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15 UNITED STATES DISTRICT COURT
 16 DISTRICT OF ARIZONA

17 Mi Familia Vota, et al.,
 18 Plaintiffs,
 19 v.
 20 Adrian Fontes, et al.,
 21 Defendants.

No. CV-22-00509-PHX-SRB (Lead)

**REPLY REGARDING STATE'S
 MOTION TO DISMISS AMENDED
 COMPLAINT OF PLAINTIFFS
 TOHONO O'ODHAM NATION
 ET AL. (CV-22-01901-PHX-SRB)**

22 AND CONSOLIDATED CASES.

No. CV-22-00519-PHX-SRB
 No. CV-22-01003-PHX-SRB
 No. CV-22-01124-PHX-SRB
 No. CV-22-01369-PHX-SRB
 No. CV-22-01381-PHX-SRB
 No. CV-22-01602-PHX-SRB
 No. CV-22-01901-PHX-SRB

1 The State of Arizona and the Arizona Attorney General (hereafter the “State”)
2 submit the following Reply regarding their motion to dismiss the case filed by Tohono
3 O’odham Nation, Gila River Indian Community, two Tohono O’odham tribal members,
4 and a Hopi tribal member (collectively “Tribal Plaintiffs”).

5 On December 23, 2022, the Court ordered the case filed by the Tribal Plaintiffs
6 consolidated with case No. CV-22-00509-PHX-SRB (*Mi Familia Vota, et al. v. Fontes,*
7 *et al.*). (Doc. 193.) At the time of the Tribal Plaintiffs’ consolidation, the existing parties
8 had already fully briefed and argued the State’s consolidated motion to dismiss the
9 plaintiffs’ complaints (the “Consolidated Motion”). (*See* Docs. 100, 187.) Accordingly,
10 when the State moved to dismiss the Tribal Plaintiffs’ Amended Complaint (the “Tribal
11 Motion”), the State incorporated the arguments raised in the pending Consolidated Motion
12 regarding the Tribal Plaintiffs’ constitutional and NVRA claims. (*See* Doc. 197 at 3
13 (“Plaintiffs’ constitutional and NVRA claims fail for the reasons previously set forth in the
14 State’s consolidated motion to dismiss . . .”).) In addition, the State offered an additional
15 basis for dismissing the Tribal Plaintiffs’ NVRA claim in particular—namely, their failure
16 to provide pre-suit notice under the statute. (*Id.* at 3–5.)

17 The Tribal Plaintiffs filed their response to the Tribal Motion on February 9, 2023.
18 (Doc. 267.) Before the State’s deadline to reply, however, the Court ruled on the pending
19 Consolidated Motion. (Doc. 304.) Because the State’s Tribal Motion incorporates
20 arguments from that Consolidated Motion, the Court’s February 16, 2023 ruling effectively
21 disposes of the Tribal Motion, as well. In particular, the Court’s ruling rejects the State’s
22 arguments for dismissal of the non-tribal plaintiffs’ NVRA claims—the same arguments
23 incorporated by reference in the Tribal Motion.

24 Furthermore, although the Court’s ruling on the Consolidated Motion does not
25 address the pre-suit notice argument raised with respect to the Tribal Plaintiffs’ NVRA
26 claim specifically, as a practical matter, it makes further pursuit of dismissal on that basis
27 inefficient given that the Court is allowing similar NVRA claims by other plaintiffs to
28 proceed.

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In short, the Court’s intervening ruling on the Consolidated Motion to Dismiss effectively denies and otherwise undercuts the grounds for dismissal identified in the Tribal Motion. In light of that, and without waiving its arguments, the State views the Tribal Motion as effectively moot and does not seek any further relief thereunder.

RESPECTFULLY SUBMITTED this 10th day of March, 2023.

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