

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 CALIFORNIA INDIAN LEGAL SERVICES)

5 Plaintiff,)

6 vs.)

7 NATIONAL ARCHIVES AND RECORDS)

8 ADMINISTRATION and NATIONAL)

9 ARCHIVIST BRADFORD WILSON, IN HIS)

OFFICIAL CAPACITY)

10 Defendants.)

Attachment
Attorneys of Record

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15 **UNITED STATES DISTRICT COURT**
16 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
17 **SAN FRANCISCO DIVISION**

18 CALIFORNIA INDIAN LEGAL SERVICES)
19 Plaintiff,)

20 vs.)

21 COMPLAINT FOR DECLARATORY AND
22 INJUNCTIVE RELIEF

23 NATIONAL ARCHIVES AND RECORDS)
24 ADMINISTRATION and NATIONAL)
25 ARCHIVIST BRADFORD WILSON, IN HIS)
26 OFFICIAL CAPACITY)

27 Case No.:

28 The Honorable

29 Defendants.)
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1 On July 6, 2026, plaintiff California Indian Legal Services (“CILS”), received a call
2 from a California Native American woman who shared that while she was researching her native

1 ancestry at the Archives at San Bruno, California, (“San Bruno Archive,” or “Archive,”) she was
2 told that it was closing and all the records were going to be moved to some unknown location.
3 The caller wanted CILS to stop the closure. The facility at San Bruno serves as both a National
4 Archives and a Federal Record Center, both of which are overseen by the National Archives and
5 Records Administration.

6
7 2. CILS could find no formal public announcement from defendants, National Archive
8 and Record Administration (“NARA”) and Bradford Wilson, regarding the closure of the
9 Archive. After searching NARA’s website for information which yielded no results, CILS found
10 a statement from NARA in a June 2, 2026 news article concerning federal employees being
11 displaced by the closure of the Archives.¹ Beyond the discussion of the Archives’ federal
12 employees’ union negotiations, there was no mention of when the closure would occur, where
13 documents would be relocated, and important to CILS, why California Tribes were not consulted
14 with before NARA made its decision to close the San Bruno Archive per NARA’s internal Tribal
15 Consultation Plan (policy).
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17

18 3. Since the initial June 2026 article, CILS has filled in some of the blanks left by NARA.
19 Tribal and Native American documents (Record Group 75) will transfer from the San Bruno
20 Archive to the National Archive in Denver, Colorado.² NARA held “Listening Sessions” with
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25 ¹ Drew Friedman, *National Archives to Transition Out of Three Centers*, Federal News Network
(June 25, 2026), <https://federalnewsnetwork.com/facilities-construction/2026/06/national-archives-to-transition-out-of-three-federal-records-centers/>.

26 ² *Research Updates*, National Archives <https://www.archives.gov/research/news>.
27 Relevant here, (NARA) will close the National Archives at Chicago/Chicago Federal Records
28 Center (FRC) and the National Archives at San Francisco/San Bruno. Record Group 75 currently
located at the National Archives at San Francisco will be relocated to Denver, Colorado.

1 Tribes on October 13th and 15th to share information on its decision to close the Archive and to
2 learn (after the fact) from Tribes and their representatives, the impacts of its decision.³

3 4. Not until October 5, 2026, did CILS learn of NARA's formal justifications for closing
4 the archives. In a response to House Representative Mullin (District Representative for San
5 Bruno) NARA claims that the Federal Records Center ("FRC") has underutilized space due to
6 the "government's transition to electronic recordkeeping" and the high costs associated with
7 maintaining and operating the San Bruno building.⁴

9 5. CILS, its client Tribes and Native Americans, has relied on the San Bruno Archive for
10 over 50 years. For the past several decades federal policy concerning closure and disposing of a
11 federal building that the public had a strong interest in, required public notice, engagement with
12 local governments and the public, as well as consideration of accessibility to services disrupted
13 by the closure. In 2025, there was a shift in policy and regulations eliminating public notice,
14 engagement and consideration of accessibility from the decision making process to vacate and
15 dispose of a federal owned building. When the public has come to rely on a policy that is later
16 dramatically changed the implementing agency must consider the public's reliance on former
17 policies and offer reasonable alternatives to closing of a federal building. NARA's decision to
18 close the San Bruno Archives did not evaluate or consider the reliance that CILS and others have
19 on the San Bruno Archives nor has NARA offered any alternatives to closing the facility and
20 relocating archival documents. Further, NARA's closure decision is inconsistent with its stated
21 mission and vision as the custodian of the peoples documented history.
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27 ³ *Researcher Updates*, National Archives <https://www.archives.gov/research/news>.

28 ⁴ Available at: <https://kevinmullin.house.gov/wp-content/uploads/2026/10/NARA-Closure-Response-Letter-10.5.26.pdf>

1 6. NARA's monumental decision to close the Archives without a full cost analysis,
2 factual details on the reduced FRC storage capacity at San Bruno or consideration of cost
3 burden on legal researchers like CILS, Tribes, the indigenous people of California, and others,
4 violates the Administrative Procedures Act ("APA") as a final agency decision that is arbitrary,
5 capricious, and an abuse of discretion. § 5 U.S.C. § 706(2)(A). CILS, seeks an order declaring
6 that NARA's decision to close the San Bruno Archive violates the APA and must be enjoined
7 from further actions to consummate the closure of the Archives.
8

9 10 **JURISDICTION**

11 7. The Court has jurisdiction pursuant to 28 U.S.C. § 1331 and 5 U.S.C. §§ 702. The
12 Court has authority to grant declaratory, injunctive, and other relief pursuant to 28 U.S.C. §§
13 2201–2202.
14

15 **VENUE**

16 8. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)(2) and 1391(e)(1).
17 CILS operates two field offices, 2355 Central Avenue, Suite C, McKinleyville, California and
18 106 K Street, Suite 300, Sacramento, California. These CILS offices serve Tribes and Native
19 Americans residing with 15 counties within geographic location of the Court. Assignment to the
20 San Francisco Division of this District is proper pursuant to Civil Local Rule 3-2(c) because
21 CILS' claims are district-wide and a substantial part of the property that is the subject of the
22 action is situated in San Francisco, California.
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PARTIES

9. CILS is a federally chartered non-profit, community-based law firm, established in 1967, which provides free and low-cost legal services to California Tribes and Native Americans. It has four offices regionally located in northern, central, eastern, and southern California to assist Tribes and individual Native Americans with legal issues involving questions of federal Indian law. CILS' principal Office is in Sacramento, California. To meet the legal needs of its clients, CILS has relied on and continues to rely on physical access to the historical tribal and relevant government agency documents and records stored at the San Bruno Archives. CILS brings this action to protect its interests in the archival records that are needed in timely performing its legal representation of California Tribes and Native Americans which can only be achieved by ensuring local, physical access to archival documents and records for CILS, California Tribes and Native people.

