT THE TIME IT WAS ADMITTED, ADMITTED INTO  
13 EVIDENCE.

14          THE COURT:   I UNDERSTAND BUT IF IT WASN'T  
15 ENTERED INTO AS OF THE DATE FEBRUARY 1, 2001 HOW CAN IT  
16 BE ATTACHED AS THE AGREEMENT?

17          A.     HOWEVER THE COURT WANTS TO DO THAT I'M NOT  
18 QUESTIONING THAT.

19          THE COURT:   NO I'M ASKING YOU A QUESTION, HOW  
20 FAR CAN THAT BE PART OF THIS EXHIBIT, HOW CAN THAT BE  
21 ENTERED INTO AS OF FEBRUARY 1, 2001, THEY ALL CAME AFTER  
22 FEBRUARY 1ST, 2001?

23          A.     THAT WOULD BE CERTAINLY ONE WAY TO LOOK AT T  
24 THERE'S OF COURSE A SECOND WAY TO LOOK AT THIS SAME  
25 THING THAT OTHER PEOPLE MIGHT ADOPT, THIS COURT CHOOSES  
26 NOT TO BUT MANY PEOPLE WHEN YOU HAVE A CONTRACT THAT'S  
27 BEEN AMENDED MANY TIMES OVER A COURSE OF PERIOD, THEY  
28 SAY OKAY WHAT IS THE CONTRACT HERE, YOU TAKE THE

1 CONTRACT, PLUS ITS AMENDMENTS AND YOU SAY ALL THESE  
2 THINGS TOGETHER ARE THE CONTRACT SO IF THIS IS FINE TOO  
3 I'M JUST SAYING THAT A LOT OF OTHER JUDGES IN THE SAME  
4 FLOOR OR BUILDING WOULD SAY WELL WE WANT EVERYTHING  
5 TOGETHER WITH AMENDMENTS.

6 THE COURT: WELL I DON'T KNOW WHAT OTHER JUDGES  
7 WOULD DO?

8 A. EXACTLY.

9 THE COURT: THAT'S CERTAINLY NOT WHAT I WOULD  
10 DO.

11 A. CERTAINLY.

12 THE COURT: YOU MEAN YOU CAN CERTAINLY ARGUE  
13 IT'S THE CONTRACT AT THE END OF THE TRIAL BUT IN TERMS  
14 OF WHAT WAS ENTERED INTO FEBRUARY 1, 2001 IT DID NOT  
15 INCLUDE ALL THOSE OTHERS?

16 A. THAT'S CORRECT THAT'S CORRECT.

17 THE COURT: SO THAT'S WHAT I'M SAYING, SO 569  
18 IS NOW BASED ON THAT TESTIMONY THAT MR. STEIN JUST GAVE  
19 IS NOW EVERYTHING MINUS THOSE AMENDMENTS AND THEY WILL  
20 BE AMENDMENTS TO THE CONTRACT IF APPROPRIATELY TESTIFIED  
21 TO BUT AT THIS POINT I THINK WE NEED TO KEEP THEM  
22 SEPARATE?

23 A. SURE. AND YOUR HONOR WOULD WE BE ABLE TO JUST  
24 GO THROUGH THAT LIST VERY QUICKLY AGAIN ONLY SO I CAN  
25 GET IT, I WANTED TO JUST CREATE THE NOTEBOOK HERE.

26 THE COURT: NO PROBLEM. 1542 IS THE MARCH 4TH,  
27 2001 RESOLUTION, WHAT DOES IT HAVE NELI.

28 MR. FORDYCE: 10.



1 THE COURT: 10 THANK YOU, 15 43 IS THE APRIL  
2 29, 2001 RESOLUTION 15, EXHIBIT 154 FOUR IS THE APRIL  
3 29TH, 2001 RESOLUTION 17?

4 A. VERY GOOD.

5 THE COURT: 15 45 IS APRIL 29TH, 2001,  
6 RESOLUTION 20?

7 A. VERY GOOD.

8 THE COURT: 1546 IS APRIL 27, 2002, RESOLUTION  
9 37.

10 MS. IBARRA: APRIL 27.

11 A. HOLD ONLY A SECOND, FORGIVE ME THE RESOLUTION.

12 THE COURT: 1547 IS THE APRIL 27TH, 2002.

13 A. THAT'S WHERE I WAS.

14 MS. IBARRA: JANUARY 27?

15 THE COURT: OKAY. MY MISTAKE JANUARY.

16 A. AND THAT'S 1546?

17 THE COURT: THAT'S CORRECT, RESOLUTION 36.

18 A. THANK YOU.

19 THE COURT: EXHIBIT 1547 AMENDMENT AND  
20 MODIFICATION AS OF JANUARY 27, 2002?

21 A. THAT WAS ACTUALLY I BELIEVE ATTACHED TO THE  
22 RESOLUTION.

23 MS. IBARRA: CAN WE KEEP THEM SEPARATE AND JUST  
24 GO THROUGH THEM SO THAT WE CAN FIGURE IT OUT.

25 THE COURT: WELL THEY SHOULD BE -- IF THERE'S  
26 AN ATTACHMENT THEN WE SHOULD HAVE THE ATTACHMENT, ALL  
27 ATTACHMENTS SHOULD BE APPROPRIATELY ATTACHED TO THEIR  
28 GUIDING DOCUMENTS. WHAT WE HAVE HERE THROUGHOUT THIS

1 TRIAL IS WE HAVE DOCUMENTS BEING REFERRED TO THAT HAVE  
2 EXHIBITS IN THEM WITH NO EXHIBITS ATTACHED I'LL MAKE OF  
3 THAT WHAT I WILL BUT EVERY DOCUMENT THAT HAS A REFERENCE  
4 TO AN EXHIBIT SHOULD ALSO HAVE THAT EXHIBIT ATTACHED TO  
5 IT OTHERWISE IT'S INCOMPLETE SO.

6 MR. FORDYCE: YOUR HONOR I'M SORRY I DON'T WANT  
7 TO INTRODUCE ADDITIONAL CONFUSION BUT I THINK THIS IS  
8 CORRECT, I THINK WHAT WE NOW HAVE AS EXHIBIT -- EXHIBIT  
9 47 IS ACTUALLY -- MR. STEIN MAY TESTIFY TO THIS BUT IT  
10 LOOKS LIKE IT IS THE ATTACHMENT TO RESOLUTION 37.

11 THE COURT: WE CAN MAKE THEM SEPARATE EXHIBITS.

12 MR. FORDYCE: IS THAT OKAY.

13 THE COURT: WHY DON'T YOU DO THAT LATER.

14 MR. FORDYCE: THAT'S FINE.

15 THE COURT: BUT RIGHT NOW IT'S GOING TO BE A  
16 SEPARATE EXHIBIT.

17 MR. FORDYCE: THAT'S FINE.

18 THE COURT: BECAUSE IT IS A SEPARATE EXHIBIT AS  
19 WELL?

20 A. SURE.

21 THE COURT: IT ALSO JUST HAPPENED TO BE  
22 ATTACHES TO A RESOLUTION?

23 A. VERY GOOD.

24 MR. FORDYCE: GOT IT.

25 THE COURT: SO 1547 IS AMENDMENT AND  
26 MODIFICATION DATED JANUARY 27, 2002 OR ENTERED INTO AS  
27 AVENUE JANUARY 27TH, 2002. 1548 IS SEPTEMBER 28TH, 2003  
28 RESOLUTION 46, EXHIBIT 1549 --

1           A.     OKAY SO -- VERY GOOD.

2           THE COURT:  ARE YOU TRYING TO ATTACH UP?

3           A.     I'M TRYING MY BEST I JUST WANT TO LEAVE A GOOD  
4 RECORD HERE.

5           THE COURT:  15 49 IS AMENDMENT AND MODIFICATION  
6 ENTERED INTO AS OF AUGUST 10TH, 2003?

7           A.     VERY GOOD.

8           THE COURT:  EXHIBIT 15 50 AMENDMENT AND  
9 MODIFICATION ENTERED INTO AS OF AUGUST 10TH, 2000  
10 UH-HUH.

11          THE COURT:  I DON'T KNOW IF SINCE THE DATES ARE  
12 THE SAME I DON'T KNOW IF THEY'RE THE SAME DOCUMENT OR  
13 NOT, MAYBE WE CAN LOOK OVER THAT, IF IT'S A DUPLICATE IT  
14 DOESN'T MATTER BUT THEY SEEM TO BE IN THE -- MAYBE IT  
15 WAS AN ATTACHMENT TO RESOLUTION --?

16          A.     ITCH A FEELING -- REMEMBER THESE WERE MADE INTO  
17 PDFS WHEN THE TECHNOLOGY WAS VERY YOUNG SO.

18          THE COURT:  ALL RIGHT SO WE'LL FIGURE THAT OUT.  
19 JUST MAKE SURE THAT EVERY DOCUMENT THAT REFERENCES AN  
20 EXHIBIT ALSO HAS THE EXHIBIT ATTACHED OTHERWISE IT'S  
21 INCOMPLETE AND THEN THE COURT WON'T BE ABLE TO MAKE MUCH  
22 OF IT WITHOUT THE EXHIBITS SO -- OKAY 15 51 IS LETTER  
23 DATED MAY 20TH, 2006 FROM THE TRIBAL COUNCIL TO STEIN?

24          A.     THAT'S 1551.

25          THE COURT:  CORRECT.

26          A.     THANK YOU.

27          THE COURT:  AND THAT'S -- I BELIEVE THAT'S IT.

28          MR. FORDYCE:  I THINK YOU'RE RIGHT YOUR HONOR.

1 THE COURT: OKAY.

2 MR. FORDYCE: AND SO JUST TO BE CLEAR AND TO  
3 FLOG THIS DEAD HORSE A LITTLE FURTHER, NOT TO BACK UP  
4 AND GO OVER THE RESOLUTIONS WE'VE ALREADY GONE OVER FOR  
5 NEW EXHIBITS.

6 THE COURT: NO YOU HAVE DON'T --.

7 MR. FORDYCE: JUST START FRESH FROM THE NEW  
8 EXHIBIT NUMBERS NOW.

9 THE COURT: CORRECT.

10 MR. FORDYCE: OKAY THANK YOU VERY MUCH YOUR  
11 HONOR.

12 THE COURT: HUH THE TESTIMONY AS TO RESOLUTION  
13 NUMBER WHATEVER YOUR HONOR.

14 THE CLERK: YOUR HONOR ARE THEY ADMITTED.

15 THE COURT: WERE THEY ADMITTED.

16 MR. FORDYCE: YES YOUR HONOR THEY WERE ADMITTED  
17 AS OF THE REAL PARTY IN INTEREST PHASE, 569 WAS ADMITTED  
18 IN TOTO AS A RESOLUTION.

19 MS. IBARRA: BUT NOW WE'VE DECIDED THEY'RE  
20 SEPARATE EXHIBITS.

21 MR. FORDYCE: IF YOU WANT TO LABOR THE POINT  
22 THAT'S FINE BUT THESE DOCUMENTS, THESE RESOLUTIONS WERE  
23 ADMITTED AS PART OF 569?

24 A. AND VIRGINIA CARMELO SAID THAT SHE SAW THE  
25 RESOLUTION, SHE SAID SHE SAW THE AGREEMENT, MS. IBARRA'S  
26 MEMORY OF IT DID NOT JIVE WITH THE DESCRIBE.

27 MS. IBARRA: SHE SPECIFICALLY SAYS --

28 A. NO. YOU'RE TRYING TO CREATE NEW EVIDENCE THAT

1 DOESN'T EXIST IN THIS TRIAL.

2 THE COURT: COUNSEL DON'T POINT YOUR FINGER AT  
3 HER PLEASE?

4 A. JUST LIKE YOU'RE TRYING TO TAKE AN EXHIBIT THAT  
5 WAS ADMITTED INTO EVIDENCE, HAS A CLERK'S STAMP ON IT,  
6 AND PRETEND THAT THAT DIDN'T HAPPEN. IT'S AN IRREGULAR  
7 PROCEDURE TO DO THAT, TO ARGUE THAT.

8 THE COURT: WELL, COUNSEL IF IT WASN'T  
9 INTRODUCED, IF THAT WAS NOT PART OF THE AGREEMENT, YOU  
10 HAVE CAN'T MAKE IT SO. WE'RE TRYING TO UNDO WHAT  
11 APPARENTLY WAS INN ADMINISTRATIVE ACCURATE AT THE TIME.  
12 SO GO FORWARD WITH SOME ACCURACY HERE. NOW IF THERE WAS  
13 SOME FOUNDATION FOR THOSE OTHER DOCUMENTS THEN THEY CAN  
14 COME IN. DO YOU HAVE ANY REASON TO BELIEVE LIKE CARMELO  
15 MAY HAVE TESTIFIED SHE DIDN'T SEE ANY OF THOSE DOCUMENTS  
16 THEN IT IS WHAT IT IS.

17 MS. IBARRA: SHE TESTIFIED THAT SHE DIDN'T SEE  
18 THE ORIGINAL DOCUMENT UNTIL THE LITIGATION HAD STARTED.

19 THE COURT: OKAY.

20 MS. IBARRA: BUT THEY DID TESTIFY AS TO SOME OF  
21 THE RESOLUTIONS, I DON'T KNOW RIGHT NOW AS TO WHICH  
22 ONES, I WOULD HAVE TO GO BACK AND LOOK AT THE  
23 TRANSCRIPT. I MEAN SOME OF THEM BEAR THEIR NAME WITH  
24 THEIR SIGNATURE AND SOME OF THEM WERE DISCUSSED WITH HER  
25 BY MR. STEIN BUT I DON'T KNOW WHICH ONES.

26 THE COURT: I'M GOING TO CONDITIONALLY ADMIT  
27 THEM BUT IF COME UP WITH A REASON WHY THERE'S NO  
28 FOUNDATION FOR THEM, YOU'RE NOT ADMITTING THAT THEY'RE

1 TRUE, YOU'RE NOT ADMITTING THAT CARMELO SAW THEM OR ANY  
2 OF THOSE THINGS I JUST GOING TO CONDITIONALLY ADMIT THEM  
3 SO YOU HAVE SOME EVIDENCE THAT THEY WEREN'T OTHERWISE  
4 INTRODUCED AT SOME POINT IN THE TRIAL YOU CAN BRING THAT  
5 TO MY ATTENTION.

6 MS. IBARRA: OKAY.

7 THE COURT: OKAY.

8 MR. FORDYCE: WHERE WERE WE? I THINK WE WERE  
9 STILL ON --?

10 A. YOUR HONOR WOULD YOU MIND IF I JUST TOOK TWO  
11 MINUTES.

12 THE COURT: OH SURE LET'S TAKE A BREAK.

13 MR. FORDYCE: OH THANK YOU YOUR HONOR.

14 THE COURT: 10 MINUTES.

15 (BREAK TAKEN.) 10:42 AM TO 10:52 AM.

