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FILED

SEP 24 1996

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

Attorney for SHINGLE SPRINGS RANCHERIA

LODGED

IN THE UNITED STATES DISTRICT COURT

SEP 23 1996

FOR THE EASTERN DISTRICT OF CALIFORNIA

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

BY		)	NO. CIV-S-96-1414-DFL-JPM
10	SHINGLE SPRINGS RANCHERIA)	
11	Plaintiff,	)	[PROPOSED] <i>dy</i>
12	v.	)	ORDER DENYING APPLICATION
13	GRASSY RUN COMMUNITY SERVICES	)	FOR TEMPORARY RESTRAINING
14	DISTRICT, a public entity,	)	ORDER, VACATING JOINT
15	P.A. LE DOUX, in her official	)	STATUS REPORT ORDER.
16	capacity, SHARON HORNSTEIN, in	)	ESTABLISHING BRIEFING
17	her official capacity, DEBBIE	)	SCHEDULE ON CROSS-MOTIONS
18	FINCH, in her official	)	FOR SUMMARY ADJUDICATION,
19	capacity, DUFF DUFFIN, in his	)	AND STAYING REMAINING
20	official capacity, HORACE	)	CLAIMS
21	HOLMS in his official)	
22	capacity.)	
23	Defendants.)	

21 Plaintiff's Application for Temporary Restraining Order
22 came on regularly for hearing on September 20, 1996, in Courtroom
23 3 of the above-entitled District Court, the Honorable David F. Levi,
24 presiding. Plaintiff Shingle Springs Rancheria appeared through its
25 counsel Kronick, Moskovitz, Tiedemann & Girard, a Professional
26 Corporation, by Thomas W. Birmingham and Lyle W. Cook. Defendants
27 Grassy Run Community Services District, et al., appeared through
28

1 their counsel Johnson, Schachter, Lewis & Collins, by Robert
2 Johnson.

3 The Court, having read and considered the Application and
4 papers filed in support thereof and in opposition thereto, having
5 heard and considered the arguments of counsel, and GOOD CAUSE
6 APPEARING THEREFOR,

7 IT IS HEREBY ORDERED:

8 1. Plaintiff's Application for a Temporary Restraining
9 Order is denied, without prejudice to the Application being renewed,
10 in light of the stipulation of the parties as follows:

11 a. Defendants shall not take any action to obstruct
12 Plaintiff's use of the roads within the jurisdiction of the Grassy
13 Run Community Service District ("District"), including the placement
14 of additional boulders along said roads, and if others place
15 additional boulders along said roads, Defendants shall use their
16 best efforts to remove such boulders.

17 b. The use of District roads by large trucks transporting
18 material or equipment to or from the Shingle Springs Rancheria
19 ("Rancheria") shall be limited to the hours between 9:00 a.m. to
20 2:30 p.m.

21 c. Plaintiff shall pay to the District the cost of
22 repairing any damage caused to District roads by large trucks
23 transporting material or equipment to or from the Rancheria, and
24 Plaintiff shall post a bond in the amount of \$50,000.00 to secure
25 this obligation. Said bond shall extend to September 20, 1997, and
26 upon good cause shown, may be increased.

27 d. Defendants shall request that the contractor who most
28 recently resurfaced the District roads used to transport material

1 or equipment to or from the Rancheria inspect said roads and
2 estimate the cost of repairing damage, if any, caused by the use of
3 said roads by large trucks transporting material or equipment to or
4 from the Rancheria. Plaintiff and the District shall each pay fifty
5 percent of the cost of obtaining said estimate.

6 f. Plaintiff and Defendants shall establish a procedure
7 to resolve any dispute concerning the estimate of damages or the
8 extent of future damages, if any, resulting from the use of District
9 roads by large trucks transporting material or equipment to or from
10 the Rancheria. In the event the parties are unable to reach
11 agreement on a dispute resolution procedure, Plaintiff and
12 Defendants shall propose a procedure to the District Court, which
13 may then establish a procedure.

14 2. The Order Requiring Joint Status Report is vacated.

15 3. Cross-motions for partial summary adjudication on
16 issues concerning Defendants' authority to restrict Plaintiff's use
17 of roads within the District's jurisdiction shall be heard on
18 February 7, 1997, at 10:00 a.m.

19 a. Discovery related to such issues shall be completed
20 by December 20, 1996.

21 b. Defendants shall file their motion for partial summary
22 adjudication on such issues on or before December 20, 1996.

23 c. Plaintiff shall file its cross-motion for partial
24 summary adjudication and its opposition to Defendants' motion on or
25 before January 10, 1997.

26 d. Defendants shall file their reply, if any, to
27 Plaintiff's opposition and their opposition to Plaintiff's cross-
28 motion on or before January 17, 1997.

1 e. Plaintiff shall file its reply, if any, to Defendants'
2 opposition on or before January 24, 1997.

3 4. Until otherwise ordered by the Court, this action
4 shall be stayed with respect to all issues other than those issues
5 described in paragraph 3.

6
7 Dated: September 24, 1996

David P. Levi
DAVID P. LEVI
UNITED STATES DISTRICT JUDGE

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