10. Defendant NARA is an independent agency of the Executive branch of the United States government, and is responsible for maintaining, preserving and making federal documents and records available and accessible to the public through the operation of the National Archives.

11. Defendant Bradford Wilson is the National Archivist of the United States and the official in charge of NARA. Archivist Wilson is sued in his official capacity.

SUMMARY OF FACTS

12. For nearly 60 years CILS has served as a non-profit legal services law program primarily representing individual Natives, groups and Tribes who are at or below the federal poverty level or composed of Native people at or below the poverty level and unable to retain

1 counsel. We are the only statewide, stand-alone Indian legal services program in the United
 2 States dedicated exclusive to the unique legal needs of the California Native community.

3 13. CILS' work relies on physical access to Tribal and Native American documents held
 4 at the San Bruno Archives. Some of CILS' most high profiled work for Tribal and Native
 5 American could not have been accomplished without the documents held at the Archive.
 6

7
 8 **a. Advisory Council on California Indian Policy Report ("ACCIP Report").**

9 Congress enacted the Advisory Council on California Indian Policy Act in 1992 to
 10 address the unique legal needs of the California Native community. CILS represented
 11 the Council and provided it with the historical documentation for its Final Report to
 12 Congress in 1997. This report is the only official document establishing the analytical
 13 framework for describing the unique needs of California Native people, the historic
 14 circumstances giving rise to these needs and proposing solutions to address those
 15 needs. *Advisory Council on California Indian Policy, Final Reports and*
 16 *Recommendations to the Congress of the United States*, Public Law 102-416
 17 (September 1997)⁵. This Report would have been nearly impossible without physical
 18 access to the San Bruno Archives. CILS and others addressing Tribal and Native
 19 American historical background reference and quote statements from or based upon
 20 the ACCIP Report.⁶
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25 ⁵ *ADVISORY COUNCIL ON CALIFORNIA INDIAN POLICY FINAL REPORTS AND*
 26 *RECOMMENDATIONS TO THE CONGRESS OF THE UNITED STATES PURSUANT TO*
 27 *PUBLIC LAW 102-416*, California Truth and Healing [https://catruthandhealing.com/wp-](https://catruthandhealing.com/wp-content/uploads/2021/05/accip_final_reports_pursuant_to_public_law_102-416_executive_summary_september_19971.pdf)
 28 [content/uploads/2021/05/accip_final_reports_pursuant_to_public_law_102-](https://catruthandhealing.com/wp-content/uploads/2021/05/accip_final_reports_pursuant_to_public_law_102-416_executive_summary_september_19971.pdf)
 416 executive summary september 19971.pdf.

⁶ Exhibit A: Declaration of Jay Petersen, CILS Attorney

1 **b. Restoration of California Tribes.** Under the California Rancheria Act of 1958 (Act)
2 as amended in 1964, 41 Tribes were slated for termination, 38 were terminated. CILS set out to
3 restore these Tribes' legally protected political status lost under termination and exemplifies our
4 need to physically access records at the San Bruno Archives. CILS successfully restored 27 of
5 the 38 terminated Tribes.

6
7 The Act sought to end the legally established and recognized trust relationship between
8 the select Tribes and the United States but only after the Tribes were prepared for the end of both
9 federal supervision and benefits. The United States immediately began to develop so-called
10 distribution plans that would control the conveyance of Tribal lands and end the political status
11 of Tribal members. By its terms, preparation included road construction and other infrastructure
12 improvements, including sewer and water systems and education and training for livelihoods and
13 civic participation.⁷

14
15 The Act required Tribes to consent to termination. Termination under the Act was
16 permissive only. It required a Tribal majority vote approval, and the United States was
17 powerless to override a rejection. Under the 1964 amendments, a majority of each Tribe,
18 excluding the original 41, had to request termination at the very outset of the process.

19
20 CILS lawyers and staff reviewed documents only accessible through the San Bruno
21 Archives and concluded, as described in the ACCIP Report, that the United States
22 misrepresented and, in some cases, fraudulently represented termination to the Tribes claiming
23

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25 ⁷ *ADVISORY COUNCIL ON CALIFORNIA INDIAN POLICY FINAL REPORTS AND*
26 *RECOMMENDATIONS TO THE CONGRESS OF THE UNITED STATES PURSUANT TO*
27 *PUBLIC LAW 102-416*, California Truth and Healing, 12-13. [https://catruthandhealing.com/wp-](https://catruthandhealing.com/wp-content/uploads/2021/05/accip_final_reports_pursuant_to_public_law_102-416_executive_summary_september_19971.pdf)
28 [content/uploads/2021/05/accip_final_reports_pursuant_to_public_law_102-](https://catruthandhealing.com/wp-content/uploads/2021/05/accip_final_reports_pursuant_to_public_law_102-416_executive_summary_september_19971.pdf)
[416_executive_summary_september_19971.pdf](https://catruthandhealing.com/wp-content/uploads/2021/05/accip_final_reports_pursuant_to_public_law_102-416_executive_summary_september_19971.pdf).

1 termination as an accomplished fact and that voting to accept termination was their best way to
2 ensure some measure of federal assistance as the United States ended their trust responsibility to
3 California Tribes.⁸

4 In a single class action, CILS restored the political existence to 17 Tribes. (*Hardwick v.*
5 *United States*, C-79-1710 (ND Cal. 1983) (SW). Other Tribes were restored through both
6 litigation (e.g. *Table Bluff Band of Indians, v. Watt*, 532 F. Supp. 255 (ND Cal. 1981); *Scotts*
7 *Valley Band, et al., United States*, No C-86-3660 (ND Cal. 1986) (VRW)) and by legislation
8 (e.g. *Paskenta Band Restoration Act* 25 USC §1300m et seq.⁹

9
10 This entirety of the Termination Act's process could only be fully understood and
11 compliance assessed with physical access to the foundational documents underlying that process.