16 THE COURT: GABRIELINO VERSUS STEIN BC361307.  
17 OKAY YOU MAY CONTINUE.

18 MR. FORDYCE: THANK YOU YOUR HONOR.

19 Q. BY MR. FORDYCE: MR. STEIN JUST FOR A LITTLE  
20 BIT OF CLEAN UP I'D LIKE TO DIRECT YOU BACK TO WHAT IS  
21 NOW MARKED AS EXHIBIT 154 TWO AND THIS IS RESOLUTION 10,  
22 STARTS ON ZERO 49 SEVEN BATES NUMBER AND I WOULD DRAW  
23 YOUR ATTENTION TO BATES NUMBER ZERO 50 ZERO, THIS IS THE  
24 CERTIFICATION OR SIGNATURE PAGE, CORRECT?

25 A. YES IT IS.

26 Q. DID YOU SEE THE TRIBAL MEMBERS TRIBAL MEMBERS  
27 WHO SIGNS THIS AGREEMENT, DID YOU SEE THEM SIGN?

28 A. YES, I DID.

1 Q. I'D LIKE TO DRAW YOUR ATTENTION TO RESOLUTION  
2 15 WHICH IS NOW MARKED AS 15 43, BATES NUMBER ZERO 503,  
3 THAT AGREEMENT WAS NOT SIGNED BY THE TRIBAL COUNCIL IS  
4 THAT CORRECT?

5 A. THERE IS A NOTE IN MY HANDWRITING SAYING NO  
6 ACTION ON APRIL 29TH, I DON'T KNOW IF THEY EVER CAME  
7 BACK AND SIGNED IT LATER, I HAVEN'T FOUND A SIGNED COPY.

8 Q. DO YOU KNOW IF THEY ADOPTED, THE TRIBE ADOPTED  
9 RESOLUTION 15 AT ANY LATER POINT?

10 A. THE TRIBAL COUNCIL SIGNED EVERYTHING THAT IT  
11 ADOPTED FOR RESOLUTIONS SO THIS WAS -- IF WE DON'T HAVE  
12 A SIGNED RESOLUTION IT WASN'T AN ACTION OF THE TRIBE.

13 Q. WHAT'S NOW MARKED AS EXHIBIT 154 FOUR WHICH IS  
14 RESOLUTION 17 I DRAW YOUR ATTENTION TO BATES NUMBER 0505  
15 AND 0506. DID YOU WITNESS THESE COUNCIL MEMBERS SIGN  
16 THIS DOCUMENT?

17 A. YES, I DID. I WAS IN RIVERSIDE WITH THEM.

18 Q. WITH THEM, WAS THAT MR. DUNLAP?

19 A. WELL, MR. DUNLAP, SHIRLEY MACHADO, VIRGINIA  
20 CARMELO, MARTIN ALCALA, EDGAR PEREZ.

21 MS. IBARRA: WHAT EXHIBIT 1544.

22 MR. FORDYCE: THAT WAS 1544 CORRECT.

23 Q. BY MR. FORDYCE: SO NOW WE'RE BACK ON EXHIBIT  
24 1545 NOW WHICH IS RESOLUTION 20 AND I BELIEVE WE LEFT  
25 OFF AT THE BOTTOM OF PAGE BATES 0507 AND THERE IS A NOW  
26 THERE FOR IT BE RESOLVED, CAN YOU READ THAT INTO THE  
27 RECORD PLEASE?

28 A. NOW THERE FOR -- ON PAGE 507, NOW THEREFORE, IT

1 BE RESOLVED THAT THIS -- NOW THEREFORE, BE IT RESOLVED  
2 THAT THIS TRIBAL COUNCIL AS PRESENTLY CONSTITUTED DOES  
3 BY THIS RESOLUTION RECOGNIZE ADOPT APPROVE AND RATIFY  
4 ECONOMIC DEVELOPMENT AGREEMENT DEVELOPMENT AGREEMENT  
5 DEVELOPMENT RESOLUTIONS ONE THROUGH 11 DATED MARCH 1,  
6 2001 AS ACTIONS OF THE TRIBAL COUNCIL AND THE TRIBE.

7 Q. WHAT WAS THE PURPOSE OF THIS RESOLUTION CLAUSE?

8 A. TO -- AMONGST OTHER THINGS, TO SHOW THE WORLD  
9 AND TO SHOW SMDC THAT THEY WERE RATIFYING THE PREVIOUS  
10 APPROVALS, IF THERE WAS ANYTHING WRONG WITH THE APPROVAL  
11 IN MARCH WHERE THERE WAS NO ATTORNEY AND WHERE THERE WAS  
12 RESIGNATIONS, THEY WERE SAYING NO WE'RE RATIFYING THAT,  
13 WE'RE AGREEING THAT THAT IS VALID AND BINDING AS OF  
14 TODAY WHICH IS APRIL 29TH.

15 Q. WHY IS IT IMPORTANT?

16 A. WELL IT WAS IMPORTANT TO SMDC BECAUSE WE -- I  
17 WOULD HAVE NEVER DONE ANY WORK FOR THE TRIBE WITHOUT  
18 KNOWING THAT I HAD A WRITTEN AGREEMENT WITH THE TRIBE  
19 THAT WAS VALID AND BINDING.

20 THE COURT: AND SO THE EXHIBIT B AND C THAT ARE  
21 NOTED HERE 507, ONE WAS SUMMARY OF RECOMMENDATIONS FOR  
22 FURTHER TRIBAL ACTION THAT ED HAMBURGER WROTE, YOU HAVE  
23 DON'T HAVE A COPY OF THAT?

24 A. THEY WERE REMOVED FROM THE TRIBAL COUNCIL --  
25 THEY WERE REMOVED FROM THE TRIBAL COUNCIL OFFICES BY THE  
26 TRIBAL COUNCIL IN SEPTEMBER OF 2006 WHEN THEY TOOK THE  
27 ORIGINAL NOTEBOOKS.

28 MS. IBARRA: OBJECTION MISSTATES TESTIMONY.



1 THE COURT: WELL YEAH THAT DOESN'T REALLY  
2 RESPOND. THEY LEFT A FULL SET RIGHT, THAT'S HOW YOU  
3 HAVE THE -- YOU HAVE THESE DOCUMENTS BECAUSE THEY LEFT A  
4 SET IS MY UNDERSTANDING?

5 A. WE HAD FOUR SETS, SOME OF WHICH WERE MORE  
6 COMPLETE THAN OTHERS AND THEY TOOK THREE SETS AND LEFT  
7 THE FOURTH AND THIS WAS FROM THE FOURTH SET.

8 THE COURT: SO YOU DON'T HAVE EXHIBIT B OR  
9 EXHIBIT C?

10 A. NO, I DON'T.

11 THE COURT: OKAY?

12 A. THEY PROBABLY DO.

13 MS. IBARRA: OBJECTION, NOT TRUE.

14 MR. FORDYCE: THAT'S NOT AN OBJECTION.

15 THE COURT: YEAH THAT'S AN OBJECTION COUNSEL,  
16 DO YOU HAVE A --.

17 MS. IBARRA: MISSTATES TESTIMONY BY OTHER  
18 WITNESSES.

19 THE COURT: WELL CALLS FOR SPECULATION.

20 MS. IBARRA: CALLS FOR SPECULATION.

21 THE COURT: ALL RIGHT. BUT THE POINT IS THAT  
22 THEY DON'T HAVE IT AND I HAVEN'T SEEN IT YET FROM THE  
23 PLAINTIFFS EITHER. PLAINTIFFS DO YOU HAVE COPIES OF  
24 EXHIBIT B AND C .

25 MS. IBARRA: NO. NO. WE HAVE --.

26 THE COURT: WELL YOU TOOK -- THE TRIBE TOOK  
27 SOME OF THE BINDERS FROM THE OFFICES, RIGHT.

28 MS. IBARRA: THEY DID TAKE SOME OF THE BINDERS

1 BUT THEY DIDN'T TAKE FOUR SETS, THEY TOOK ONE COPY IS MY  
2 UNDERSTANDING AND THEY LEFT THE OTHER COPIES. BUT THIS  
3 IS WHAT -- YOU KNOW WHAT THEY HAVE IS -- WE HAVE A  
4 SEPARATE COPY OF THE SMDC AGREEMENT WHICH IS PRESENTED  
5 IN A VERY SIMILAR WAY AS TO THIS AND THIS IS WHAT I'VE  
6 SEEN FROM THE PLEADINGS, THIS IS THE WAY THAT IT WAS  
7 PRESENTED IN MOTIONS FOR SUMMARY JUDGMENT BY BOTH SIDES  
8 YOU KNOW BY THE INDIVIDUAL DEFENDANTS WHEN VIRGINIA  
9 CARMELO AND BY MR. STEIN AND HIS MOTION FOR SUMMARY  
10 JUDGMENT A FEW YEARS AGO.

11 THE COURT: SO BASICALLY YOU'RE SAYING NOBODY  
12 HAS THEM.

13 MS. IBARRA: YEAH. THIS IS -- WHAT WE HAVE  
14 VERY SIMILAR COPIES AS TO WHAT DEFENDANTS HAVE.  
15 THEY'RE -- TO MY KNOWLEDGE THEY'RE IDENTICAL IF THERE'S  
16 ANY DISCREPANCIES THEY HAVEN'T BEEN POINTED OUT TO ME.

17 THE COURT: SO NOBODY HAS THEM.

18 MS. IBARRA: YEAH IT'S A VERY -- IT'S AN  
19 INCOMPLETE SET, THAT'S WHAT WE HAVE.

20 THE COURT: OKAY. SO WHO PREPARED THE  
21 RESOLUTIONS THEN.

22 MR. FORDYCE: MR. STEIN -- OR DO YOU MEAN YOUR  
23 HONOR AS EXHIBITS AS --.

24 THE COURT: NO WHO PREPARED THE RESOLUTIONS?

25 A. WHICH ONES.

26 THE COURT: 20, LET'S LOOK AT 20, WHO PREPARED  
27 20?

28 A. I DON'T KNOW. I WOULD ASSUME ED HAMBURGER DID

1 AND HE WOULD HAVE USED THE PRECEDENCE OF THE EARLIER  
2 ONES CREATED BY SEYFARTH SHAW'S.

3 Q. SO YOU'RE MAKING THE ASSUMPTION THAT ED  
4 HAMBURGER PREPARED RESOLUTION 20?

5 A. YEAH, YEAH HE PUT FORWARD THE SUMMARY  
6 RECOMMENDATIONS, HE PUT FORWARD 20.

7 THE COURT: YES BUT I MEANT THE WHOLE  
8 RESOLUTION NOT THE ATTACHMENTS BECAUSE THE ATTACHMENTS  
9 DOES SAY ATTORNEY ED HAMBURGER WROTE THE SUMMARY WHICH  
10 IS ATTACHED AS EXHIBIT B BUT I'M ASKING WHO PREPARED  
11 EXHIBIT 20?

12 A. TO MY BEST RECOLLECTION 15 YEARS LATER ED  
13 HAMBURGER DID.

14 THE COURT: AND ALL THE OTHER RESOLUTIONS, WHO  
15 PREPARED THOSE?

16 A. AGAIN IT VARIED BY RESOLUTION, SEYFARTH SHAW  
17 PREPARE THE RESOLUTIONS ONE THROUGH 10.

18 MS. IBARRA: I'M JUST GOING TO OBJECT THAT THAT  
19 MISSTATES THE TESTIMONY OF MR. DIFFICULT-ER.

20 MR. FORDYCE: THIS IS MR. STEIN'S PERSONAL  
21 KNOWLEDGE EYES ALLOWED TO HIS TESTIMONY?

22 A. MY TESTIMONY, IT STATES EXACTLY THE TESTIMONY  
23 OF MR. KEN SULTZER.

24 THE COURT: WELL WE'LL LOOK AT THE TESTIMONY?

25 A. JESUS.

26 MS. IBARRA: WELL THAT'S MY OBJECTION.

27 THE COURT: SO YOUR POINT YOU'RE SAYING KEN  
28 SULTZER PREPARED THESE RESOLUTIONS IS WHAT?

1           A.     NO TOM WATT, TOM WATT THE CORPORATE PARTNER FOR  
2     KEN ASSAULTER PREPARED THE RESOLUTIONS, I HAD INPUT, KEN  
3     SULTZER HAD INPUT, I WAS HERE WHEN MR. SULTZER TESTIFIED  
4     EXACTLY TO THAT.

5           MS. IBARRA:   THAT MISSTATES MR. SULTZER'S  
6     TESTIMONY.

7           THE COURT:   WHAT IS YOUR RECOLLECTION OF WHAT  
8     MR. SULTZER SAID.

9           MS. IBARRA:   MR. SULTZER SAID HE DIDN'T PREPARE  
10    THE SMDC AGREEMENT OR THE RESOLUTIONS AND HE THOUGHT  
11    THAT A COMBINATION OF MR. STEIN AND MR. TOM WATT  
12    PREPARED -- PREPARED THE SMDC AGREEMENT AND THE  
13    RESOLUTION.  OH HE DIDN'T KNOW ABOUT THE RESOLUTIONS,  
14    JUST ABOUT THE SMDC AGREEMENT, THAT'S MY RECOLLECTION.

15          THE COURT:   AND TOM WATT WAS WHO.

16          MS. IBARRA:   A CORPORATE PARTNER AT SMDC -- AT.

17          MR. FORDYCE:   SEYFARTH SHAW.

18          MS. IBARRA:   SEYFARTH SHAW, WELL ACTUALLY I  
19    DON'T RECALL THE NAME I ASSUME THAT THAT IS THE NAME BUT  
20    HE SAID A CORPORATE PARTNER AND MR. STEIN DRAFTED THE  
21    SMDC AGREEMENT BUT HE HAD NO PERSONAL KNOWLEDGE OF IT.

22          THE COURT:   OKAY WELL --

23          A.     AND THEN LATER RESOLUTIONS WERE WRITTEN BY RAE  
24    LAMOTH THAT WAS WHAT SHE TESTIFIED.

25          THE COURT:   REALLY WHAT I'M TRYING TO DO IS  
26    FIND OUT WHERE THESE EXHIBITS A AND B ET CETERA, ALL  
27    THESE EXHIBITS, EXHIBITS ATTACHED TO THE SMDC AGREEMENT,  
28    EXHIBITS TO RESOLUTIONS, NONE OF THEM APPEAR TO --

1 APPEAR HERE TODAY SO I CAN ONLY -- WELL --.

2 MR. FORDYCE: BUT I SUPPOSE YOUR HONOR THAT'S  
3 AN ISSUE NOW WITH 16-YEAR-OLD SET OF DOCUMENTS.

4 THE COURT: RIGHT SO THERE'S ONLY SO MUCH  
5 WEIGHT I CAN GIVE ANY DOCUMENT IF IT'S NOT COMPLETE.

6 MR. FORDYCE: UNDERSTOOD.

7 THE COURT: RIGHT? I MEAN I NEED TO SEE FULL  
8 DOCUMENTS AS I'M READING THROUGH THESE I SEE THERE'S A  
9 LOT OF INCOMPLETE DOCUMENTS AND THE PARTY WHO'S PUTTING  
10 FORWARD HAS THE BURDEN TO PRESENT THE EVIDENCE SO ANY  
11 WAY, I'M JUST LETTING YOU KNOW THAT I CAN'T -- THERE'S  
12 ONLY SO MUCH I CAN DO WITH A DOCUMENT THAT'S NOT  
13 COMPLETE, SO IF YOU CAN FIND ALL OF THE ATTACHMENTS ET  
14 CETERA IT WOULD BE HELPFUL, OTHERWISE I CAN ONLY GIVE IT  
15 SO MUCH WEIGHT. OKAY SO LET'S CONTINUE.

