



**UNITED STATES DEPARTMENT OF THE INTERIOR**

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
801 NORTH QUINCY STREET #300  
ARLINGTON, VIRGINIA 22203  
703-235-3816

CALIFORNIA VALLEY MIWOK TRIBE  
**APPELLANT**

v.

CENTRAL CALIFORNIA AGENCY  
SUPERINTENDENT, BUREAU OF  
INDIAN AFFAIRS.

**APPELLEE**

YAKIMA DIXIE, VELMA WHITEBEAR, AND  
CHADD EVERONE.

**INTERESTED PARTIES**

**INTERESTED PARTIES'**  
**MEMORANDUM REQUESTING**  
**JUDICIAL NOTICE OF**  
**CERTAIN FACTS**

**DOCKET No. IBIA 08-58-A**

**APRIL 25, 2008**

The Interested Parties are opposed to the Board allowing this Appeal.

In the interest of clarifying the proceedings and hoping to expedite the Boards decisions regarding this case, the Interested Parties, herein, wish to bring to the attention of the Board certain facts and opinions.

1) When the Agency Superintendent returned the Appellant's application for PL 638 funding, in his letter of December 14, 2007, he also sent to Mr. Yakima Dixie an identical rejection of the PL 638 grant application, which Mr. Dixie had submitted on behalf of the Tribe. See Exhibit 1, enclosed. If the Board were to accept this Appeal (IBIA 08-58-A), then it would have to accept an identical Appeal on behalf of the Tribe on the part of Yakima Dixie and the Putative Member class. Having to make such an Appeal (not yet been filed) would seem to unnecessarily complicate the issues and place an excessive burden all parties. It would add nothing substantive to the resolution of IBIA 07-100-A, which is the primary appea - indeed, it would complicate the resolution of IBIA 07-100-A.

2) If the Board does decide to allow IBIA 08-58-A to be lodged, then the Interested Parties request that the dating be such that there would be sufficient time for that administrators

1 of the BIA or the Department of Interior to consider the assumption of jurisdiction and so that the  
3 Interested Parties may petition for the assumption of jurisdiction.

5 3) In the Appellant's "Notice of Appeal" of March 28, 2008, Exhibit 3 indicates that on  
7 January 17, 2008, the Superintendent received a Fax and, subsequently, a letter from Phillip  
9 Thompson on behalf of the Tribe (i.e., Ms. Burley) in which a request for an "informal confer-  
11 ence" was made. To correct a mis-statement on the part of the Interested Parties' Request to the  
13 IBIA of April 15, 2008, it should have read: "On the surface, it would seem that such a request  
15 for an informal meeting would **NOT** constitute an Appeal, *per se*". There simply does not appear  
17 to be any valid reason for the late filing of IBIA 08-58-A. To reiterate what the Interested  
19 Parties have already said, in the 'Superintendent's Denial of December 14, 2007' regarding the  
21 Tribe's applications for the PL 638 grant, the Superintendent states: "This decision may be  
23 appealed to the Regional Director ....". So, it is to the Regional Director, not the Superintendent,  
25 that any Appeal should have been placed. The Interested Parties, knowing that there were 30  
days for Ms. Burley to appeal the Superintendent's decision of December 14, 2007, waited to  
receive a copy of any such appeal. Not having receive any Notice of Appeal from Burley, the  
Interested Parties (Everone) contacted the Superintendent's office to inquire if an Appeal had  
been filed. He was told that no appeal had been filed. Thus, it would seem that neither the  
Superintendent nor the Regional Director actually received an appeal on this matter, until very  
recently. Assuming that no appeal had been filed, on January 25, 2007, the Interested Parties  
withdrew their own Appeal (IBIA 06-70-A) on the PL 638 issue; and the IBIA issued its  
Dismissal of IBIA 06-70-A on February 11, 2008. The Interested Parties explicitly stated in their  
withdrawal of IBIA 06-70-A that it was predicated on the understanding that Ms. Burley had not  
filed an Appeal regarding the 'Superintendent's Denial of December 14, 2007'.

27 If the Board should allow IBIA 08-58A to be lodged, then the Interested Parties request  
29 the re-instatement of their dismissed appeal (IBIA 06-70-A), plus that that case and IBIA  
08-58-A be Joined due to the subject matter being the same, and they ask that the docketing order  
of IBIA 06-70-A be used so that the matter can be adjudicated more expeditiously.