12
13 For those Tribes slated for termination, their documents are contained in the San Bruno
14 Archives as "Record Group 75" now destined for Denver, CO.

15 Held at the Archives are 2,500 cubic feet of Tribal and Native American documents with
16 each cubic foot representing tens of thousands of pages of material, being transferred to Denver
17 and at some unknown time in the future transferred for digitizing presumably at the Digitization
18 Center in College Park, Maryland. These documents contain the legal descriptions of parcels that
19 were conveyed to Tribal members in fee simple, the United States prepared draft distribution
20 plans, Tribal meeting notes where the plans were reviewed and approved in the presence of
21 United States officials, correspondence between the United States, Tribal officials and individual
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27 ⁸ *Id* at 12,13

28 ⁹ Exhibit A: Declaration of Jay Petersen, CILS Attorney

1 Tribal members, vote tallies on plans and post-termination organizational documents, and many
2 more “meta-data documents”.

3 The Archives hold other irreplaceable documents essential to the California Native
4 community whose value depends on their meta-data aspects only practically available through
5 actual physical inspection. These documents include the California census rolls and field notes
6 compiled under the California Indians’ Jurisdictional Act of 1928 and the Indian Claims
7 Commission Act of 1946. The United States prepared these rolls for compensation for land taken
8 and benefits lost because of the United States’ failure to ratify 18 negotiated treaties with
9 California Tribes. These census rolls purport to represent all Native people residing in California
10 on June 1, 1852. The rolls are routinely used to determine eligibility for federal benefits reserved
11 exclusively for Native people and for Tribal membership based on lineal descendancy from
12 individuals identified in the census rolls. (See, 25 U.S.C. §1679 California Indians eligible for
13 Indian health care based on being a descendant of an Indian residing in California on June 1,
14 1852).

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17 **c. Petitions for “Fee-to-Trust.”** Beyond the restored Tribes’ documents, the San Bruno
18 Archives currently holds permeant records for 59 of the 109 federally recognized Tribes in
19 California. None of the Tribal documents at the Archive have been digitized and access is limited
20 to physically viewing the document. Losing this physical access would limit CILS’ ability to
21 timely prepare its Tribal clients’ petitions for placing tribally owned fee lands into trust through
22 the Bureau of Indian Affairs (“BIA”) transfer process. A “fee to trust (‘FTT’)” petition requires
23 a Tribe to establish that it was “under federal jurisdiction” in 1934. Meeting this requirement has
24 and does require CILS and Tribes to review archival documents dating back to 1934 and earlier.
25 Requiring CILS or a tribal representative to travel to Denver CO to view documents to support a
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1 FTT petition is cost prohibitive for CILS as a non-profit and for Tribes with little to no economic
2 means.

3 **d. Petitioning for Federal Recognition.** There are 62 unrecognized Tribes in California.
4 While not all unrecognized Tribes seek federal recognition under 25 C.F.R. Part 83, CILS has
5 and does assist Tribes that embark on this long and extensive process. Federal recognition
6 regulations, administered by the Office of Federal Acknowledgment (“OFA”) under the BIA,
7 requires petitioners to produce documentation from 1900 to the present showing that they were
8 and are a “distinct community” (e.g. externally acknowledged, maintained political influence, the
9 historical members of the Tribe, etc.). CILS, working with tribal members and researchers
10 (usually volunteers), relies on the Archive for most of the documents needed to meet the OFA’s
11 regulatory requirements. While some information can be gained through other sources, the
12 Archives hold the historical boarding school records, official BIA communication with the Tribe
13 dating back to 1900 and earlier, Indian allotment records, and internal government
14 communication regarding the Tribe that are discoverable only through the Archives’ BIA
15 records.¹¹
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20 **f. California Public Domain Allotments.** The General Allotment Act of 1887
21 authorized the setting aside of individual parcels of land from the public domain as allotments
22 for Native people not living on reservations. In 1910, a separate law authorized the setting aside
23 of land from national forests as possible allotments for Native people.
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28 ¹¹ Exhibit B: Declaration for Dean Tonenna, Mono Lake Kootzaduka's Tribal Elder.

1 At one time, there were more than 2,500 public domain allotments (“PDA”) in California
2 encompassing more than 336,000 acres. Today, there are 268 PDAs comprising about 17,400
3 acres. These PDAs are scattered throughout California but are most prominent in central and
4 eastern California. Many, if not most, PDAs are held by California Natives who are not
5 members of any federally recognized Tribe. Even though PDAs are held in trust by the federal
6 government, the BIA expends little money or resources addressing the issues facing the allottees
7 such as trespass on their land and issues of access (many PDAs are landlocked).
8

9 In 2021, CILS helped organize PDA allottees and formed the California Public Domain
10 Allottees Association (“CAPDAA”). One of the first goals of CAPDAA was to collect the
11 historical and legal documents of the PDAs throughout the state. CILS, along with CAPDAA
12 members conducted research at the San Bruno Archives which holds the PDA records and
13 documents. This research produced maps, land descriptions, title records, and other valuable
14 information.
15

16 The San Bruno Archives holdings are also essential to an upcoming CAPDAA project
17 that will document the ways in which more than 315,000 acres of allotment land were lost not
18 including National Forest allotments. These documents for Public Domain and National Forest
19 allotments are available only through the San Bruno Archives and we will need physical access
20 to these Record Group 75 files for legal assessment about the context in which this acreage was
21 lost—shady practices, less than arm’s length dealings, factual and legal misrepresentations and
22 other predatory practices. We will also legally evaluate the potentially hundreds of applications
23 involving thousands of acres for National Forest allotments stored in the Archives and never
24 processed.¹²
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28 ¹² Exhibit C: Declaration for Marty Meeden, Chairman of CAPDAA.