16 Q. BY MR. FORDYCE: OKAY SO I THINK WE'RE NOW ON  
17 BATES ZERO 508 AND MAY RUN INTO THE SAME ISSUE AGAIN  
18 BECAUSE WE HAVE A REFERENCE TO EXHIBIT D IN THE RESOLVED  
19 CLAUSE AT THE TOP OF THE PAGE BUT MR. STEIN CAN YOU READ  
20 THAT BE IT RESOLVED AT THE TOP OF THE PAGE?

21 A. SURE.

22 Q. THANK YOU.

23 A. BE IT RESOLVED FURTHER THAT THIS TRIBAL COUNCIL  
24 AS PRESENTABLY CONSTITUTED DOES BY THIS RESOLUTION  
25 RECOGNIZE ADOPT APPROVE AND RATIFY THE DEVELOPMENT  
26 AGREEMENT PREVIOUSLY APPROVED IN ECONOMIC DEVELOPMENT  
27 RESOLUTION NUMBER 10 A COPY OF WHICH IS ATTACHED AS  
28 EXHIBIT D AS A VALID BINDING AND EFFECTIVE OBLIGATION OF

1 THE TRIBAL COUNCIL OF THE TRIBE.

2 Q. AND MR. STEIN AS PRESENTED YOU ACKNOWLEDGE THAT  
3 THIS RESOLUTION DOESN'T APPEAR TO HAVE AN EXHIBIT D  
4 ATTACHED TO IT AS PART OF THIS DOCUMENT?

5 A. THAT'S CORRECT.

6 Q. CAN YOU EXPLAIN WHAT EXHIBIT D IS?

7 A. IT WOULD JUST BE THE SAME COPY OF THE SMDC  
8 AGREEMENT WHICH I DON'T KNOW IF IT EVER FOUR EXHIBIT A  
9 OR B TO BEGIN WITH BUT IT SAYS THAT THAT WAS A VALID AND  
10 BINDING OBLIGATION.

11 Q. JUDGE THAT -- SORRY GO AHEAD?

12 A. AND BY THIS TIME IT HAD ALSO BEEN PERFORMED IN  
13 PART.

14 Q. WHY IS THIS IMPORTANT?

15 A. IT'S IMPORTANT TO TELL SMDC THAT IT HAD A VALID  
16 AND BINDING AGREEMENT AND THAT IT WAS ABLE TO RAISE  
17 MONEY THAT IT HAD WOULD GET PAID AND IT WAS ALSO  
18 IMPORTANT THAT THE TERMS AND CONDITIONS OF THE AGREEMENT  
19 THAT SAID VERY CLEARLY THERE WAS NO ATTORNEY-CLIENT  
20 AGREEMENT AND THAT ANY AMENDMENT TO THAT WOULD REQUIRE A  
21 WRITING THAT THOSE WERE IN FORCE BECAUSE I WOULD NOT  
22 HAVE GONE FORWARD AND WORKED FOR FIVE YEARS IF THERE WAS  
23 ANY SORT OF DOUBTS, THE KIND OF WHICH WE'RE DEALING WITH  
24 TODAY.

25 Q. EVEN THOUGH EXHIBIT D IS NOT ACTUALLY ATTACHED  
26 TO THIS, TO YOUR PERSONAL KNOWLEDGE DO YOU HAVE ANY  
27 REASON TO BELIEVE THAT THE TRIBAL COUNCIL DIDN'T  
28 RECOGNIZE, ADOPT APPROVE AND RATIFY THE DEVELOPMENT

1 AGREEMENT TO WHICH WE'VE BEEN REFERRING THROUGHOUT THIS  
2 LAWSUIT?

3 A. NO THEY ABSOLUTELY KNEW WHAT THE DEVELOPMENT  
4 AGREEMENT WAS, THEY HAD ASKED LOTS OF QUESTIONS ABOUT  
5 THE DEVELOPMENT AGREEMENT TERMS, WE HAD TALKED ABOUT THE  
6 ATTORNEY-CLIENT CLAUSES, NOTE THAT THERE WAS NO  
7 RELATIONSHIP, THEY UNDERSTOOD WHAT THAT MEANT AND THAT'S  
8 WHAT THEY INSISTED ON.

9 MS. IBARRA: OBJECTION THAT?

10 A. ON HAVING -- AND THAT'S WHY.

11 THE COURT: WAIT A MINUTE THERE'S AN OBJECTION.

12 MS. IBARRA: ACTIONS TO NO PERSONAL KNOWLEDGE  
13 AS TO WHAT THEY KNEW OR UNDERSTOOD.

14 THE COURT: SUSTAINED SPECULATION.

15 MS. IBARRA: SPECULATION.

16 MR. FORDYCE: SO MR. STEIN JUST LIMITING IT WHO  
17 YOU PERSONALLY KNOW?

18 A. I ANSWERED THE QUESTIONS ON THE SMDC AGREEMENT  
19 WHICH INDICATED TO ME THAT THEY UNDERSTOOD.

20 THE COURT: SO THEY ASKED YOU QUESTIONS ABOUT  
21 THE SMDC AGREEMENT AND YOU ANSWERED THEM?

22 A. IN THE -- YES IN THE PRESENCE OF THEIR COUNSEL  
23 ED HAMBURGER AND WITHOUT ANY COUNSEL WHEN STEVE OTTO WAS  
24 NOT THERE.

25 Q. MOVING ON TO THE NEXT IT BE RESOLVED CLAUSE,  
26 PLEASE READ THAT INTO THE RECORD?

27 A. BE IT RESOLVED FURTHER, THE SUMMARY OF  
28 RECOMMENDATIONS FOR FURTHER TRIBAL COUNCIL ACTION AND

1 THE AREAS OF PROGRESS BE AND HEREBY ARE APPROVED.

2 Q. DO YOU HAVE ANY PERSONAL KNOWLEDGE AS TO  
3 WHETHER THESE WERE APPROVED OR NOT EVEN THOUGH THEY'RE  
4 NOT ATTACHED TO THIS DOCUMENT?

5 A. YES THESE WERE ED HAMBURGER'S IDEAS AND THEY  
6 WERE HIS -- HE WANTED THEM TO BE APPROVED AND COUNCIL  
7 SAID SURE.

8 Q. MOVE ON TO THE NEXT BE IT RESOLVED, JUST BELOW  
9 THAT, PLEASE READ THAT INTO THE RECORD?

10 A. BE IT RESOLVED FURTHER THAT TRIBAL GENERAL  
11 COUNSEL BE AND HEREBY IS AUTHORIZED AND DIRECTED TO  
12 PREPARE SUCH RESOLUTIONS AND DOCUMENTS AS WILL BE USEFUL  
13 AND NECESSARY TO CARRY THE RECOMMENDATIONS OUT AND  
14 PRESENT TO THIS TRIBAL COUNCIL FOR REVIEW AND APPROVAL  
15 OF ALL SUCH RESOLUTIONS AND DOCUMENTS.

16 Q. TO THE EXTENT YOU HAVE PERSONAL KNOWLEDGE WHAT  
17 DOES THIS REFER TO?

18 A. IT REFERS TO THE FACT THAT ED HAMBURGER WAS BY  
19 THIS TIME WRITING THE TRIBAL COUNCIL RESOLUTIONS.

20 Q. WHY IS THIS IMPORTANT?

21 A. IT'S IMPORTANT BECAUSE IT WAS AUTHORIZING HIM  
22 TO DO SO AS THE TRIBAL GENERAL COUNSEL, AS THEIR -- AS  
23 THEIR ATTORNEY SINCE I WAS WORKING WITH SMDC AND AS  
24 ATTORNEY FOR THE SMDC ANYTHING I SAID WAS NATURALLY  
25 SUSPECT, WHAT HE SAID THEY COULD TAKE AS THEIR OWN  
26 LAWYER SAYING SOMETHING.

27 Q. THE NEXT BE IT RESOLVED CLAUSE, PLEASE READ  
28 THAT INTO THE RECORD?



1           A.     BE IT RESOLVED FURTHER THAT THE RESOLUTIONS AND  
2     DOCUMENTS PREPARED BY THE TRIBAL GENERAL COUNSEL SHALL  
3     BECOME EFFECTIVE VALID AND BINDING ONLY UPON  
4     RATIFICATION BY THE COUNCIL AND EXECUTION BY ITS DULY  
5     AUTHORIZED OFFICER.

6           Q.     AGAIN BASED ONLY ON YOUR PERSONAL KNOWLEDGE TO  
7     WHAT DOES IT REFER?

8           A.     I DON'T KNOW. IT SEEMS UNNECESSARY TO ME BUT  
9     ED HAMBURGER WROTE IT.

10           THE COURT: CAN I ASK A QUESTION, WHY DIDN'T  
11     HAMBURGER SIGN ANY OF THESE DOCUMENTS I DON'T KNOW, HE  
12     MAY NOT HAVE BEEN IN RIVERSIDE.

13           THE COURT: NO BUT THERE'S NOT EVEN A PLACE FOR  
14     HIM TO SIGN, WAS IT EVER CONTEMPLATED THAT THE ATTORNEY  
15     WOULD SIGN -- THE ATTORNEY FOR THE TRIBE WOULD SIGN ANY  
16     OF THESE DOCUMENTS HAD HE BEEN CONSULTED AND REVIEWED  
17     AND APPROVED OF THEM AND TALKED TO HIS CLIENT ABOUT THEM  
18     ET CETERA ET CETERA?

19           A.     I AGREE.

20           THE COURT: AND SO THAT WAS NEVER ANY -- NO  
21     PLACE FOR HIM TO SIGN, NO CONSIDERATION THAT PERHAPS HE  
22     SHOULD SIGN SO THAT THERE WOULD BE NO QUESTION AS TO  
23     WHETHER OR NOT HE WAS CONSULTED AND HE APPROVED OF IT  
24     ALL?

25           A.     ED HAMBURGER WROTE IT, IF I HAD WRITTEN IT I  
26     PROBABLY WOULD HAVE DONE SOMETHING LIKE THAT WHAT THE  
27     COURT IS SAYING BUT HE WROTE IT AND THEY APPROVED IT.

28           THE COURT: AND DID YOU EVER ASK HAMBURGER TO

1 SIGN IT?

2 A. DID I EVER ASK THAT HE --.

3 THE COURT: YEAH SINCE HE PREPARED T DID YOU  
4 EVER ASK HIM TO SIGN IT JUST TO KIND OF --?

5 A. NO, I DIDN'T.

6 THE COURT: NO, OKAY?

7 A. OR I SHOULD SAY, I DON'T REMEMBER IS THE RIGHT  
8 THING, 16 YEARS AGO SO I DON'T WANT TO GIVE YOU THE  
9 WRONG IMPRESSION.

10 THE COURT: OKAY.

11 Q. BY MR. FORDYCE: MOVING ON, BE IT RESOLVED  
12 FURTHER THAT SAINT MONICA DEVELOPMENT COMPANY, PLEASE  
13 READ THAT INTO THE RECORD.

14 A. BE IT RESOLVED FURTHER THAT SAINT MONICA  
15 DEVELOPMENT COMPANY BE AND HEREBY IS AUTHORIZED AND  
16 DIRECTED TO TAKE ALL SUCH ACTIONS AS WILL BE USEFUL AND  
17 NECESSARY TO CARRY THE AREAS OF PROGRESS OUT.

18 Q. WHAT DOES THIS REFER TO?

19 A. THIS SAYS THAT ED HAMBURGER HAD COME UP WITH A  
20 WAY GOING FORWARD, THE TRIBAL COUNCIL WANTED SMDC TO GO  
21 THAT WAY AND THEY WERE RESOLVING TO MAKE SURE THAT I  
22 WAS -- THAT SMDC WAS AUTHORIZED AND DIRECTED TO TAKE THE  
23 ACTIONS THAT ED HAMBURGER AND THE TRIBAL COUNCIL WANTED  
24 TAKEN.

25 Q. OKAY. WHY IS THIS IMPORTANT?

26 A. IT WAS A ROADMAP FOR SMDC TO FOLLOW THAT THE  
27 TRIBAL COUNCIL APPROVED.

28 Q. THE NEXT BE IT RESOLVED CLAUSE, PLEASE?

1           A.     BE IT REVOLVED FURTHER THAT THE INTENTION OF  
2 THIS COUNCIL TO BIND THE TRIBE AND ANY SUCCESSOR OR  
3 RELATED ENTITY THAT MAY ACHIEVE FEDERAL RECOGNITION AS  
4 AN INDIAN TRIBE AND/OR ENTER INTO A TRIBAL STATE GAME  
5 COMPANY.

6           Q.     TO THE EXTENT YOU HAVE PERSONAL KNOWLEDGE, TO  
7 WHAT DOES THIS REFER?

8           A.     THIS IS THE SAME SUCCESSOR AND ASSIGNS TYPE  
9 LANGUAGE THAT WE SAW IN THE EARLIER RESOLUTIONS.

10          Q.     WHY IS THIS IMPORTANT?

11          A.     FOR THE SAME REASONS THEY ARE.

12          Q.     NEXT BE IT RESOLVED CLAUSE?

13          A.     RESOLVE FURTHER THAT THE TRIBAL SECRETARY BE  
14 AUTHORIZED AND EMPOWERED TO CERTIFIED THOSE RESOLUTIONS  
15 AND DELIVER COPIES OF THE RESOLUTIONS SO CERTIFIED TO  
16 SUCH PERSONS OR ENTITIES AS MAY BE NECESSARY OR  
17 APPROPRIATE.

18          Q.     AND WHAT IS THE PURPOSE OF THIS?

19          A.     LIKE ALL THE OTHER RESOLUTIONS HAVE THE SAME  
20 LANGUAGE AND MR. HAMBURGER USED THE SAME LANGUAGE HERE  
21 AND IT JUST SHOWED THAT THE TRIBAL SECRETARY WAS  
22 AUTHORIZED BY TRIBAL COUNCIL TO CERTIFY IT AND THEN THE  
23 TRIBAL SECRETARY TURNS AROUND AND CERTIFIES THAT THE  
24 PEOPLE ASSIGNED THIS WERE IN FACT THE TRIBAL COUNCIL.

25          Q.     AND THEN THE FINAL BE IT RESOLVED?

26          A.     BE IT RESOLVED FURTHER THAT THE OFFICERS OF THE  
27 COUNCIL BE AND THEY HEREBY ARE AUTHORIZED AND EMPOWERED  
28 TO DO OR CAUSE TO BE DONE SUCH FURTHER ACTS AS MAY BE

1 DEEMED NECESSARY OR APPROPRIATE TO CARRY OUT THE  
2 PURPOSES AND INTENT OF THE FOREGOING RESOLUTIONS.

3 Q. AND WHAT'S THE PURPOSE OF THIS?

4 A. IT'S TO MAKE SURE THAT THE TRIBAL COUNCIL GOING  
5 FORWARD RESPECTS WHAT WAS DONE HERE AND THAT THEY WERE  
6 SUPPOSED TO CARRY OUST THE PURPOSES AND INTENT OF THIS  
7 RESOLUTION, THE INTENT OF THIS RESOLUTION WAS IN PART TO  
8 APPROVE AND RATIFY THE SMDC AGREEMENT AS A VALID AND  
9 BINDING AGREEMENT OF GT TRIBE.

