

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

BIG LAGOON RANCHERIA, a
federally recognized Indian tribe,
*Plaintiff-Appellee/
Cross-Appellant,*

v.

STATE OF CALIFORNIA,
*Defendant-Appellant/
Cross-Appellee.*

Nos. 10-17803
10-17878

D.C. No.
4:09-cv-01471-
CW

ORDER

Filed July 8, 2015

Before: Harry Pregerson, Stephen Reinhardt, Alex
Kozinski, Diarmuid F. O'Scannlain, Susan P. Graber,
William A. Fletcher, Richard A. Paez, Jay S. Bybee, Milan
D. Smith, Jr., Morgan Christen and Jacqueline H. Nguyen,
Circuit Judges.

ORDER

The opinion filed June 4, 2015, and published at — F.3d —, 2015 WL 34998884, is amended as follows:

At slip opinion page six, line eight, insert a new footnote 1 after <district court.> but before <Id.> as follows:

<In *Seminole Tribe v. Florida*, 517 U.S. 44, 75 (1996), the Supreme Court held that Section 2710(d)(7) does not abrogate the states' Eleventh Amendment sovereign immunity. California's sovereign immunity is not implicated here, however, because the State has waived its immunity to suit in this context. See *Rincon Band of Luiseno Mission Indians of Rincon Reservation v. Schwarzenegger*, 602 F.3d 1019, 1026 (9th Cir. 2010).>.

At slip opinion page twelve, line eleven insert <under Federal jurisdiction in 1934 and was not> after <tribe was not> and before <recognized>.

At slip opinion page twelve, line fourteen insert <, 395> after <385>.

At slip opinion page eighteen, lines four–five remove <if the Secretary of the Interior approves the compact> and replace that text with <once the Secretary of the Interior prescribes procedures to govern gaming that are consistent with that selection>.

At slip opinion page eighteen, line seven insert <See 25 U.S.C. § 2710(d)(7)(B)(vii)> after <seeks.> and before <Big Lagoon Rancheria>.

With the foregoing amendments to the opinion, California's Petition for En Banc Panel Rehearing is **DENIED**. No subsequent petitions for rehearing may be filed.