1 **g. Representation of Native Americans.** CILS' work with individual California Native
2 Americans also leads CILS, and in one case the BIA, to the San Bruno Archives. Illustrative of
3 the need to have access to the San Bruno Archives is a case involving a CILS client with an
4 allotment that required BIA confirmation that the land was still held in trust status. CILS' client
5 came to CILS concerned that non-Indians were residing on his allotment. After several
6 communications with the BIA Central Agency office and acquiring a Title Status Report, it was
7 confirmed that the allotment was still in trust status.
8

9 After notifying the non-Indian residents of their trespass, the local Title Company
10 representing the residents provided CILS with 1948 documents showing the allotment had been
11 removed from trust status and that the fee parcel had been subdivided and legally sold to the
12 current residents. CILS contacted the BIA to confirm the documents submitted from the Title
13 Company and was informed that BIA would need to search the San Bruno and Riverside
14 Archives to verify the documents we had submitted.
15

16 Almost one year (11 ½ months) later the BIA notified CILS that its search resulted in no
17 documents verifying the Title Company's documents, but that the BIA would accept the
18 Company's documents as valid and remove our client's allotment from trust status. An 11 ½
19 month wait to search documents in California Archives only adds to the concern that BIA
20 requests for documents in an Archive over 1,000 miles away will take even longer.
21

22 14. While digitizing all permanent Archive documents is the intent of NARA, the reality
23 is this herculean undertaking will take several, if not more, years to accomplish. In the
24 meantime, CILS, California Tribal and Native American documents will be physically out-of-
25 reach and inaccessible. Relying on the BIA to request a search does not appear to expedite or be
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given priority by an Archive. An 11 ½ month search time is unreasonable and unacceptable.¹³

15. The transfer of records and the closure of the Archives will materially obstruct CILS' ability to represent Tribes and the statewide Native community and fulfill our non-profit purpose. Access to "digitized" copies is not sufficient for CILS' s work. Digitized documents deprive us of access to address the contextual data needed to understand the complete historic context of a legal event. Reliance on digitized documents inhibits CILS' ability to fully assess factual and legal misrepresentations, failures to disclose material facts, and evaluate less than arms-length negotiations/transactions and other scrupulous practices that can cloud and undermine honest and transparent decision-making circumstances, making them legally suspected and challengeable.

LEGAL ARGUMENT

16. NARA is the record keeper for the citizenry. In its May 30, 2026, *FY Congressional [Budget] Justification*,¹⁴ NARA presented to Congress that:

"The vision, mission, and strategic goals confirm NARA's commitment to openness, transparency, and citizen engagement through public access to government records. NARA's strategic framework adds context and a higher purpose to NARA operations, drives increased coordination between NARA programs, and sets priorities for improved resource allocations.

MISSION

We will preserve the records of the United States and make them available to the American people.

VISION

We will embrace a shared commitment to transparency by opening access to records – physical or digitally – and engage in opportunities to share records widely in order to bring the American people closer to their history and story.

¹³ Exhibit D: Declaration for Michael Godbe, CILS Attorney.

¹⁴ *National Archives FY 2026 FY 2026 CONGRESSIONAL JUSTIFICATION*, National Archives (May 30, 2025), <https://www.archives.gov/files/about/plans-reports/performance-budget/2026-nara-congressional-justification.pdf>.

STRATEGIC GOALS

NARA's strategic goals identify the four key areas in which NARA must excel in order to efficiently and effectively deliver its mission in a modern environment.

1. Discover, access, organize, process and make historical materials available to all Americans to the maximum extent possible.

2. Ensure the highest standards of preservation are being applied to NARA's holdings, preserving American history for future generations.

3. Share NARA's holdings with the American people and the wider world in bold and creative ways. Celebrating the Semi-quincentennial in 2025 and 2026 is excellent example of an opportunity to put this priority into action.

4. Continue modernization of federal records management and digital preservation of archival electronic records

17. NARA's stated mission, vision and Strategic Plan is consistent with the congressional purpose for the establishment of the agency dating back to 1934. While NARA became an independent agency from the General Administrative Service in 1984 under the National Archives and Records Administrative Act (Pub. L. No. 98-497, 98 Stat. 2280), the Act maintained NARA's core function to collect, manage, and preserve the government's records for public.¹⁵ According to NARA's reorganizational structure it is founded on:

"NARA's organizational structure focuses agency resources and management attention on delivering coordinated and effective services to key stakeholders and customers. NARA's customer-focused organizations allow the agency to better engage its stakeholders, encourage their collaboration and participation, and respond to their needs expediently and efficiently. This structure optimizes operations by reducing managerial layers, grouping functions, and streamlining operations to improve efficiency and enhance NARA's service to the public."¹⁶

¹⁵ National Archives and Records Administration, codified in large part under 44 U.S.C. §§ 2104, 2107(a)(3), 2109, 2114, and 2203(g)(1) (Pub. L. 90-620 1968).

¹⁶ *Id.* at 4.

1 18. NARA's decision to close the San Bruno Archive without stakeholder engagement,
2 collaboration, and participation clearly does not respond to the needs of those who rely on the
3 Archive in an expeditious and effective manner. NARA's decision will result in the constructive
4 denial of plaintiff's access to the documents necessary to provide effective legal services to its
5 Tribal and Native American clients. NARA's decision is inconsistent with its authorizing
6 legislation, mission, vision, and 2026 Strategic Plan. NARA's action is arbitrary, capricious and
7 an abuse of its agency discretion.
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11 **A. CLAIMS OF UNDERUTILIZED SPACE IS NOT JUSTIFICATION FOR**
12 **CLOSING SAN BRUNO ARCHIVE**

13 19. A justification for NARA's need to close San Bruno Archives is that with advent of
14 the digital age, physical storage for federal agencies' paper (analog) documents and records is
15 increasingly unnecessary. NARA cites to Office of Budget and Management ("OMB")
16 Memorandum M-23-07 to stress that all federal agency documents must be submitted to NARA
17 in electronic form as of 2024. Accordingly, this mandate has resulted in less need for FRC
18 storage. Because the San Bruno building houses both a FRC and an Archive, the reduction in
19 FRC storage space has resulted in an overall underutilization of the building.
20

21 20. NARA offers no factual information or data to support its FRC claim at San Bruno.
22 While this justification is certainly NARA's goal and objective, the reality is to the contrary.
23 Simply transitioning to electronic records does not automatically eliminate the need for FRC
24 storage of federal agency documents.
25