10 Q. AND THEN I TRIBE YOUR ATTENTION TO THE  
11 SIGNATURES ON PAGE 0508 AND 0509, DID YOU WITNESS THESE  
12 INDIVIDUALS SIGNING THIS DOCUMENT?

13 A. YES I DID.

14 Q. AND TO YOUR UNDERSTANDING THESE SIGNATURES  
15 APPROVED THIS RESOLUTION?

16 A. YES THEY -- WE WERE ALL IN RIVERSIDE.

17 Q. LET US MOVE ON TO WHAT IS NOW EXHIBIT 15 46 AND  
18 THIS IS RESOLUTION NUMBER 37 BATES STARTING ON BATES '05  
19 10. MR. STEIN ARE YOU THERE?

20 A. YEP.

21 Q. OKAY. THIS IS RESOLUTION 37 FROM JANUARY 27,  
22 2002, WHAT IS THIS DOCUMENT?

23 A. THIS BASICALLY IS ANOTHER AMENDMENT AND  
24 MODIFICATION THAT WAS WRITTEN BY RAE LAMOTH AS THE NEW  
25 TRIBAL GENERAL COUNSEL, SHE REVIEWED SOME OF THE  
26 AGREEMENTS SHE DIDN'T LIKE SOME OF THE STUFF SHE SAW SO  
27 SHE MODIFIED SOME OF IT.

28 THE COURT: WE'RE TALKING ABOUT RESOLUTION 37.

1 MR. FORDYCE: THAT'S CORRECT YOUR HONOR.

2 A. RESOLUTION 37 AND THEN EXHIBIT 15 47 WAS THE  
3 ATTACHED TO IT AND YOU SEE ON THE BOTTOM OF PAGE 5 14 IT  
4 SAYS EXHIBIT A TO RESOLUTION 37.

5 MR. FORDYCE: AND THAT'S ON BATES '05 14 YOUR  
6 HONOR AND THAT IS WHAT'S NOW MARKED AS AND CONDITIONALLY  
7 ADMITTED AT 1547.

8 THE COURT: WE'LL I'LL JUST GET ANOTHER COPY OF  
9 THAT AND THEN WE CAN ATTACH IT TO THIS DOCUMENT SO THAT  
10 IT'S COMPLETE. IF YOU HAVE A COMPLETE -- LIKE I SAID,  
11 IF YOU HAVE THE EXHIBITS, PLEASE BRING THEM AND WE CAN  
12 ADD THEM SO THAT THE DOCUMENTS ARE COMPLETE.

13 MR. FORDYCE: YES YOUR HONOR, YOUR HONOR I'M  
14 SORRY I MIGHT BE BEING A BIT OBTUSE, WE HAVE THE EXHIBIT  
15 HERE. DO YOU WANT TO MAKE IT PART OF THE --.

16 THE COURT: NO I WANT ANOTHER COPY SO THAT YOU  
17 CAN --?

18 A. SURE.

19 THE COURT: YEAH?

20 A. SURE.

21 MR. FORDYCE: OKAY.

22 Q. BY MR. FORDYCE: SO MR. STEIN RESOLUTION 37 IS  
23 APPROVAL OF AMENDMENTS TO DEVELOPMENT AGREEMENT AND JUST  
24 TO BE CRYSTAL CLEAR WHAT DEVELOPMENT AGREEMENT ARE WE  
25 TALKING ABOUT AT THE TOP OF '05 10?

26 A. THAT IS EXHIBIT 569 AND RESOLUTION 10 WAS THE  
27 RESOLUTION 10 THAT I DISCUSSED EARLIER WHICH IS NOW  
28 EXHIBIT.

1 Q. 1542?

2 A. 1542 YES THANK YOU.

3 Q. OKAY, THE FIRST WHEREAS CLAUSE PLEASE READ THAT  
4 INTO THE RECORD?

5 A. WHEREAS ON MARCH 4TH, 2001, TRIBAL COUNCIL  
6 APPROVED RESOLUTION 10 CONTRACTUAL AGREEMENT WITH SMDC,  
7 ESTABLISHING CONTRACTUAL RELATIONSHIP WITH GT TRIBE AND  
8 SMDC TO ACCOMPLISH CERTAIN DEVELOPMENT TASKS IN  
9 CONNECTION WITH TRIBAL GOVERNMENT, FEDERAL RECOGNITION  
10 PROCESS, PROCESS OF ESTABLISHING TRIBAL GAMING COMPACT,  
11 PROCESS OF LOCATING AND OBTAINING LANDS TO BE PLACED  
12 INTO TRUST TO FORM A RESERVATION FOR THE TRIBE.

13 THE COURT: WILL BE PLACED INTO TRUST STATUS TO  
14 FORM A RESERVATION?

15 MR. FORDYCE: YES YOUR HONOR.

16 A. YES AND THE PROCESS OF CONSTRUCTION AND OPENING  
17 A CASINO THEREON.

18 Q. WHAT DOES THIS REFER TO?

19 A. THAT REFERS TO THE ORIGINAL EXHIBIT 569, THE  
20 SMDC AGREEMENT ADOPTED IN MARCH 2001 AND IT SAYS THAT  
21 THE TRIBAL COUNCIL IS SAYING THAT THIS IS TRUE, THAT  
22 THIS HAPPENED, THAT THIS IS A TRUE FACT.

23 Q. SO IT'S A CONFIRMATION OF SORTS?

24 A. YES.

25 Q. WHY IS THIS IMPORTANT?

26 A. WELL IT'S IMPORTANT BECAUSE IN -- BY NOW IT'S  
27 JANUARY OF 2002, THERE'S BEEN PERFORMANCE BY SMDC FOR  
28 NINE MONTHS IN RELIANCE ON THE AGREEMENT, A NEW TRIBAL

1 GENERAL COUNSEL HAS COME ON BOARD REPLACING ED  
2 HAMBURGER, SHE WANTS -- SHE WANTS TO SHOW HERE THAT WHAT  
3 HAPPENED ON THE ROAD HERE AND BECAUSE THEY ARE RATIFYING  
4 WHAT HAPPENED, THE WHEREAS CLAUSES TAKE ON SPECIAL  
5 SIGNIFICANCE.

6 Q. SECOND WHEREAS CLAUSE, PLEASE READ THAT?

7 A. WHEREAS ON MARCH 4, 2001, TRIBAL SECRETARY MARY  
8 AGUILAR ON BEHALF OF THE TRIBAL COUNCIL AND THE TRIBE  
9 AND JONATHAN STEIN PRESENT ON BEHALF OF SAINT MONICA,  
10 BOTH EXECUTED THE CERTAIN DEVELOPMENT AGREEMENT, THE  
11 AGREEMENT OR THE DEVELOPMENT AGREEMENT, DATED AS OF  
12 FEBRUARY 1, 2001, WHICH MADE THE AGREEMENTS VALID,  
13 BINDING AND DULY ADOPTED OBLIGATIONS OF THE TRIBAL  
14 COUNCIL AND THE TRIBE.

15 Q. AGAIN, SAME QUESTIONS WHAT DOES THIS REFER?

16 A. THIS IS THE TRIBAL COUNCIL SAYING THAT THAT WAS  
17 TO BE DONE AND IT'S CHARACTERIZING THAT AGREEMENT AS  
18 VALID AND BINDING AND IF THEY WERE THINKING THAT SOMEHOW  
19 IT WASN'T VALID AND BINDING IF FOR EXAMPLE THERE WAS AN  
20 ATTORNEY-CLIENT RELATIONSHIP SOMEHOW SOMEWHERE THAT  
21 MIGHT INTERFERE WITH THAT, THEY'RE SAYING NO THAT'S NOT  
22 THE SAYING, THEY'RE SAYING THAT'S NOT THE CASE, THIS IS  
23 A VALID AND BINDING AGREEMENT AND THEY'RE SAYING IT NINE  
24 MONTHS LATER AFTER PART PERFORMANCE BY SMDC OF THE  
25 AGREEMENT.

26 MS. IBARRA: I'M GOING TO OBJECT THAWS IT'S  
27 SPECULATIVE AS TO WHAT THEY WERE THINKING.

28 THE COURT: ALL RIGHT SUSTAINED?

1           A.     NO I'M SAYING WHAT THE -- WHAT THE DOCUMENT  
2 SAYS FORGIVE ME.

3           THE COURT:   WELL IF THE DOCUMENT WHAT IT SAYS  
4 IS WHAT IT SAYS.   I HAVE THE QUESTION I HAVE IS IF RAE  
5 LAMOTH SERVED AS GENERAL COUNSEL SINCE 2001, AGAIN WHY  
6 WAS SHE NOT SIGNING ANY OF THESE RESOLUTIONS, IS THAT  
7 NOT THE PROCESS?

8           A.     SHE DID.   NO NO SHE DID.

9           MR. FORDYCE:   YOUR HONOR YOU'LL SEE WHEN WE GET  
10 TO IT SHE DOES ACTUALLY BEGIN TO SIGN.

11          THE COURT:   SHE BEGINS TO SIGN AT SOME POINT.

12          MR. FORDYCE:   CORRECT YOUR HONOR.

13          A.     YES.

14          THE COURT:   SHE DIDN'T SIGN THIS ONE BUT SHE  
15 SIGNED AT SOME POINT?

16          A.     CORRECT.

17          MR. FORDYCE:   CORRECT.

18          Q.     BY MR. FORDYCE:   MR. STEIN TO THAT POINT TO  
19 YOUR KNOWLEDGE WHO DRAFTED RESOLUTION NUMBER 37?

20          A.     RAE LAMOTH.

21          MS. IBARRA:   I'M GOING TO --?

22          A.     AND I WAS -- AND I WILL ADD THAT I WAS IN THE  
23 ROOM WHEN I BELIEVE SHE SIGNED RESOLUTION 37.   SHE  
24 APPARENTLY DID NOT SIGN ALL FOUR COPIES.

25          Q.     BY MR. FORDYCE:   OKAY MOVING ON TO THE NEXT  
26 WHEREAS CLAUSE.

27          THE COURT:   SO YOU SAW HER SIGN IT IS WHAT  
28 YOU'RE SAYING?



1 A. I BELIEVE THAT'S MY RECOLLECTION, YES.

2 MR. FORDYCE: YOUR HONOR NOT TO GET FROM --.

3 THE COURT: WE'RE GOING TO HEAR FROM HER RIGHT.

4 MS. IBARRA: YES SHE'S COMING BACK.

5 THE COURT: SHE CAN AUTHENTICATE IT, EVEN IF IT  
6 DOESN'T HAVE HER SIGNATURE ON IF SHE CAN RECOGNIZE IT  
7 AND SAY I SIGNED I UNDERSTAND IT THAT'S FINE.

8 MR. FORDYCE: AND YOUR HONOR WE'LL GUEST TO  
9 THIS NOT TO JUMP AROUND, EXHIBIT A, THERE IS --.

10 THE COURT: OKAY SO SOME THEY SIGNED, SOME SHE  
11 DIDN'T.

12 MR. FORDYCE: YES.

13 THE COURT: WE CAN ASK HER ABOUT THE ONES SHE  
14 DIDN'T IF SHE IN FACT IN FACT DID.

15 MR. FORDYCE: THANK YOU YOUR HONOR?

16 A. BUT AS THE COURT NOTED IN CRITICIZING MR.  
17 HAMBURGER'S DRAFTSMANSHIP, IF YOU NOTICE IN MS. LAMOTH'S  
18 DRAFTSMANSHIP ON PAGE 518, SHE HAVE IT APPROVED AS TO  
19 FORM AND CONTENT BY THE LAW OFFICES THERE.

20 THE COURT: IT'S UNSIGNED BUT IS THERE ANOTHER  
21 SIGNED, SOMETHING SIGNED.

22 A. YES THE LATER -- A YEAR LATER THEY DID THE SAME  
23 THING AND SHE SIGNED THAT ONE, WE'RE GETTING THERE,  
24 WE'RE GETTING THERE U THIS ONE YOU WOULD HAVE TO ASK HER  
25 IF SHE SIGNED, 37 MY RECOLLECTION IS SHE DID BUT AGAIN  
26 FOR EXECUTED COPY SHE MAY NOT HAVE GOTTEN TO THE FORTH.

27 THE COURT: WELL WE'LL ASK HER WHEN SHE GETS  
28 HERE.

1 MR. FORDYCE: SO MR. STEIN, I DON'T REMEMBER  
2 YOUR ANSWER. DID YOU HAVE GET A CHANCE TO READ THE  
3 THIRD WHEREAS CLAUSE INTO THE RECORD.

4 A. THE THIRD WHEREAS CLAUSE STATES ON PAGE 510,  
5 WHEREAS ON APRIL 17TH, 2001 THE TRIBAL COUNCIL APPROVED  
6 RESOLUTION 17 CONFIRMING THE NUMBER OF TRIBAL COUNCIL  
7 POSITIONS AT 10, WHICH APPROVED AND RATIFIED ALL PRIOR  
8 ACTIONS OF THE TRIBAL COUNCIL AND ADOPTED THEM AS  
9 ACTIONS OF THE REFORMED TRIBAL COUNCIL INCLUDING  
10 RESOLUTION NUMBER 10 AND THE AGREEMENT AND AFFIRMED THEM  
11 AS VALID BINDING AND DULY OBLIGATED OBLIGATIONS OF THE  
12 TRIBAL COUNCIL AND THE TRIBE.

13 Q. AND THE AGREEMENT MENTIONED THERE IS THE SMDC  
14 AGREEMENT EXHIBIT 569?

15 A. THAT'S CORRECT.

16 Q. WHAT'S THE POINT OF THIS WHEREAS CLAUSE?

17 A. TO -- ONCE AGAIN I DON'T WANT TO SAY WHAT THE  
18 POINT IS TO ANYBODY ELSE.

19 Q. TO YOUR KNOWLEDGE?

20 A. WHEN I READ THIS AND SAW THIS ACTION, THE  
21 IMPORTANCE OF THIS IS THEY WERE RATIFYING THE SMDC  
22 AGREEMENT WHICH WAS ALSO PART PERFORMED AT THAT TIME AND  
23 IT OVERCAME -- AND IT WAS MEANT TO LIKE ANY RATIFICATION  
24 TO ACCEPT AS THE VALID AND BINDING AGREEMENT THE SMDC  
25 AGREEMENT EVEN IF THEY HAD BEEN SOME CHANGES -- SOME  
26 PROBLEMS ON MARCH 2001 WITH IT SUCH AS NOT HAVING  
27 COUNSEL, SUCH AS HAVING PEOPLE RESIGN AFTERWARDS GO AND  
28 IT WAS IMPORTANT FOR SMDC TO CONTINUE TO ACKNOWLEDGE THE

1 VALIDITY OF THE SMDC THROUGH THE RESOLUTION PROCESS,  
2 CORRECT.

3 A. YES.

4 Q. THE NEXT WHEREAS CLAUSE ON JUNE 24, 2001,  
5 PLEASE READ THAT?

6 A. WHEREAS ON JUNE 24, 2001 THE TRIBAL COUNCIL  
7 APPROVED RESOLUTION 15 CONTRACTUAL AGREEMENT WITH TRIBAL  
8 GENERAL COUNSEL WHICH AGREED TO RETAIN RAE LAMOTH AS  
9 TRIBAL GENERAL COUNSEL AND MS. LAMOTH HAD IN FACT SERVED  
10 AS TRIBAL GENERAL COUNSEL SINCE MAY 2001.