31 4) This Interested Party (Everone) believes that IBIA 08-58-A is another attempt by Ms.  
33 Burley to use administrative procedures to complicate, impede, and delay due process and the  
35 organization of the Tribe. Ms. Burley knows how to file a timely Appeal, herself; and indeed,  
37 she did so, on her own, in IBIA 07-100-A. So, *she* could have filed a proper appeal. Her attor-  
39 ney, Phillip Thompson certainly knows how to file a timely appeal; and he is intimately involved  
41 in all of the proceeds of Ms. Burley, as is indicated by him having written the letter to the Super-  
43 intendent on January 17, 2008. One simply cannot make such over-sights on rudimentary proce-  
45 dures except by gross incompetence or insidious flimflammy. To now bring in an entirely new  
representative into the picture, who is stationed in Oklahoma, and who might be asking for  
special considerations about time due to his unfamiliarity with this situation, seem to this Interest  
Party (Everone) to be nothing more than a tactical ploy, working against a just resolution to this  
situation. Again, these remarks in item #4 are just parenthetical and the personal opinion of  
Everone. No ruling on the part of the Board should be interpreted as a validation of his opinion.

What is not opinion, however, is the fact that the members of the Tribe are feeling massively disenfranchised by these extended, administrative gerrymanderings.

5) The issue in IBIA 08-58-A is a sub-component of the matter which is being contested by Ms. Burley in her Appeal of April 20, 2007 (IBIA 07-100-A), which was filed by Silvia Burley and which pertains to her allegation that the BIA may not be involved in helping the Tribe to become organized. The Interested Parties support such re-organization under the auspices of the BIA. All of the Pleadings in IBIA 07-100-A are in place and have been for a long time. Further, the issues have already been adjudicated in the Courts. Ms. Burley's case was dismissed in US Federal District Court on March 30, 2006. That Dismissal was Affirmed by the US Court of Appeals on February 15, 2008; and most recently, on April 23, 2008, Ms. Burley's petition for a re-hearing by the Court of Appeals was Denied. See Exhibit #2. Thus, IBIA 07-100-A has already been adjudicated, and the Board should dismiss it, immediately. To delay the dismissal delays the lawful organization of the Tribe and interferes with discretionary authority of the agents of the BIA. Upon the dismissal IBIA 07-100-A, then, IBIA 08-58-A would become moot and should be dismissed, also.

Respectfully,

*Authorized by Phone.  
Signed Copy On File*


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Yakima K. Dixie, Chief & Hereditary  
Authority  
California Valley Miwok Tribe (formerly  
Sheep Ranch Rancheria of Me-Wuk Indians of  
California)

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Velma WhiteBear, Executive Director  
  
California Valley Miwok Tribe (formerly  
Sheep Ranch Rancheria of Me-Wuk Indians of  
California)

Drafted for Interested Parties by:  
Chadd Everone, Deputy  
2140 Shattuck Ave. #602  
Berkeley, California 94704 510-486-1314

  
Date: April 25, 2008

**Certificate of Service**

I hereby certify that, on or about April 25, 2008, copies of the foregoing were served by First Class Mail (USPS) to the following addressees:

**The IBIA:**

Board of Indian Appeals  
Office of Hearings and Appeals  
U.S. Department of the Interior  
801 North Quincy St.  
Arlington, Virginia 22203

**Appellee:**

Associate Solicitor  
Division of Indian Affairs  
Attention: Jane Smith / Scott Keep  
Office of the Solicitor  
MS-6456-MIB  
U.S. Department of the Interior  
1849 "C" Street, N.W.  
Washington, DC 20240

Amy Dutschke, Acting Regional Director  
Pacific Regional Office  
Bureau of Indian Affairs  
2800 Cottage Way  
Sacramento, California 95825

Troy Burdick, Superintendent  
Bureau of Indian Affairs,  
Central California Agency  
650 Capitol Mall 8-500  
Sacramento, California 95814

Office of the Solicitor  
Pacific Southwest Region  
2800 Cottage Way, Room E-1712  
Sacramento, CA 95825-1890