26 21. To understand the purpose of a FRC, it is important to understand what federal
27 documents are in storage. Federal agencies generate internal documents concerning agency
28

1 functions and operations but also receive external documents from the public depending on the
2 agency's function. This distinction is captured in a recent Bureau of Trust Funds
3 Administration's ("BTFA") Tribal Consultation notice to Tribes informing them that it is
4 updating its Indian Affairs "Records Schedule". BTFA groups the agency's documents into
5 seven categories. The documents in each category are described in general terms, for example
6 category 0001 documents are described as routine documents for administrative support or
7 program activities and do not warrant permanent retention after 25 years. Other documents are
8 described as containing historically significant events and decisions across Indian Affairs' and
9 include "Agreements covered under this item include any treaty, convention, or cooperative
10 agreement to which the United States is a party and for which DOI or its component bureaus or
11 offices hold substantial implementation responsibilities" making these documents presumably
12 "permanent" and retained indefinitely once moved over to the Archives.¹⁷

15 22. Each category of federal agency documents has a "shelf-life" depending on the
16 document set. If the document is labeled "temporary" it means it holds no intrinsic value. As
17 presented by NARA it suggests that federal agencies' current documents will be electronically
18 submitted to NARA via the Electronic Records Archives ("ERA") 2.0 system and the paper or
19 "source" document will no longer need to be retained (need not be stored). This is not the case;
20 even "temporary" documents must be retained until they are made part of the agency's Records
21 Schedule ("Schedule") which is prepared every five years. These Schedules are submitted to
22 NARA for approval. (36 C.F.R. § 1225.1 et. seq and 36 C.F.R. § 1236.30 et. seq). Under this
23
24

27 ¹⁷ *Indian Affairs Records Schedule – Trust, Tribal Government, and Program Records (Record*
28 *Group 75)*, Bureau of Indian Affairs (Sept. 25, 2026),
https://www.bia.gov/sites/default/files/dup/tcinfo/rg_75_schedule_draft_solversion.pdf.

process, even if electronically submitted, an agency's "temporary" paper/source document must still be retained (stored) for a period established under its Schedule.¹⁸

23. The scanning of federal agency "permanent" documents is addressed under 36 C.F.R. § 1236.40. While these documents are required to be electronically scanned and submitted under the ERA 2.0 system, their retention period is indefinite and held in storage until absorbed into the Archives¹⁹. Under § 1236.40 (g), agencies are informed that:

"(g) This subpart also does not address other business needs or legal constraints that may make it necessary for an agency to retain (permanent) source records for a period of time after digitizing. Agencies should work with their legal counsel and other officials to determine whether such retention might be necessary because it relates to rights and interests, appeal rights, benefits, national security, litigation holds, or other similar reasons."

24. Under NARA guidelines, "permanent" documents should be retained indefinitely if they have "intrinsic value." Factors that NARA looks to are:

- Physical form that may be the subject for study if the records provide meaningful documentation or significant examples of the form;
- Aesthetic or artistic quality;
- Unique, curious, or historical physical features or formats;
- Age
- Value for use in exhibits
- Questionable authenticity, date, author, or other characteristics that is significant and ascertainable by physical examination²⁰.

¹⁸ *Current Records Schedule*, National Archives Federal Records Management (Oct. 23, 2024), <https://www.archives.gov/records-mgmt/grs.html>.

¹⁹ Michigan State University College of Law, *Indian Affairs Records Schedule; A Preliminary Record-by-Record Comparison of Current and Proposed Retention Policies*, Indigenous Law and Policy Center 1-28 (2026).

²⁰ National Archives Federal Records Management (Sept. 20, 2007), <https://www.archives.gov/files/about/policies/nara1441.pdf>.

1 25. A reduction in file storage at the FRC maybe the product of older “temporary”
2 documents having reached their retention deadline, not because of the new electronic document
3 mandate requirements placed on federal agencies. NARA does not explain whether the
4 reduction in FRC occurred before or after its decision to close the San Bruno Archive, leading
5 one to wonder whether the moving of FRC documents out of San Bruno was done to support an
6 argument for underutilized space at the facility. There is no cost analysis for moving those
7 documents to another FRC or returning them to the federal agencies who own the documents for
8 agency storage at some other undisclosed facility.
9

10 26. Additionally, “permanent” documents and records are also held in FRCs until such
11 time they can be accessioned (transferred) to the Archives where they will be held indefinitely.
12 What is not clear from NARA’s claim of underutilization is what storage will continue to be
13 needed to hold more current federal agency source documents (both “temporary” and
14 “permanent”) after electronic transfer pending an expiration of a documents retention date or
15 accessioned into the Archives.
16

17 27. Finally, NARA has failed to address in its decision making that in its quest to
18 transition to electronic documents, will these documents be available to the public in an
19 “efficient and effective” manner, NARA’s Office of Inspector General (“OIG”) says no. In a
20 2025 NARA Audit Report, OIG found that the ERA 2.0 system to be insufficient to absorb the
21 massive number of documents being electronically transferred from federal agencies. OGS
22 concluded that the ERA 2.0 system could not manage the volume of documents and that:
23
24

25
26 “NARA needs to improve its preparedness to accept electronic records with the Electronic
27 Records Archives (ERA) 2.0 system. NARA does not presently have the technical
28 capability to ingest large data sets of electronic records, including those that have already
been accessioned. Without sufficient ERA 2.0 infrastructure, scalable upload processing

capabilities, and the ability to handle large file sizes, NARA's capacity to respond to record requests effectively and efficiently is significantly reduced."²¹

28. The OIG audit instills little confidence in NARA's ability to adequately absorb and make available current electronically created federal agency documents, temporary or permanent. The failure of the ERA 2.0 system demonstrates that poor planning and perhaps unrealistic expectations can result in unintended consequences.

29. With NARA's repeated claim that CILS, Tribes and Native Americans will have continued access to San Bruno archival documents once moved to Denver because the documents will be, at some unknown date, digitized and available online is unrealistic, irrational, or not supported by any evidence, data, or documentation from NARA. CILS fears that the future promise of digitizing archival documents needed to represent its clients and communities being accessible and available online could suffer the same fate at the failed ERA 2.0 system.