11 Q. TO YOUR KNOWLEDGE WHAT DOES THIS REFER?

12 A. THE COUNCIL APPARENTLY DID NOT ACT ON  
13 RESOLUTION 15 THAT'S IN HERE THAT HIRED ED HAMBURGER BUT  
14 INSTEAD BROUGHT RAE LAMOTH ON AS VERY CLOSE TO THE SAME  
15 TIME, THEY SAY HERE MAY OF 2000 THAT WAS APRIL 29TH SO A  
16 FEW DAYS EARLIER AND THAT THEY HAD A NEW RESOLUTION 15  
17 FOR RAE LAMOTH THAT THEY SIGNED.

18 Q. AND WHY WAS THIS IMPORTANT TO SMDC?

19 A. IT WAS IMPORTANT BECAUSE SMDC'S AGREEMENT MADE  
20 VERY CLEAR THAT MR. STEIN WAS NOT THEIR ATTORNEY, THAT  
21 MR. STEIN WAS WORKING FOR SMDC AND HAD A CONFLICT OF  
22 INTEREST. WHAT THIS SAID WAS THAT THEY HAD AN ATTORNEY  
23 WHICH YOU ALWAYS WANT TO SEE WHEN BINDING PARTIES, NOT  
24 JUST AS AN OPPORTUNITY TO HAVE COUNSEL IF THEY HAVE  
25 COUNSEL IT'S EVEN BETTER. SO THIS IS SAYING THAT ON  
26 JUNE 24 WHICH WAS A LATER DATE THAN THE ORIGINAL DATE,  
27 THAT THEY IN FACT SIGNED RESOLUTION 15 WITH RAE LAMOTH  
28 AND SHE HAS IN FACT SERVED SINCE MAY OF 2001.

1 THE COURT: LET ME ASK PLAINTIFFS COUNSEL, DO  
2 YOU HAVE THE RETAINER AGREEMENTS WITH RAE LAMOTH.

3 MS. IBARRA: I'VE SEEN THEM, YES.

4 THE COURT: DO YOU INTEND TO INTRODUCE THEM.

5 MR. FORDYCE: HAVE THEY BEEN PRODUCED?

6 A. THEY WERE NEVER PRODUCED TO US.

7 MR. FORDYCE: I'M PRETTY SURE WE ASKED FOR  
8 EVERYTHING.

9 MS. IBARRA: A RETAINER AGREEMENT WITH RAE  
10 LAMOTH, I'M PRETTY SURE I WOULD ONLY HAVE THEM FROM MR.  
11 STEIN.

12 MR. FORDYCE: HUH.

13 THE COURT: OKAY SO YOU DON'T HAVE THE RETAINER  
14 AGREEMENT.

15 MS. IBARRA: I'VE SEEN PARTS OF IT.

16 THE COURT: NO, I'M NOT ASKING IF YOU SAW PARTS  
17 OF IT, I'M ASKING IF YOU HAVE THE RETAINER AGREEMENT  
18 WITH RAE LAMOTH SO WE KNOW WHEN SHE WAS HIRED AND FOR  
19 WHAT PURPOSE.

20 MS. IBARRA: I WILL -- YEAH I'D HAVE TO GO BACK  
21 AND GET THEM FROM MY CLIENT BUT I'M PRETTY SURE THAT  
22 I'VE SEEN SOMETHING THAT LOOKS LIKE A RETAINER AGREEMENT  
23 WITH RAE LAMOTH AND I THINK IT WAS PRODUCED BY  
24 DEFENDANTS DURING -- DURING DISCOVERY.

25 MR. FORDYCE: I CAN'T SPEAK TO THAT, I DON'T  
26 KNOW.

27 THE COURT: WELL I'M ASKING IF YOU HAVE IT.  
28 WELL.

1 MS. IBARRA: SORRY THIS IS A -- THERE'S SO MANY  
2 EXHIBITS HERE AND SO MANY DIFFERENT.

3 THE COURT: I UNDERSTAND.

4 MS. IBARRA: DOCUMENTS SO.

5 THE COURT: THERE'S A CLAIM HERE THAT SHE WAS  
6 SERVING AS TRIBAL GENERAL COUNSEL SINCE 2001 SO THERE  
7 MUST BE SOMETHING REFLECTING THAT SHE WAS RETAINED IN  
8 MAY 2001. IF NOT --.

9 MS. IBARRA: I THINK THAT THERE IS A DOCUMENT  
10 REFLECT THAT LONG SHE WAS RETAINED AS OF 2001 I MEAN  
11 SHE'S GOING TO BE HERE TOMORROW SO WE CAN ASK HER MORE?

12 A. SHE ALREADY TESTIFIED THAT SHE STARTED IN MAY  
13 OF 2001.

14 THE COURT: WELL I DON'T KNOW WHAT YOU'RE  
15 TALKING ABOUT, WHERE DID SHE TESTIFY TO THAT EFFECT.

16 MR. FORDYCE: HERE YOUR HONOR.

17 THE COURT: OKAY I DON'T REMEMBER THAT BUT IF  
18 THE TRANSCRIPT REFLECTS THAT -- WAS SHE HERE PART OF --  
19 SHE STARTED IS THAT IT.

20 MR. FORDYCE: THAT'S CORRECT YOUR HONOR?

21 A. WE HAD HER WHOLE DIRECT TESTIMONY AND WE WERE  
22 ON CROSS-EXAMINE. I BELIEVE SHE SAW RESOLUTION 37 AND I  
23 BELIEVE SHE SAID SHE SIGNED IT BUT I DON'T WANT TO MAKE  
24 CLAIMS OUT OF SCHOOL BUT AGAIN SHE ADDRESSED -- WE  
25 WALKED THROUGH THIS WERE HER AS TO WHAT SHE WAS PART OF  
26 AND WHAT SHE WASN'T.

27 THE COURT: OKAY?

28 A. MY UNDERSTANDING WAS RESOLUTION 37 AND THEN THE

1 NEXT ONE 46 THAT SHE SAID YES, I WAS PART OF THAT, IT  
2 WAS ACCURATE, IT WAS MAY 2001, RESOLUTION 15 DID HIRE  
3 ME.

4 THE COURT: WELL WE'LL SEE, WE'LL ASK HER WHEN  
5 SHE COMES TO COURT. WHEN SHE WAS HIRED AND WE'LL ASK  
6 HER ABOUT RESOLUTION 37.

7 Q. BY MR. FORDYCE: SO MR. STEIN WOULD SMDC HAVE  
8 MOVED FORWARD WITH THIS PROJECT IF YOU HAD SUSPECTED  
9 TRIBE WAS NOT REPRESENTED BIT DURING THE CONTRACT  
10 NEGOTIATIONS AND AMENDMENTS?

11 A. NO WE WOULD NOT HAVE. I MEAN IF WE COULD NOT  
12 CURE THE ORIGINAL PROBLEM THAT STEVE OTTO CREATED WE  
13 WOULD HAVE JUST STOPPED WORK --.

14 THE COURT: WHAT PROBLEM WAS THAT?

15 A. WHEN HE QUIT, HE STARTED WORK AS TRIBAL GENERAL  
16 COUNSEL HE THEN SENT A LETTER I WAS NEVER TRIBAL GENERAL  
17 COUNSEL.

18 THE COURT: WHAT DATES WERE THOSE?

19 A. THAT WAS IN 2000.

20 MS. IBARRA: THAT MISSTATES EVIDENCE?

21 A. FORGIVE ME I'M GIVING YOU MY TESTIMONY.

22 THE COURT: AND I'LL ASK COUNSEL IF SHE HAD  
23 SOME DIFFERENT RECOLLECTION?

24 A. I'M SORRY YOUR HONOR I CAME HERE FOR REGULAR  
25 PROCEEDINGS AND --.

26 THE COURT: SO JUST GIVE ME YOUR -- WHAT DO YOU  
27 RECALL AND THEN I'LL ASK COUNSEL BECAUSE SHE HAS AN  
28 OBJECTION WHAT SHE RECALLS, GET YOUR OUT FIRST?

1           A.    I DIDN'T KNOW DELIA HAD BEEN SWORN IN AS A  
2 WITNESS YOUR HONOR.

3           THE COURT:  THAT DOESN'T RESPOND TO MY QUESTION  
4 COUNSEL IF THAT'S --?

5           A.    MY APOLOGIES.

6           THE COURT:  SO DO YOU WANT TO ANSWER THE  
7 QUESTION?

8           A.    I DO.

9           THE COURT:  DO YOU WANT IT READ BACK TO YOU?

10          A.    THAT WOULD BE HELPFUL.

11          THE COURT:  OKAY LET'S READ IT BACK?

12          A.    YOUR HONOR I JUST WANT MORE THAN ANYTHING ELSE  
13 TO MAINTAIN A GOOD HEALTH IN THE FACE OF THE SITUATION  
14 ALL RIGHT.

15          THE COURT:  I UNDERSTAND AND THAT'S GOOD?

16          A.    THAT'S MY MAIN CONCERN AT THE PRESENT TIME.  SO  
17 MY APOLOGIZE.

18          THE COURT:  WELL WE'VE ONLY GOT ANOTHER HALF AN  
19 HOUR, IF YOU HAVE WANT TO END EARLY WEEKEND EARLY?

20          A.    I'D LIKE TO COOPERATE FULLY WITH THE COURT SO  
21 READ BACK THE QUESTION SO HE REMEMBERS WHAT THE  
22 QUESTIONS IS.

23                   (RECORD READ.) .

24          THE COURT:  WHAT'S THE PROBLEM THAT STEVE OTTO  
25 CREATED, YOU SAID SOMETHING ABOUT HE QUIT OR SOMETHING  
26 OR HE WROTE A LETTER AND I WAS TRYING TO GET A  
27 CHRONOLOGY AS TO WHEN THAT HAPPENED AT LEAST ACCORDING  
28 TO HOW YOU REMEMBER IT?

1           A.     HOW I REMEMBER IT HAPPENED IS WRITTEN IN  
2 RESOLUTION 10 WHICH IS EXHIBIT.

3           MR. FORDYCE:   1542?

4           A.     1542.

5           THE COURT:   IF THAT HELPS YOU REMEMBER YOU CAN  
6 LOOK AT IT?

7           A.     IF I CAN REFRESH MY RECOLLECTION, YEAH, ON PAGE  
8 49 EIGHT AND AGAIN WE FIXED ALL OF THESE PROBLEMS SO  
9 WE'RE JUST ANSWERING THE COURT'S QUESTION.

10          THE COURT:   YEAH?

11          A.     THAT THE PROBLEM HAS BEEN FIXED.   WHEREAS THE  
12 COUNCIL.

13          THE COURT:   WELL NO --?

14          A.     I WROTE -- THIS RESOLUTION WAS WRITTEN BY  
15 SEYFARTH SHAW BUT I WROTE THIS PARAGRAPH AS I REVISION  
16 BASED ON THE EVENTS THAT OCCURRED BEFORE THE SIGNATURES  
17 IN MARCH OF 2001.

18          THE COURT:   WHICH PARAGRAPH IS THAT?

19          A.     ON PAGE 49 EIGHT.

20          MS. IBARRA:   49 EIGHT.

21          THE COURT:   YES.

22          MS. IBARRA:   WAIT CAN I GET THERE?

23          A.     THE BOTTOM WHEREAS CLAUSE.

24          THE COURT:   AND THIS IS WHAT IS OUTLINES A  
25 PROBLEM IS THAT WHAT YOU'RE.

26          MS. IBARRA:   CAN I?

27          A.     YOU SAID WHAT WAS THE PROBLEM WITH STEVE OTTO.

28          THE COURT:   YES?



1           A.     THIS OUTLINED EVERYTHING THAT HAPPENED BEFORE  
2           THEIR SIGNATURES IN MARCH AND I WROTE THIS BASED ON MY  
3           PARTICIPATION IN THOSE EVENTS SO IT SAYS --.

4           THE COURT:   WELL WHY DON'T YOU READ IT TO  
5           YOURSELF AND THEN YOU CAN TELL ME WHAT WAS THE PROBLEM  
6           WITH STEVE OTTO?

7           A.     SURE.   STEVE OTTO TO MY UNDERSTANDING AGREED TO  
8           BE TRIBAL GENERAL COUNSEL AND REVIEWED THE DEVELOPMENT  
9           AGREEMENT AS WELL AS RESOLUTION 10 WITH -- FOR SEVERAL  
10          HOURS ON FEBRUARY 25TH WITH THE SIGNATORIES OF  
11          RESOLUTION 10.

12          THE COURT:   OKAY?

13          A.     HE HAVE THEN MADE A DEMAND ON ME FOR \$800 AN  
14          HOUR FOR HIS TIME WHICH WAS NORMALLY BILLED AT \$300 AN  
15          HOUR.

16          THE COURT:   OKAY.   WHY DID HE ASK YOU FOR 800  
17          AN HOUR WERE YOU PAYING HIM?

18          A.     HE ASKED THE -- HE ASKED THE TRIBAL COUNCIL,  
19          THEY SAID FINE BUT MR. STEIN WILL PAY BECAUSE ALL THE  
20          EXPENSES OF GT TRIBE WERE BEING PAID BY SMDC.

21          THE COURT:   SO OTTO HAD TO GET YOUR APPROVAL  
22          FROM INCREASE FROM 300 TO 800 IS THAT?

23          A.     THAT'S RIGHT AND THEY HAD SAID YES AND THEY  
24          SAID I'M SORRY I'M NOT THAT RICH A GUY, SMDC IS FUNDED  
25          BY ME AND WE DON'T HAVE THAT KIND OF MONEY.   HE SAID  
26          FIND I'M GOING TO QUIT AND WRITE YOU A LETTER THAT I WAS  
27          NEVER TRIBAL GENERAL COUNSEL AND I SAID WELL IN FACT YOU  
28          WERE BUT IF THAT MAKES YOU FEEL BETTER I AM NOT GOING TO

1 MAKE AN ISSUE OF IT, WE'RE NOT HERE TO MAKE ENEMIES. SO  
2 HE WROTE A LETTER SAYING I WAS NEVER TRIBAL GENERAL  
3 COUNSEL EVEN THOUGH HE HAD MET WITH THEM ON FEBRUARY  
4 25TH, REVIEWED THE AGREEMENT WITH THEM AND THE  
5 RESOLUTION, THEY ASKED HIM QUESTIONS AND THEN AFTER THAT  
6 THEY MET ON MARCH 4TH AND GAVE -- WITHOUT HIM HE HAD  
7 QUIT BY THAT TIME.