30. NARA's decision to close the San Bruno Archive, because storage needs at the FRC housed in the same building will no longer be needed to store federal agency documents without more is arbitrary, capricious, and an abuse of its discretion. As shown above, a federal agency's transition to electronic recordkeeping does not automatically eliminate the millions of paper records already sitting in FRCs. NARA has demonstrated only that it wishes to consolidate storage, not that the San Bruno facility itself lacks a continuing need.

**B. THE SHIFT IN FEDERAL PROPERTY MANAGEMENT REQUIRES
NARA TO CONSIDER PLAINTIFF'S RELIANCE ON PRIOR POLICY AND
OFFER ALTERNATIVES**

²¹ *Audit of NARA's Compliance with Office of Management and Budget Memorandum M-23-07*, National Archives (Sept. 8, 2025), <https://www.oversight.gov/sites/default/files/documents/reports/2025-09/OIG%20Audit%20Report%20No.%2025-AUD-04.pdf>.

1 31. For decades, federal agencies, local governments, tribes, preservation organizations,
2 researchers, and the public operated under a framework in which federal facility citing decisions
3 were expected to consider historic properties, central business districts, community impacts, and
4 consultation with the public and local officials. Those expectations were met in Executive Orders
5 13006 (1994) and 12072 (1998) and later incorporated into the 2024 version of 41 C.F.R. Part
6 102-83.
7

8 32. In April of 2025, the President issued Executive Order 14274 “Restoring Common
9 Sense to Federal Office Space Management” repealed Executive Orders 12072 and 13006 and
10 directed the GSA to amend 41 C.F.R. Part 102-83.²² GSA has repealed and reserved Part
11 102-83. (90 Fed. Reg. 58408 (Dec. 16, 2025)).
12

13 33. The shift in federal property management and facility closure and disposal policy which
14 once involved community engagement and weighing issues of accessibility, is now governed by
15 agencies selecting the most “cost-effective facilities” and there are no regulations to guide
16 agencies in making the selection except cost savings. Agency decisions made under a shift of
17 policy and repeal of controlling regulations, must consider both “serious reliance interests”
18 engendered by that policy and “reasonably obvious alternatives.” *A.C.R. v. Noem*, 809 F.Supp.3d
19 103 (2025) citing *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515, 129 S.Ct. 1800, 173
20 L.Ed.2d 738 (2009); *Yale-New Haven Hosp. v. Leavitt*, 470 F.3d 71, 80 (2d Cir. 2006). The court
21 in *A.C.R.* held: “USCIS failed to consider reliance interests and reasonably obvious alternatives
22 here, likely rendering its decision to rescind SIJS-DA arbitrary and capricious.” *Id.* 121.
23
24
25
26

27 ²² *Executive Order 14274—Restoring Common Sense to Federal Office Space Management*,
28 White House. gov (Apr. 15, 2025), <https://www.govinfo.gov/content/pkg/DCPD-202500484/pdf/DCPD-202500484.pdf>.

1 34. The San Bruno Archives has operated for over five decades. CILS has shown its
2 reliance on having a northern regional archive in California to effectively represent Tribes and
3 Native Americans. So too researchers have relied on in-person access to records; federal
4 agencies rely on proximity to records and other communities rely on the long-standing Archive
5 presence in the region. NARA's decision and justification do not address or mention the reliance
6 factor of CILS, Tribes and Native people have on accessing the Archives.
7

8 35. NARA's decision further fails to offer reasonable alternatives to moving the
9 Archives to Denver, except to say that "NARA's facilities in Southern California are not sized to
10 absorb the San Francisco operations." There is no discussion concerning: leasing of the FRC
11 space to another federal, state, local, or Tribal government entity which would provide a source
12 of cash flow; moving the Archives to a different location within the region to reduce needed
13 repairs to the current facility, partnering with state, local and Tribal governments to retain
14 documents in university locations, the proposed California Indian Heritage Center or other
15 accommodations. With the ultimate goal of selling the San Bruno facility, each of the options
16 listed are viable from the proceeds the sale.
17
18

19 36.. NARA's decision to move the Archive and justifications fails to consider or address
20 the reliance CILS, Tribes and Native Americans have on being able to access the records they
21 need to document their history and meet the legal challenges of today. NARA's complete lack
22 of possible alternatives for preserving the Archives in California can only be seen as NARA
23 having acted arbitrarily, capaciously, and having abused its discretion in deciding to move the
24 San Bruno Archive halfway across the country.
25

26 **C. NARA'S DISCRETION TO CLOSE THE ARCHIVES IS LIMITED BY THE**
27 **TRUST DOCTRINE AND ITS OWN TRIBAL POLICES.**
28

1 37. Tribes share a unique and special relationship with the federal government. The
2 government, as trustee of tribal lands and resources, has a fiduciary responsibility to Tribes and
3 tribal people unlike any other minority group in the country. *U.S. v. Mitchell*, 463 U.S. 206, 225
4 (1983)(This Court has previously emphasized “the distinctive obligation of trust incumbent upon
5 the Government in its dealings with these dependent [tribes] and sometimes exploited people.”,
6 citing *Seminole Nation v. United States*, 316 U.S. 286, 296, 62 S.Ct. 1049, 1054, 86 L.Ed. 1480
7 (1942)
8

9 38. The “trust doctrine” is a doctrine of the judiciary used to harness actions taken by the
10 executive and legislative branches of the government and can be the basis for compensating
11 wrongs or enjoining actions committed by those branches against the Indian people.
12

13 39. The “trust doctrine” has also been the centerpiece of several Executive Orders
14 beginning with President Clinton’s Executive Order 13175 “Consultation and Coordination with
15 Indian Tribal Governments” issued on November 6, 2000.²³ This Executive Order required
16 federal departments and agencies to consult with Indian tribal governments when considering
17 policies and actions that would impact tribal communities. Although subsequent Presidents have
18 issued their own versions of the federal government’s trust responsibilities and obligations to
19 Tribes, no President has repealed Executive Order 13175.
20

21 40. NARA’s “*Initial Tribal Consultation Plan of Action*, April 26, 2021,” states, it is
22 required to “...prepare and periodically update a detailed plan of action to implement the policies
23 and directives of Executive Order 13175.”²⁴
24

25
26 ²³ *Executive Order 13175 - Consultation and Coordination with Indian Tribal Governments*,
State.gov (Nov. 9, 2000), <https://2009-2017.state.gov/documents/organization/136740.pdf>.

27 ²⁴ *National Archives and Records Administration Initial Tribal Consultation Plan of Action*,
Archives.gov (Apr. 26, 2021), <https://www.archives.gov/files/foia/pdf/initial-nara-tribal-consultation-plan-of-action-april-26-2021.pdf>.
28

41. NARA's 2021 Consultation Plan further acknowledges that:

"NARA is committed to honoring Tribal sovereignty and including Tribal voices in policy deliberation that affects Tribal communities. The federal government, and thus, NARA, has a Tribal trust responsibility, a legally enforceable fiduciary obligation to all federally recognized Tribes."

NARA's requirement for tribal engagement before taking actions that can negatively impact Tribal interests is further seen in its AC 27. 2021 "Memorandum To Agency Records Officers: New Scheduling Requirement for Tribal Consultation" directed to all federal agencies in preparing their "Records Schedules":

"All records schedules originally certified and submitted on or after August 1, 2021, must be accompanied by additional information regarding Tribal consultations. Each records schedule submitted after this date must include a separate written communication (see below) indicating that the agency has undertaken Tribal consultations where needed as required under Executive Order 13175 Consultation and Coordination with Indian Tribal Governments."²⁵

42. NARA's decision to close San Bruno Archives was made public in June of 2026.

There was no Tribal consultation per NARA's policy prior to making that decision. California Tribes contacted NARA raising this issue on August 21, 2026, and August 22, 2026, respectively.²⁶ CILS also requested, through a Freedom of Information Act ("FOIA") information, among other things, on when and how Tribal consultation was held prior to its decision to close the Archives. CILS was informed that NARA would be unable to respond to CILS' FOIA request for 56 months.²⁷

43. Having been made aware of its failing to consult with Tribes in advance of its decision to close the Archives, NARA has now circled back to hear Tribal concerns and

²⁵<https://www.archives.gov/records-mgmt/memos/ac-27-2021>.

²⁶ Exhibits E and F: CTCA and NCTCA letters from Tribal Chairpersons Assoc. to NARA.

²⁷ Exhibit G: NARA FOIA Request Response

1 comments on the closure of San Bruno by holding two “Listening Sessions” October 13th and
2 15th 2026.²⁸ At the Listening Sessions, NARA stated that formal “consultation” will be
3 scheduled at a later unannounced date.

4 44. NARA’s commitment to the “trust doctrine” and its profound Tribal policies and
5 agency directives, discussed above, strictly requiring Tribal engagement before it takes actions
6 impacting Tribes, are not merely general statements of policy but create norms and effectively
7 circumscribe its discretionary decision-making process. *Conservation Law Foundation of New*
8 *England, Inc. v. Harper*, 587 F.Supp. 357,368 (1984) citing *American Bus Association v. United*
9 *States*, 627 F.2d 525, 530 (D.C.Cir.1980), quoting *Guardian Federal Savings & Loan*
10 *Association v. Federal Savings & Loan Insurance Corp.*, 589 F.2d 658, 667 (D.C.Cir.1978).

11 45. Failing to engage with Tribe before deciding and announcing its administrative
12 decision to close the San Bruno Archive, NARA has abused its discretion in violation of the
13 APA.

14 **D. COST SAVINGS TO NARA DOES NOT OFFSET THE COST OF ACCESS**
15 **TO CILS, TRIBES AND NATIVE AMERICAN.**

16 46. A further justification offered by NARA for closing the San Bruno Archive rests on
17 the need to dispose of the facility since it is one of the oldest and most expensive in NARA’s
18 portfolio. Annual saving is estimated to be more than \$4.7 million with ancillary savings from
19 personnel and avoidance for repairs and system replacement outlay by GSA.²⁹

20 47. What NARA does not share: is the moving costs for transferring and relocating the
21 San Bruno Archives documents over a 1,000 miles across the country (factoring in diesel prices);
22

23
24
25
26
27 ²⁸ Exhibit H: Notice of Tribal Listening Sessions

28 ²⁹ Available at: <https://kevinmullin.house.gov/wp-content/uploads/2026/10/NARA-Closure-Response-Letter-10.5.26.pdf>.

1 what additional expense will be needed for expanding or enhancing the Denver Archive in order
2 to absorb the massive amount of records being transferred; what additional personnel will be
3 needed at the Denver Archive to respond to the increase in requests from CILS, California Tribes
4 and Native Americans; and cost saving from operating an Archive building owned by GSA (San
5 Bruno Archive facility) versus a leased facility such as the Denver Archive.

6
7 48. NARA provided no information regarding the operation of the Denver Archive by
8 which to evaluate whether its cost savings are actual or mere projections. CILS' online research
9 shows that the Denver Archive holds records from seven states: Colorado, Montana, New
10 Mexico, North Dakota, South Dakota, Utah and Wyoming. These states combined have 61
11 Tribes. Adding documents from 59 federally recognized California Tribes and 28 from Nevada
12 will result in the Denver Archives holding 148 Tribes' documents. California unrecognized
13 Tribes also have documents at San Bruno, which are not factored into the overall total count of
14 California Tribal documents. This volume of new Tribal documents cannot be managed without
15 increases in Archive staff. How much additional staff will be needed due to the increased volume
16 in Denver is not revealed by NARA. Undoubtedly, CILS, California Tribes and Native
17 Americans
18 will have delayed and long wait times whenever documents are needed and requested from the
19 Denver Archives.
20

21
22 49. NARA's need to save money is not supported by its 2026 Budget Request. NARA
23 requested \$414.7 million, nearly \$60 million less than projected 2025 spending levels and \$93
24 million less compared to 2024. It also included the elimination of 136 full-time employees.
25 According to Jason R. Baron, a professor at the University of Maryland and former director of
26 litigation at NARA:
27

28 "NARA leadership's submission of a reduced budget for their own agency is difficult to
fathom, given the enormous resource challenges NARA currently faces ... These include

1 dealing with huge FOIA processing backlogs at presidential libraries, as well as putting in
 2 place both the people and the necessary technology to preserve and provide public access
 3 to the billions of records in electronic form coming to NARA from hundreds of
 4 government agencies.”³⁰

5 50. Professor Baron is correct that it is difficult to fathom that NARA submits a budget
 6 approximately \$60 million less than the 2025 budget projection and at the same time argues for
 7 closing an Archive to save money. NARA’s decision to close, for alleged cost savings, an
 8 Archive that holds so many important and critical documents for Tribes and Native American
 9 people, researchers like CILS and others, and countless other minority communities in California
 10 and the State itself, is neither rational or reasonable and is inconsistent with NARA’s mission,
 11 vision and Strategic Plan to make governments records available and accessible.