8 MS. IBARRA: I'M GOING OBJECT TO?

9 A. FORGIVE ME.

10 MS. IBARRA: TESTIMONY?

11 A. FORGIVE ME.

12 MR. FORDYCE: LET HIM FINISH.

13 THE COURT: OKAY MR. STEIN, IT SEEMS AS THOUGH  
14 YOU'RE RAISING YOUR VOICE AND YOU'RE UPSET SO MAYBE WE  
15 SHOULD -- I THINK MAYBE A BREAK IS IN ORDER?

16 A. SURE.

17 MR. FORDYCE: DO YOU WANT TO TAKE JUST FIVE  
18 MINUTES YOUR HONOR.

19 THE COURT: YES?

20 A. AND YOUR HONOR TO THE EXTENT THAT THE COURT  
21 COULD MAKE THE PROCEEDINGS A LITTLE BIT MORE ORDERLY  
22 WE'D PRETTY MUCH APPRECIATE IT.

23 THE COURT: COUNSEL THE ONLY THING MAKING  
24 THINGS DISORDERLY IS YOU?

25 A. WHEN THE WITNESS IS IN THE MIDDLE OF A SENTENCE  
26 AND SHE JUMPS IN WITH A SPEAKING OBJECTION.

27 THE COURT: COUNSEL.

28 A. YES YOUR HONOR.

1 THE COURT: LIKE I SAID, SO I UNDERSTAND THAT  
2 YOU MAY BE UPSET BUT PLEASE LET ME MAKE MY RULINGS  
3 OKAY.

4 A. YES YOUR HONOR.

5 THE COURT: YOU LET YOU TESTIFY, I WILL DEAL  
6 WITH THAT BUT RAISING YOUR VOICE AND POINTING YOUR  
7 FINGERS AND THAT KIND OF THING ISN'T HELPING AND I'M  
8 TRYING TO KEEP THIS AS CALM AS POSSIBLE FOR YOUR SAKE SO  
9 THAT'S WHY WE'RE GOING TO TAKE A BREAK, IF YOU WANT TO  
10 END TODAY WE'LL END TODAY I'M GOING TO LET YOU TALK TO  
11 YOUR COUNSEL IF YOU CAN GO ON YOU CAN GO ON BECAUSE I  
12 DON'T WANT YOU GETTING UPSET.

13 A. YOUR HONOR AND NEITHER DO I AND THE DIFFICULTY  
14 HERE AND I REFERRED TO EARLIER WITH THE COURT, IS THE  
15 DOCTOR CLEARED ME FOR UP TO THREE HOURS OF STRENUOUS  
16 TYPE THINGS WHICH I WILL MAKE A LIVING WHICH I WILL BE  
17 DOING THIS AFTERNOON BY TAKING A PHONE DEPOSITION.

18 THE COURT: YES.

19 A. THAT COULD LAST FOR THE THREE YEARS.  
20 UNFORTUNATELY I'VE ALSO GOT TO BE HERE AND TO HAVE  
21 IRREGULARITY FROM OPPOSING COUNSEL WHO KNOWS PERFECTLY  
22 WELL THAT SHE'S NOT MAKING OBJECTIONS ON THE RECORD,  
23 SHE'S MAKING OBJECTIONS THAT ARE COMPLETELY WRONG AND  
24 SHE'S TRYING TO UNDERMINE YOUR UNDERSTANDING AS THE  
25 TRIER OF FACT OF MY TESTIMONY AGAIN AND AGAIN AND AGAIN  
26 IS UPSETTING GIVEN THAT WE ARE HERE FOR NO OTHER REASON  
27 THAN ALLEGATIONS AND CAUSE OF ACTION THAT HAVE NO  
28 FOUNDATION IN ANY DOCUMENTS AND NO FOUNDATION IN FACTS

1 AND THE TESTIMONY THAT WAS GIVEN THAT DID GIVE FACTS  
2 SHE'S NOW SAYING BLACK WAS WHITE AND IT IS UPSETTING TO  
3 HEAR YOUR HONOR, IT IS MY JOB TO GET BETTER CONTROL IT  
4 AND I WILL TAKE A BREAK AND DO SO.

5 MR. FORDYCE: THANK YOU YOUR HONOR WE'LL TAKE  
6 FIVE.

7 THE COURT: OKAY.

8 (BREAK TAKEN.) 11:34 AM TO 11:38 AM.

9 THE COURT: GABRIELINO-TONGVA TRIBE VERSUS  
10 STEIN, B C361307. STEIN ARE YOU OKAY TO CONTINUE?

11 A. THANK YOU VERY MUCH I AM YOUR HONOR, I'D LIKE  
12 TO FINISH THE MORNING AND USE THE TIME THE COURT HAS  
13 ALLOTTED US.

14 THE COURT: ORANGE AND BEFORE WE START, MS.  
15 IBARRA I'M GOING TO ASK YOU TO DO IS LET MR. STEIN  
16 FINISH AN ANSWER, AND IF YOU HAVE OBJECTIONS SUCH AS  
17 MISSTATES TESTIMONY BECAUSE THAT APPEARS TO BE THE  
18 OBJECTION YOU KEEP WANTING TO MAKE WHY DON'T YOU TAKE  
19 NOTES AND NOTE WHICH PART OF THE TESTIMONY YOU'RE  
20 DISAGREEING WITH YOU AND AFTER HE'S DONE YOU CAN STATE  
21 YOUR HONOR I CAN I HAVE AN OBJECTION TO MISSTATES  
22 TESTIMONY AS TO X Y AND Z AND YOU CAN STATE IT BUT MR.  
23 STEIN IS NOT ABLE TO GET OUT EVERYTHING HE WANTS TO GET  
24 AND HE LOSES HIS TRAIN OF THOUGHT AND IT'S PROBABLY BEST  
25 TO LET FINISH FINISH.

26 MS. IBARRA: SO GOES INTO A REALLY LONG  
27 NARRATIVE AND GOES FROM ONE TOPIC TO ANOTHER TOPIC AND  
28 ANOTHER TOPIC. BUT I WILL DO MY BEST TO DO THAT AND TO

1 NOTE IT WHEN THERE'S A PAUSE IN HIS TESTIMONY.

2 THE COURT: NO. I'M NOT SAYING WHEN THERE'S A  
3 PAUSE IN HIS TESTIMONY. WHAT I'M SAYING IS AS HIS  
4 TESTIMONY IS GOING, IF YOU NOTE AN OBJECTION, FOR  
5 EXAMPLE, HE SAYS SOMETHING THAT YOU HAVE AN OBJECTION  
6 TO, PARTICULARLY IF IT'S MISSTATES PRIOR TESTIMONY, THEN  
7 WHY DON'T YOU WRITE DOWN WHAT PART OF IT THAT YOU  
8 DISAGREE WITH, IN OTHER WORDS WHAT PART HE TESTIFIED  
9 THAT THAT IS MISSTATED BECAUSE THERE MAY BE ONE, THERE  
10 MAY BE MORE THAN ONE, AND WHEN HE'S FINISHED, THEN YOU  
11 CAN BEFORE MR. FORDYCE ASKS HIS NEXT QUESTION YOU CAN  
12 THEN LIST OUT WHAT YOU DISAGREE WITH AND WHAT WAS  
13 MISSTATED, OTHERWISE IT DOES GET DISJOINTED, NOT ONLY  
14 DOES IT INTERRUPT MR. STEIN BUT THEN THE COURT HAS A  
15 HARD TIME FOLLOWING THE TESTIMONY.

16 MS. IBARRA: OBJECTION.

17 THE COURT: SO I'M GOING TO SUGGEST THAT WHILE  
18 YOU MIGHT WANT TO JUMP UP EVERY TIME YOU THINK HE'S  
19 SAYING SOMETHING THAT YOU DISAGREE WITH OR THAT'S  
20 MISSTATED, SO I'M GOING TO ASK YOU TO WAIT UNTIL HE  
21 FINISHES HIS ANSWER AND THEN SAY IT'S MISSTATED. SO  
22 IT'S GOING TO REQUIRE A LITTLE BIT OF EFFORT ON YOUR  
23 PART TO TAKE NOTES AS TO WHAT YOU'RE DISAGREEING WITH.

24 MS. IBARRA: YES.

25 THE COURT: BUT IT'S HARD FOR ME TO FOLLOW THE  
26 TESTIMONY, AND IT'S HARD FOR HIM TO KEEP TRACK OF WHAT  
27 HE'S SAYING, THEN HE HAS TO GO BACK AND TRY TO RESTATE  
28 IT AND IT'S A LITTLE DISRUPTIVE; OKAY?

1 MS. IBARRA: OKAY.

2 THE COURT: ALL RIGHT.

3 MR. FORDYCE: YOUR HONOR DID YOU GET A COMPLETE  
4 ANSWER FROM MR. STEIN ABOUT THE OTTO ISSUE.

5 THE COURT: I'M GOING TO GO AHEAD AND LET YOU  
6 RE-ASK THE QUESTION OR LEAD HIM WHERE HE WAS, I THINK HE  
7 START TODAY ANSWER LET'S SEE SHALL THIS IS WHERE MY  
8 NOTES LEAVE OFF, OTTO WROTE A LETTER SAYING I'M NOT THE  
9 GENERAL COUNSEL AND THEN AFTER THAT.

10 MR. FORDYCE: THAT'S WHAT I HAVE YOUR HONOR.

11 THE COURT: THAT'S WHERE I HEFT OFF.

12 Q. BY MR. FORDYCE: SO MR. STEIN IS THAT SOMEWHERE  
13 YOU CAN PUBLIC UP MR. OTTO LETTER?

14 A. YEAH. HE WROTE A LETTER, AFTER HE WROTE THE  
15 LETTER, THE RESOLUTION 10 WAS ADOPTED BY THESE PEOPLE  
16 AFTER HE HAD RESIGNED. WHEN MOVING FORWARD TO  
17 RESOLUTIONS 17 AND 20 AND 37, THOSE WERE TO RATIFY THE  
18 SMDC AGREEMENT JUST TO CASE THERE WAS ANY PROBLEM LEFT  
19 OVER FROM THE TRIBAL GENERAL COUNSEL HAVING QUIT BEFORE  
20 THE SIGNATURES.

21 Q. SO THIS WAS AN ATTEMPT ON THE PART OF BOTH  
22 PARTIES TO THE AGREEMENT, JUST TO CLARIFY AND BE  
23 ABSOLUTELY UNAMBIGUOUS ABOUT ADOPTING THE SMDC AGREEMENT  
24 CORRECT?

25 A. RIGHT AND BY THE TIME RESOLUTION -- WE WERE ON  
26 RESOLUTION 37, THAT'S JANUARY 27 OF 2002. BY THAT TIME,  
27 THERE'S BEEN NINE MONTHS OF PARTIAL PERFORMANCE OF THE  
28 SMDC AGREEMENT BY SMDC AND SO THAT MAKES IT BINDING AND

1 WHAT THIS WAS DOING WAS THIS WAS SAYING YES, IT IS VALID  
2 AND BINDING JUST LIKE RESOLUTION 17 SAID T RESOLUTION 20  
3 SAID IT, NOW RESOLUTION 37 NINE MONTHS LATER IS SAYING  
4 IT TOO.

5 Q. AND SMDC WAS WORKING THE WHOLE TIME?

6 A. YES.

7 Q. WHAT WERE YOU DOING?

8 A. TRYING TO GET A CASINO PROJECT TOGETHER. WE  
9 WERE IN FACT -- I HAD CONVINCED MARNEL ARCHITECTS TO  
10 MAKE A CASINO DRAWING TO SHOW AND WE HAD BEGUN  
11 APPROACHING DIFFERENT CITIES, INCLUDING THE STEVE  
12 COMPTON INTERESTINGLY ENOUGH, COMPTON WAS VERY  
13 INTERESTED IN ECONOMIC DEVELOPMENT AT THE TIME.

14 Q. WHO WAS PAYING FOR ALL THESE EFFORTS?

15 A. SMDC WAS PAYING FOR ALL THOSE EFFORTS AND ALSO  
16 PAYING THE COST OF THE PROFESSIONALS ED HAMBURGER, STEVE  
17 OTTO, RAE LAMOTH, ALL THE -- THE TRIBE HAD NO MONDAY HE  
18 EIFFE AND TO SMDC WAS PAYING ALL THE EXPENSES.

19 Q. DIRECT YOUR ATTENTION TO THE NEXT WHEREAS  
20 CLAUSE AND YEAH BATES 0510 THIS IS THE WHEREAS THAT  
21 STATES WHEREAS TRIBAL GENERAL COUNSEL HAVING REVIEWED  
22 THE AGREEMENT, CAN YOU READ THAT PLEASE?

23 A. OKAY. SO THIS IS EXHIBIT 15 46 RESOLUTION 37  
24 IN JANUARY 2002, PAGE 5 10 WHEREAS TRIBAL GENERAL  
25 COUNSEL HAVING REVIEWED THE AGREEMENT HAS OPINED TO THE  
26 TRIBAL COUNCIL THAT THE AGREEMENT IS A VALID BINDING AND  
27 ENFORCEABLE OBLIGATION OF THE TRIBAL COUNCIL AND THE  
28 TRIBE AS WRITTEN.

1 Q. DO YOU HAVE PERSONAL KNOWLEDGE AS TO WHETHER  
2 THIS TOOK PLACE?

3 A. NO I DON'T HAVE PERSONAL KNOWLEDGE AS TO  
4 WHETHER IT TOOK PLACE, THAT'S WHERE IT'S IN THERE AS A  
5 WHEREAS CLAUSE IS TO SAY THAT SHE -- THAT RAE LAMOTH MET  
6 WITH HER CLIENTS, TOLD THEM THAT IT WAS VALID AND  
7 BINDING AND THEY'RE SIGNING A RESOLUTION THAT SAYS THAT  
8 SHE DID SO.

9 Q. AT THE TIME DID YOU HAVE ANY REASON TO BELIEVE  
10 OTHERWISE?

11 A. NO.

12 Q. MOVING ON TO THE NEXT WHEREAS CLAUSE -- WELL NO  
13 WHY IS THAT AN IMPORTANT CLAUSE?

14 A. THAT'S VERY IMPORTANT BECAUSE THEY'RE  
15 ACKNOWLEDGING THAT THE ATTORNEY THAT THEY CONSULTED WAS  
16 NOT JONATHAN STEIN, THE ATTORNEY THEY CONSULTED WAS RAE  
17 LAMOTH SO THAT'S ONE NUMBER ONE THEY CONSULTED THEIR OWN  
18 ATTORNEY THAT IT'S RAE LAMOTH NOT JONATHAN STEIN AND  
19 NUMBER 2 IT WAS SAYING THAT IT'S THEIR VIEWS THAT IT'S  
20 A VALID BINDING AND ENFORCEABLE OBLIGATION, THEY'RE ALL  
21 SIGNING YEP THAT'S EXACTLY WHAT HER VIEWS ARE.

22 Q. DO YOU SEE YOUR SIGNATURE ON BATES '05 11 AND  
23 '05 12?

24 A. RIGHT WE HAD FOUR OF THE SIX CITY COUNCIL  
25 PERSONS.

26 Q. THE NEXT WHERE IS AS CLAUSE IS WHERE WAS TRIBAL  
27 COUNCIL TRIBAL GENERAL COUNSEL DESIRES, PLEASE READ  
28 THAT?