12 **FIRST CAUSE OF ACTION**

13 **Violation of the Administrative Procedure Act**

14 **NARA’s Agency Action is Arbitrary, Capricious and Abuse of Discretion**

15
 16 51. Plaintiff realleges and incorporates by reference the allegations set forth in each of
 17 the preceding paragraphs.

18 52. Defendant NARA is an “agency” under the APA. 5 U.S.C. § 551(1).

19
 20 53. Defendants’ decision to close the National Archives at San Francisco and transfer
 21 records from the facility constitutes a “final agency action for which there is no other adequate
 22 remedy in a court.” 5 U.S.C. § 704.³¹

23
 24 ³⁰ Justin Doubleday, *Former Archivist Raises Red Flags Over NARA Cuts*, Federal News
 25 Network (June 20, 2025), <https://federalnewsnetwork.com/budget/2025/06/former-archivist-raises-red-flags-over-nara-cuts/>.

26 ³¹ On information and belief, NARA during Tribal “Listening Sessions” shared that the San
 27 Bruno Archive will close. Transfer of documents from the Archive has already begun with the
 28 transfer of records from the National Aeronautics and Space Administration (“NASA”) being
 relocated to the National Archives at Fort Worth, the records will be inaccessible to the public

1 54. The decision is subject to judicial review because this agency action will result in
2 plaintiff being deprived of its right to access public records needed for legal research and
3 representation of its Tribal and Native American clients. *American Friends Service Committee v.*
4 *Webster*, 720 F.2d 29, 37 (1983)

5 55. Under the APA, a court must set aside final agency action that is “arbitrary,
6 capricious, [or] an abuse of discretion.” 5 U.S.C. § 706(2)(A). An agency action is arbitrary and
7 capricious if it is not “reasonable and reasonably explained.” *Ohio v. EPA*, 603 U.S. 279, 292
8 (2024). *Michigan v. EPA*, 576 U.S. 743, 758 (2015); see also *Motor Vehicle Mfrs. Ass’n of*
9 *United States, Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29,50 (1983).

10 56. Courts consider “whether the [agency] examined ‘the relevant data’ and articulated ‘a
11 satisfactory explanation’ for [its] decision, ‘including a rational connection between the facts
12 found and the choice made.’” *Dep’t of Com. v. New York*, 588 U.S. 752, 773 (2019) (quoting
13 *Motor Vehicle Mfrs. Ass’n.*, 463 U.S. at 43).

14 57. Agency action must be viewed to determine whether considering policy shifts the
15 agency weighed both “serious reliance interests” engendered by the policy and offered
16 “reasonably obvious alternatives” by those impacted by the agency’s action. *A.C.R. v. Noem*,
17 809 F.Supp.3d 103 (2025). The Court must also view whether the agency abused its discretion
18 by failing to consider binding norms established through agency policy and directives.
19 *Conservation Law Foundation of New England, Inc. v. Harper*, 587 F.Supp. 357,368 (1984)

20 58. Finally, agency action is arbitrary and capricious if the agency “relied on factors
21 which Congress has not intended it to consider, entirely failed to consider an important aspect of

22 _____
23 starting October 13, 2026, until after they are transferred and processed at their new location.
24 Available at: www.archives.gov/research/news.

1 the problem, offered an explanation for its decision that runs counter to the evidence before the
2 agency, or is so implausible that it could not be ascribed to a difference in view or the product of
3 agency expertise.” *Motor Vehicle Mfrs. Ass’n.*, 463 U.S. at 43.

4 59. Defendants’ decision to close the San Bruno Archive and relocate records outside of
5 communities of relevance is arbitrary and capricious under these well-established standards.
6 Congress intended for the public “whose rights may have been affected by government actions to
7 have access to the documentary history of the federal government.” *Webster*, 720 F.2d at 57.
8 This is clear from provisions in the statutory scheme, see, e.g., 44 U.S.C. §§ 2104(d), 2107(a)(3),
9 2109, 2114, 2203(g)(1), and legislative history, see S. Rep. No. 98-373 (1984). NARA and the
10 Archivist thus have an obligation under federal law to consider the public interest in making
11 determinations about National Archives facility closures and records transfers.
12

13
14 60. In deciding to close the San Bruno Archives, defendants disregarded Congress’s clear
15 intent that the National Archives and its materials be maintained for the public’s benefit. Beyond
16 failing to provide sufficient notice of the closure to the public, defendants did not consult with
17 Tribes before making its decision as required under NARA’s policy.
18

19 61. Pursuant to 5 U.S.C. § 706(2)(A) and 28 U.S.C. § 2201, plaintiff is entitled to
20 injunctive relief, a declaration that the decision to close the San Bruno Archive is arbitrary and
21 capricious, and an abuse of its agency discretion.
22

23 24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in its favor and
26 grant the following relief:
27

1. An injunction preventing Defendants from closing the San Bruno Archive.
2. A declaration that Defendants' decision to close the National Archives in Bruno and relocate Tribal and Native American documents to Denver, CO unlawful and violates the APA.
3. An order vacating the decision to close the National Archives in San Bruno and prohibiting the relocation of Tribal and Native American records from the San Bruno facility.
4. Plaintiff's costs, expenses, and reasonable attorneys' fees; and
5. Such other relief as the Court deems just and proper.

DATED: 10/21/2026

RESPECTIVELY SUBMITTED

/s/ Dorothy Alther

DOROTHY ALTHER
CALIFORNIA INDIAN LEGAL SERVICES
DIRECTOR OF LEGAL IMPACT AND
LEGISLATIVE AFFAIRS

/s/ Jay B. Petersen

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