1           A.     WHEREAS TRIBAL GENERAL COUNSEL DESIRES THAT THE  
2           AGREEMENT BE AMENDED AND MODIFIED IN CERTAIN RESPECTS IN  
3           THE INTEREST OF CLARITY AND THAT THE TRIBAL COUNCIL AND  
4           DEVELOPER MUTUALLY DESIRE TO MAKE THE AMENDMENTS AND  
5           MODIFICATIONS TO THE EXISTING AGREEMENT STATED IN THE  
6           AMENDMENT AND MODIFICATION AGREEMENT ATTACHED AS EXHIBIT  
7           A, THE MODIFICATION.

8           Q.     AND FOR THE RECORD, IT LOOKS LIKE WE HAVE THE  
9           EXHIBIT A WHICH IS NOW EXHIBIT 1547. LET'S GO AHEAD AND  
10          FINISH UP WITH THIS RESOLUTION AND THEN WE'LL MOVE ON TO  
11          THE EXHIBIT ITSELF. DID SMDC, DID YOU HAVE ANY CONTACT  
12          AS SMDC WITH TRIBAL GENERAL COUNSEL CONSIDERING OR  
13          CONCERNING EXHIBIT A?

14          A.     YEAH WHEN RAE LAMOTH CAME ON BOARD IN MAY OF  
15          2001, SHE SAID WELL LET ME YOU KNOW READ THE AGREEMENT,  
16          LET ME ASK YOU QUESTIONS ABOUT THE AGREEMENT, LET ME  
17          TALK TO THE TRIBAL COUNCIL ABOUT THEIR UNDERSTANDING OF  
18          THE AGREEMENT AND THEN IF THERE ARE ANY PROBLEMS, LET'S  
19          PACKAGE THE PROBLEMS INTO ONE PROBLEM AND ADDRESS THEM  
20          ALL AT ONCE AND I SAID THAT WAS FINE WITH ME AND IT TOOK  
21          HER FROM MAY UNTIL JANUARY TO ACTUALLY ACCOMPLISH THAT  
22          TASK.

23          Q.     TO YOUR KNOWLEDGE WAS MS. LAMOTH IN CONTACT  
24          WITH THE TRIBAL COUNCIL CONCERNING WHAT HAS BECOME  
25          EXHIBIT A TO THIS RESOLUTION?

26          A.     YEAH IN CONSTANT CONTACT.

27          Q.     MOVING UP THE NEXT WE ARE AS, WHEREAS THE  
28          TRIBAL COUNCIL FINDS IT TO BE?

1           A.     WHEREAS THE TRIBAL COUNCIL FINDS IT TO BE IN  
2     THE BEST INTEREST OF THE TRIBE TO MAKE THE AMENDMENTS  
3     AND MODIFICATIONS TO THE EXISTING AGREEMENT SET FORTH IN  
4     THE MODIFICATION ATTACHED HERE TO AS EXHIBIT A. .

5           Q.     DO YOU HAVE ANY REASON TO BELIEVE THAT THAT'S  
6     NOT ACCURATE?

7           A.     NO.

8           Q.     AND WHY IS IT IMPORTANT?

9           A.     IT'S IMPORTANT BECAUSE IT SHOWS THE TRIBAL  
10    COUNCIL IS AGREEING TO THE MODIFICATION AND THAT THEY  
11    ARE DOING SO ON BEHALF OF GT TRIBE, WHICH YOU'LL WHAT  
12    YOU'LL SEE IN THE MODIFICATION IS THAT THEY'RE RATIFYING  
13    THE VARIOUS CLAUSES AND CHANGING SOME OF THEM, BUT THE  
14    IDEA WAS TO MAKE SURE THE AGREEMENT WAS EXACTLY THE WAY  
15    THEY WANTED TO DO IT AND THE WAY THEIR TRIBAL GENERAL  
16    COUNSEL WANTED TO SEE IT.

17          Q.     MOVING ON TO THE THEREFORE BE IT RESOLVED,  
18    PLEASE READ THAT INTO THE RECORD?

19          A.     THEREFORE, BE IT RESOLVED THAT THE DEVELOPMENT  
20    AGREEMENT ADOPTED BY THIS COUNSEL IN RESOLUTION NUMBER  
21    10 AND REAFFIRMED AND RATIFIED IN RESOLUTION 17 HEREBY  
22    BE AMENDED AND MODIFIED AND THE MODIFICATION ATTACHED AS  
23    EXHIBIT A BE ADOPTED, APPROVED, AND AGREED AS AN ACTION  
24    OF THE TRIBAL COUNCIL AND THE TRIBE.

25          Q.     WHAT DOES THIS REFER TO?

26          A.     IT REFERS TO THE FACT THAT ALL THE OFFICIAL  
27    ACTIONS OF GT TRIBE WERE MADE BY WRITTEN RESOLUTIONS  
28    LIKE RESOLUTION 37 WITH THIS LANGUAGE THAT SAYS OKAY

1 THIS IS WHAT WE'RE DOING TODAY AND WHAT THEY WERE DOING  
2 IS THEY WERE ACKNOWLEDGING THAT NUMBER ONE THE  
3 DEVELOPMENT AGREEMENT WAS ADOPTED WITH RESOLUTION 10,  
4 THEY'RE SAYING THAT IT WAS, THAT IT WAS REAFFIRMED AND  
5 RATIFIED IN RESOLUTION 17, THEY'RE SAYING THAT IT WAS,  
6 AND THEY'RE SAYING THAT THEY'RE GOING TO TAKE THAT  
7 AGREEMENT AND AMEND IT AND MODIFY AND ASK THE AMENDMENT  
8 AND NOD OCCASION -- AND THAT AGREEMENT AS AMENDED AND  
9 MODIFIED ARE ADOPTED AND APPROVED AS AN OFFICIAL ACTION  
10 OF GT TRIBE.

11 Q. WAS THIS IMPORTANT FOR SMDC?

12 A. YES IT WAS.

13 Q. WHY?

14 A. BECAUSE IT SAID IN THE SMDC AGREEMENT THAT ONLY  
15 A MODIFICATION IN WRITING WAS BINDING AND THIS WAS  
16 SHOWING THAT WE WERE SERIOUS ABOUT THAT, THAT ONLY --  
17 EVERY MODIFICATION HAD TO BE IN WRITING, THIS WAS IN  
18 WRITING.

19 THE COURT: AND IS YOUR TESTIMONY THAT RAE  
20 LAMOTH SIGNED THIS AT SOME POINT.

21 A. YES.

22 THE COURT: BUFF IT'S NOT HERE.

23 MR. FORDYCE: YOUR HONOR I THINK YOU'LL SEE A  
24 SIGNATURE BLOCK IN EXHIBIT A AND MS. LAMOTH CAN TESTIFY  
25 TOMORROW I SUPPOSE AS TO WHETHER SHE DID OR DIDN'T SIGN  
26 IT.

27 THE COURT: OKAY.

28 MR. FORDYCE: SO MR. STEIN MOVING TO THE NEXT

1 BE IT RESOLVED FURTHER ON BATES 0511, BE IT RESOLVED  
2 FURTHER THAT THE DEVELOPMENT AGREEMENT?

3 A. BE IT RESOLVED FURTHER THAT THE DEVELOPMENT  
4 AGREEMENT AS AMENDED AND MODIFIED BY THE MODIFICATION BE  
5 AND HEREBY IS DECLARED TO BE AN EFFECT, VALID AND  
6 BINDING OBLIGATION OF THE TRIBE AND THE TRIBAL COUNCIL  
7 AND TRIBAL SECRETARY SAM DUNLAP IS HEREBY AUTHORIZED TO  
8 EXECUTE THE MODIFICATION IN THE FORM SET FORTH AS  
9 EXHIBIT A ATTACHED HERETO ON BEHALF OF THIS TRIBAL  
10 COUNCIL AND THE TRIBE.

11 Q. WHY IS THIS IMPORTANT TO SMDC?

12 A. BECAUSE IT PUTS THEM ON RECORD AS SAYING THAT  
13 THE SMDC AGREEMENT AS OF JANUARY 27TH, 2002 WAS VALID  
14 AND BINDING AND EFFECTIVE SO THAT IF THEY LATER COME  
15 BACK AND SAY OH THERE WAS SOME UNDISCLOSED  
16 ATTORNEY-CLIENT RELATIONSHIP THAT SOMEHOW WAS CREATED  
17 AND THEREFORE, WASN'T BINDING AND EFFECTIVE THAT WOULD  
18 RUN SMACK INTO THE FACT THAT SMDC, THEY HAD SAID THAT IT  
19 WAS WITH THE TRIBAL GENERAL COUNSEL ON BOARD IN JANUARY  
20 OF 2002.

21 Q. AND TURNING TO BATES '05 18 WHICH IS THE LAST  
22 SUBSTANTIVE PAGE OF EXHIBIT A TO RESOLUTION 37 WHICH IS  
23 NOW OUR EXHIBIT 15 47 DO YOU SEE MR. DUNLAP'S SIGNATURE  
24 ON '05 18.

25 THE COURT: '05 12.

26 MR. FORDYCE: '05 18 YOUR HONOR.

27 THE COURT: 18.

28 MR. FORDYCE: CORRECT.

1 MS. IBARRA: SO.

2 THE COURT: THAT'S A DIFFERENT AMENDMENT.

3 MR. FORDYCE: THAT'S EXHIBIT 15 47 YES IT'S THE  
4 RESOLUTION?

5 A. SO THE RESOLUTION AUTHORIZED HIS SIGNATURE, I  
6 SAW HIM SIGN ON JANUARY 27TH, THAT SIGNATURE AND I  
7 SIGNED MY SIGNATURE AND I BELIEVE RAE LAMOTH SIGNED HER  
8 SIGNATURE.

9 Q. THE NEXT BE IT FURTHER RESOLVED, THAT THE  
10 TRIBAL SECRETARY BE AUTHORIZED AND EMPOWERED?

11 A. BE IT FURTHER -- YOU SKIPPED ONE MAYBE.

12 Q. OH DID I, I APOLOGIZE, I DID. BE IT FURTHER  
13 RESOLVED THAT IT IS THE EN TEXT OF THE TRIBAL COUNCIL?

14 A. AND THAT IS -- THAT WAS THE SAME LANGUAGE WE'VE  
15 SEEN BEFORE THAT THE TRIBAL COUNCIL BIND THE TRIBE AND  
16 ANY SUCCESSOR AND RELATED ENTITY, IT SAYS THE COUNCIL IS  
17 ACTING ON BEHALF OF THE ORGANIZATION AND THAT IT'S ALSO  
18 ACTING ON BEHALF OF MY SUCCESSORS OR RELATED ENTITIES OF  
19 THE ORGANIZATION.

20 Q. AND GETTING US BACK IN ORDER THANK YOU FOR THE  
21 NEXT BE IT REV SOLVE THAT THE TRIBAL SECRETARY?

22 A. BE IT RESOLVED THAT THE TRIBAL SECRETARY BE  
23 AUTHORIZED AND EMPOWERED TO CERTIFIED THESE RESOLUTIONS,  
24 THAT WAS THE CERTIFICATION THAT SAM DUNLAP GAVE AND IT'S  
25 SHOWING THAT THE TRIBAL COUNCIL IS AUTHORIZING THE  
26 SECRETARY TO CERTIFY IT AND THEN WHAT HAPPENS IS THE  
27 CERTIFICATION BY THE SECRETARY THEN TURNS AROUND AND  
28 SAYS THAT IS IN FACT THE TRIBAL COUNCIL.

1 Q. AND THEN THE LAST BE IT RESOLVED, THIS IS --  
2 WE'VE SEEN THIS ON SEVERAL OF THE OTHER RESOLUTIONS;  
3 CORRECT?

4 A. RIGHT. AND THE PURPOSE OF THE, TO DO SUCH  
5 FURTHER ACTS AS MADE TO BE DEEM OR NECESSARY TO BE  
6 APPROPRIATE TO CARRY OUT PURPOSES, IT'S A COVENANT TO GO  
7 FORWARD AND CARRY OUT THE SMDC AGREEMENT, NOT TO TRY TO  
8 UNDERMINED IT BUT SAYING SOMETHING DIDN'T HAPPEN WHEN IT  
9 DIDN'T, BY SOMETHING -- THERE WAS AN ATTORNEY-CLIENT  
10 RELATIONSHIP WHATEVER, WHAT THIS SAYS IS YOU'VE GOT A  
11 COVENANT GOING FORWARD TO CARRY OUT THE PURPOSES AND  
12 INTENT OF THE THIS RESOLUTION WHICH IS WHICH WAS TO FIND  
13 THE SMDC AGREEMENT VALID AND BINDING.

14 Q. AND LOOKING AT THE CERTIFICATION, YOU SEE FOUR  
15 SIGNATURES, DID YOU WITNESS THESE SIGNATURES?

16 A. YES, I DID.

17 Q. LET'S MOVE ON TO THE -- WHAT IS NOW OUR EXHIBIT  
18 15 47 AND --.

19 THE COURT: IS THERE SOME REASON WHY THE OTHER  
20 SIGNATURES AREN'T THERE?

21 A. I AM SURE THAT CINDY ALVITRI DID NOT SIGN THIS,  
22 SHE MISSED JUST BE EVERY TRIBAL COUNCIL MEETING AFTER  
23 HER APPOINTMENT AND ANOTHER TRIBAL COUNCILMEN EVENTUALLY  
24 ASKED HER TO STEP OFF THE TRIBAL COUNCIL AND SHE DID.  
25 VIRGINIA CARMELO, I DON'T KNOW IF SHE WAS IN SANTA  
26 MONICA THAT DAY OR NOT. I KNOW THAT SHE TESTIFIED THAT  
27 AT ONE POINT SHE DIDN'T SEE THE AGREEMENT. SHE MAY HAVE  
28 BEEN REFERRING TO HER SIGNATURE BEING MISSING HERE, I

1 DON'T KNOW IF SHE WAS, BUT I DO RECALL RAE LAMOTH BEING  
2 PART OF THIS AND SIGNING IT BECAUSE SHE HAD WRITTEN THE  
3 AMENDMENT AND MODIFICATION THAT IT ADOPTS.

4 THE COURT: RAE LAMOTH WROTE THIS ONE?

5 A. YES.

6 THE COURT: OR ARE YOU TALKING ABOUT THE  
7 RESOLUTION OR ARE YOU TALKING ABOUT THE AMENDMENT?

8 A. BOTH AS SHE TESTIFIED.

9 Q. BY MR. FORDYCE: SO LOOKING AT THE.

10 THE COURT: I SEE --.

11 MR. FORDYCE: OH SORRY YOUR HONOR.

12 THE COURT: OKAY. SO MY -- I'M SORRY LET ME --  
13 SO YOU'RE SAYING LAMOTH WROTE RESOLUTION 37 AND THE  
14 ATTACHED AMENDMENT AND MODIFICATION?

15 A. RIGHT THAT WAS -- SHE CAME ON BOARD AS COUNSEL  
16 IN MAY OF 2001 AND SAID I REALLY WANT TO GET COMFORTABLE  
17 WITH THIS AGREEMENT, YOU KNOW, I WANT TO CLARIFY  
18 WHATEVER NEEDS TO BE CLARIFIED, SHE ACTUALLY CAUGHT SOME  
19 MISTAKES IN SOME OF THE MATHEMATICAL CALCULATION AND  
20 THEN BRING IT BACK TO THE COUNCIL AND SHE SPOKE WITH  
21 THEM AND I PHOTOGRAPH THAT SHE SPOKE WITH THEM BECAUSE I  
22 GOT LOTS OF PHONE CALLS FROM THE TRIBAL COUNCIL AND I  
23 KEPT SAYING SHE'S YOUR ATTORNEY DON'T TALK TO ME ABOUT  
24 IT AND THEN WE WENT INTO THE MODIFICATION AND YOU'LL SEE  
25 THAT ONE OF THE THINGS THAT MODIFIES IS SHOWING THAT NOW  
26 THEY HAD LEGAL ADVICE SO ON PAGE 5 18 IT MODIFIED THE  
27 AGREEMENT BY SAYING THAT SHE -- THAT SHE HAS REVIEWED  
28 THE AGREEMENT AND FOUND IT VALID AND BINDING.

1 THE COURT: SO WHAT HAPPENED WAS THE TRIBAL  
2 SECRETARY MR. DUNLAP DID YOU KNOW LAP, YOU SIGNED IT BUT  
3 RAE LAMOTH DIDN'T SIGN IT?

4 A. WE DID --.

5 THE COURT: BUT YOU THINK SHE SIGNED IT AT SOME  
6 POINT?

7 A. AS I SAID THREE COPIES OF THE FOUR WERE TAKEN  
8 OUT OF THE OFFICES OF TRIBAL COUNCIL.

9 THE COURT: WELL DID YOU SEE HERE SIGN IT?

10 A. I BELIEVE I DID.

11 THE COURT: SO YOU SAW?

12 A. WE HEAVY TESTIMONY IN THE ROUGH, WOULD YOU LIKE  
13 US TO BRING IN THE ROUGH TRANSCRIPT AS TO HER TESTIMONY  
14 ON THE POINT.

15 THE COURT: YOU CAN BRING IT, ALTHOUGH I THINK  
16 SHE'S GOING TO COME BACK, SO WE CAN ASK HER. I'M JUST  
17 ASKING IF YOU REMEMBER SHE SIGNING IT. IF YOU WERE  
18 THERE WHEN SHE SIGNED IT, IF SO THEN --

19 A. YES BUT I CAN'T SAY THE SAME FOR CINDY ALVITRI  
20 OR VIRGINIA CARMELO.

21 THE COURT: OKAY. AND JUST A QUESTION ABOUT --  
22 I GUESS THAT'S THIS IS A QUESTION TO ALL OF YOU, LAWYERS  
23 TOO, JUST REMIND ME IN ORDER FOR THESE TO BE VALID, THE  
24 RESOLUTIONS, WHAT DO THE BYLAWS OR GOVERNING AUTHORITY  
25 OVER THE TRIBAL COUNCIL SAY ABOUT THE NUMBER OF  
26 SIGNATURES YOU NEED IN ORDER FOR THESE RESOLUTIONS TO BE  
27 BINDING? AND I'M THROWING THAT OUT FOR EVERYBODY?

28 A. MAJORITY.



1 THE COURT: A MAJORITY.

2 MS. IBARRA: TO MY RECOLLECTION AS FAR AS I  
3 KNOW AND MY CLIENT CAN CORRECT ME, IS SHE DIDN'T HAVE  
4 GOVERNING DOCUMENTS UNTIL 2006 SO I DON'T -- THERE'S  
5 NOTHING FOR ME TO REFER TO AS TO WHAT THE RULES WERE IN  
6 2001 OR 2002.

7 THE COURT: MR. FORDYCE DO YOU HAVE ANY, MR.  
8 FORDYCE.

9 MR. FORDYCE: I'M NOT SURE, HONEST I THOUGHT IT  
10 WAS THE MAJORITY, BUT HONESTLY I DON'T KNOW YOUR HONOR.

11 THE COURT: SO THERE WERE NO GOVERN DOCUMENTS  
12 AS TO HOW MANY SIGNATURES YOU NEEDED?

13 A. RIGHT, UNDER THE CORPORATIONS CODE FOR  
14 UNINCORPORATED ASSOCIATIONS, YOU CAN EITHER HAVE  
15 GOVERNING DOCUMENTS OR YOU CAN HAVE WHAT ARE CALLED  
16 GOVERNING PRINCIPLES.

17 THE COURT: AND THEY THIS THESE THE GOVERNING  
18 PRINCIPLES?

19 A. THE GOVERNING PRINCIPLES ARE JUST WHAT YOU DO.  
20 SO IF YOU'RE A BOWLING LEAGUE AND YOU RAISE YOUR HANDS,  
21 IT'S A HAND RAISE. IF YOU'RE A CHURCH AND YOU SAY AMEN,  
22 IT'S AN AMEN, .

23 THE COURT: OKAY?

24 A. AGAIN, IT'S AN UNINCORPORATED ASSOCIATION, IT'S  
25 NOT A CORPORATION.

26 MS. IBARRA: WE SAY IT'S A TRIBE, BUT WE'VE  
27 BEEN THROUGH THIS.

28 THE COURT: WE'VE BEEN THROUGH THIS, I'M JUST

1 TRYING TO FIGURE OUT IF THERE'S ANYTHING THAT GOVERNS  
2 THE NUMBER OF PEOPLE THAT HAVE TO SIGN THESE RESOLUTIONS  
3 IN ORDER FOR THEM TO BE EFFECTIVE AND I DON'T KNOW, I  
4 HAVEN'T SEEN ANYTHING.

5 MS. IBARRA: I DON'T THINK THERE WAS ANYTHING  
6 WRITTEN AND I THINK THAT'S WHAT EVERYBODY IS SAYING IS  
7 THERE WAS NOTHING WRITTEN AT THIS TIME AND IT WASN'T  
8 UNTIL THEY WERE ENTERING INTO THE INVESTOR AGREEMENT  
9 WITH LIBRA THAT THEY HAD TO ACTUALLY SHOWING SHOW THEM  
10 THE GOVERNING DOCUMENTS SO THEN THIS FIFTH CONSTITUTION  
11 SO AT THIS POINT IT'S A CUSTOM AND PRACTICE.

12 THE COURT: WHICH DOESN'T REALLY TELL ME HOW  
13 MANY NEED TO AGREE IN ORDER FOR THESE THINGS TO BECOME  
14 EFFECTIVE.

15 MS. IBARRA: THERE'S DEFINITELY AMBIGUITY I  
16 WOULD AGREE WITH THAT?

17 A. WELL FROM SMDC'S POINT OF VIEW OF COURSE TO  
18 HAVE SOME SORT OF RULE THAT UNLESS ALL SIX SIGNED AND  
19 THEN WINK WINK AT EACH OTHER AND SAY OH IT'S NOT  
20 EFFECTIVE NOW THAT WOULD BE FRAUD, THAT WOULD BE FRAUD.

21 MS. IBARRA: I DON'T KNOW I THINK THERE'S -- I  
22 THINK IT'S A LITTLE BIT STRICTER REQUIREMENT FOR FRAUD,  
23 I MEAN THERE'S THE INTENT OF THE PARTIES.

24 THE COURT: OKAY WELL JUST LET'S KEEP GOING, IT  
25 SOUNDS LIKE THERE'S JUST SOME AMBIGUITY THERE BUT.

26 MR. FORDYCE: YOUR HONOR IT'S 11 59 AND WE'RE  
27 RIGHT AT THE BEGINNING OF THIS EXHIBIT, SHOULD WE CALL  
28 IT AND SHALL WE CALL IT, OBVIOUSLY I'M HAPPY.

1 THE COURT: IF WE'RE GOING TO START ON A ENOUGH  
2 DOCUMENT WE CAN DO THAT LATER.

3 MR. FORDYCE: VERY GOOD THANK YOU.

4 MS. IBARRA: SO IS MS. LAMOTH DOCUMENTS.

5 MR. FORDYCE: LET ME SEE IF I HAVE A RESPONSE  
6 BUT TO MY UNDERSTANDING SHE IS HERE TOMORROW 10:00 A.M..

7 THE COURT: SHE HASN'T SAID ANYTHING BUT  
8 YOU'VE --.

9 MR. FORDYCE: SHE SAID TOMORROW FINE, I JUST  
10 SENT HER A CONFIRMING E-MAIL ABOUT AN HOUR AGO BUT I  
11 DIDN'T HAVE A RESPONSE, SHE MAY BE IN A DEPO SO.

12 THE COURT: WE CAN JUST CONTINUE WITH MR.  
13 STEIN?

14 A. I'LL BE PREPARED THROUGH THE END OF THESE  
15 EXHIBITS WE'VE MARKED.

16 THE COURT: SO REMIND ME, WAS SHE THE LAST  
17 PERSON WHO WAS TESTIFYING.

18 MR. FORDYCE: CORRECT HER HONOR.

19 THE COURT: OKAY NOW I REMEMBER. AND I TOLD  
20 HER SHE NEEDS TO BE AVAILABLE BY TELEPHONE, SO SHE KNOWS  
21 SHE NEEDS TO BE AVAILABLE TO US.

22 MR. FORDYCE: I HAVE NOTHING TO SUGGEST IF  
23 SHE'S NOT AWARE OF THAT, IF INNING HAVE FOR NEGATIVES IN  
24 THE SENTENCE.

25 THE COURT: NO I'M GROWING WITH YOU I THINK WE  
26 MADE IT CLEAR TO HER THAT WE STILL HAVE JURISDICTION  
27 OVER HERE SO SHE CAN COMPLETE HER TESTIMONY.

28 MR. FORDYCE: YES YOUR HONOR SHE GOT BACK TO ME

1 PRETTY QUICKLY?

2 A. AND SHE'S TO MY UNDERSTANDING SHE'S SHOWN  
3 NOTHING BY COOPERATION THE WHOLE PROCEEDING.

4 MS. IBARRA: YEAH I WOULD SAY THAT'S CORRECT?

5 A. BUT I'LL BE REALLY TO FINISH THIS STUFF AND WE  
6 DO HAVE HER SIGNATURE ON THE 2003 AMENDMENT AND  
7 MODIFICATION, WE ACTUALLY HAVE IT TWICE.

8 MR. FORDYCE: YEAH.

9 THE COURT: SO THE OTHER THING I'M GOING TO  
10 TELL YOU JUST TO BE AWARE IS AT THE END OF THE CASE WHAT  
11 HAPPENS IS YOU ALL REVIEW THE EXHIBITS THAT WERE  
12 ADMITTED INTO EVIDENCE AND THEN YOU DECIDE -- YOU CAN  
13 MEET AND CONFER OVER IT AND MAKE SURE THAT WHAT THE  
14 COURT IS GOING TO LOOK AT, WHAT'S ACTUALLY IN EVIDENCE  
15 IS WHAT WAS ADMITTED, SO FOR EXAMPLE IF THERE'S A  
16 DOCUMENT THAT WAS REDACTED YOU HAVE TO MAKE SURE ALL THE  
17 REDACTIONS ARE THERE, IF THERE'S A DOCUMENT THAT HAS  
18 EXHIBITS ATTACHED IT IS INCUMBENT UPON THE PERSON WHO'S  
19 OFFERING THE EXHIBIT TO MAKE SURE THOSE EXHIBITS ARE  
20 ATTACHED RIGHT? SO IF THE AGREEMENT SAYS ATTACHED AS  
21 EXHIBIT A AND B THEN THE PARTY OFFERING IT HAS TO MAKE  
22 SURE EXHIBIT A AND B ARE ATTACHED, IF YOU HAVE DON'T  
23 HAVE THE ATTACHMENTS THEN IT GOES IN WITHOUT THE  
24 ATTACHMENTS BUT I CAN ONLY DO WHAT I CAN DO IF IT'S NOT  
25 COMPLETE BUT MY POINT IS JUST IF YOU HAVE THOSE  
26 ATTACHMENTS THEN WE CAN ACTUALLY ADD THEM AS LONG AS  
27 THEY HAVE BEEN ADMITTED, FOR EXAMPLE YOU SAID THAT SOME  
28 OF THE ATTACHMENTS ARE ELSEWHERE IN THE EXHIBITS, THEN

1 LET'S JUST COPY THEM AND THAT WAY EACH DOCUMENT IS  
2 COMPLETE IN AND OF ITSELF, EACH EXHIBIT IS COMPLETE.

3 MR. FORDYCE: YES YOUR HONOR UNDERSTOOD.

4 THE COURT: SO THAT'S AT THE END OF THE CASE  
5 BUT I'M JUST TRYING TO LET YOU KNOW THAT YOU NEED TO DO  
6 THAT. THE SOONER YOU CAN DO THAT THE BETTER BECAUSE IT  
7 HELPS THE COURT'S UNDERSTANDING BUT AT A MINIMUM AT THE  
8 END OF THE CASE, IF YOU WANT ME TO CONSIDER A DOCUMENT  
9 IN ITS ENTIRETY MAKE SURE ALL THE EXHIBITS ARE ATTACHED  
10 TO.

11 MR. FORDYCE: YES YOUR HONOR.

12 THE COURT: OKAY DID YOU WANT TO SAY SOMETHING  
13 I THOUGHT YOU --

14 A. (SHAKES HEAD.).

15 THE COURT: NO. SO NINE 45 OKAY BECAUSE WHAT  
16 HAPPENS IS YOU HAVE THINGS YOU WANT TO SAY TO ME AND WE  
17 NEED TO DISCUSS THEM BEFORE 10 WHEN WE'RE GOING TO START  
18 SO IF YOU CAN GET HERE AT NINE 45, AND MY I'M DONE WITH  
19 MY CALENDAR WE CAN TALK ABOUT THEM?

20 A. YOUR HONOR IF I CAN JUST MENTION YOU SAID THAT  
21 WE WOULD ON MONDAY MORNING WE WOULD FILE THE SECTION 4  
22 '02 ON QUANTUM MERUIT TOGETHER WITH THE EXHIBIT.

23 THE COURT: YES.

24 MR. STEIN: THE COURT WOULD WANT TO SEE THE  
25 EXHIBITS AND THAT IS IN THE BLACK NOTEBOOK AND THAT'S  
26 WHAT I WANTED TO SAY EARLIER AND IT WAS SERVED ON MS.  
27 IBARRA SUNDAY BEFORE NOON. WE HAD SAID FRIDAY NIGHT BUT  
28 IT IN FACT WAS SUNDAY BEFORE NOON. THERE'S A PROOF OF

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SERVICE THAT SHOWS.

MS. IBARRA: SO IT WAS SERVED LATE SO.

THE COURT: THERE WON'T BE ANY TESTIMONY UNTIL YOU GET YOUR OPPOSITION ON FILE AND I CAN RESERVE IT. I SERVED IT LATE, BUT I WON'T CONSIDER IT UNTIL YOU'VE HAD YOUR OPPORTUNITY TO RESPOND.

MS. IBARRA: THANK YOU.

MR. FORDYCE: THANK YOU.

THE COURT: ALL RIGHT I'LL SEE YOU TOMORROW.

MR. FORDYCE: INDEED. 12:03 PM.