**Appellant:**

Silvia Burley  
California Valley Miwok Tribe  
10601 Escondido Pl.  
Stockton, California 95212

Paul A. Ross, Esq.  
for California Valley Miwok Tribe  
McAfee & Taft A Professional Corp.  
Tenth Floor, Two Leadership Square  
211 North Robinson  
Oklahoma City, Oklahoma 73102-7103

**Interested Parties:**

Chadd Everone  
2140 Shattuch Ave. #602  
Berkeley, California 94704

Velma WhiteBear  
213 Downing Dr.  
Galt, California 95632

Yakima Dixie  
California Valley Miwok Tribe  
11178 Sheep Ranch Rd. (Sheep Ranch)  
Mountain Ranch, California 95246



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Chadd Everone, Deputy



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**INTERESTED PARTIES'**  
**MEMORANDUM REQUESTING**  
**JUDICIAL NOTICE OF**  
**CERTAIN FACTS**  
**AUGMENTING PRIOR PLEADING**  
**OF APRIL 25, 2008**

**DOCKET No. IBIA 08-58-A**

**APRIL 26, 2008**

Yesterday, on April 25, 2008, the Interested Parties submitted this Memorandum but failed to include the two Exhibits which are cited and which are included herein. Please append these Exhibits to the prior Pleading.

My apologies,

**Certificate of Service**

I hereby certify that, on or about April 26, 2008, copies of the foregoing were served by First Class Mail (USPS) to the following addressees:

**The IBIA:**

Board of Indian Appeals  
Office of Hearings and Appeals  
U.S. Department of the Interior  
801 North Quincy St.  
Arlington, Virginia 22203

**Appellee:**

Associate Solicitor  
Division of Indian Affairs  
Attention: Jane Smith / Scott Keep  
Office of the Solicitor  
MS-6456-MIB  
U.S. Department of the Interior  
1849 "C" Street, N.W.  
Washington, DC 20240

Amy Dutschke, Acting Regional Director  
Pacific Regional Office  
Bureau of Indian Affairs  
2800 Cottage Way  
Sacramento, California 95825

Troy Burdick, Superintendent  
Bureau of Indian Affairs,  
Central California Agency  
650 Capitol Mall 8-500  
Sacramento, California 95814

Office of the Solicitor  
Pacific Southwest Region  
2800 Cottage Way, Room E-1712  
Sacramento, CA 95825-1890

**Appellant:**

Silvia Burley  
California Valley Miwok Tribe  
10601 Escondido Pl.  
Stockton, California 95212

Paul A. Ross, Esq.  
for California Valley Miwok Tribe  
McAfee & Taft A Professional Corp.  
Tenth Floor, Two Leadership Square  
211 North Robinson  
Oklahoma City, Oklahoma 73102-7103

**Interested Parties:**

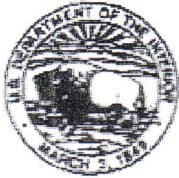
Chadd Everone  
2140 Shattuch Ave. #602  
Berkeley, California 94704

Velma WhiteBear  
213 Downing Dr.  
Galt, California 95632

Yakima Dixie  
California Valley Miwok Tribe  
11178 Sheep Ranch Rd. (Sheep Ranch)  
Mountain Ranch, California 95246



Chadd Everone, Deputy



# United States Department of the Interior

## BUREAU OF INDIAN AFFAIRS

Central California Agency  
650 Capitol Mall, Suite 6-500  
Sacramento, CA 95814-4710

IN REPLY REFER TO

DEC 14 2007

Exhibit  
#1

**CERTIFIED MAIL NO. 7001 2510 0009 4494 1890**  
**RETURN RECEIPT REQUESTED**

Yakima Dixie  
11178 Sheep Ranch Rd.  
Mountain Ranch, California 95246

Dear Mr. Dixie:

In accordance with 25 CFR Part 900.6, Subpart B, Definitions, we are returning your application to contract FY 2008 funding from the Bureau of Indian Affairs, under P.L. 93-638, as amended as it does not meet the definition stated below:

"Tribal Organization means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which included the maximum participation of Indians in all phases of its activities; provided, that, in any case where a contract is let or a grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract of grant."

Under this Part, consideration to contract federal funds to operate Bureau of Indian authorized programs will only be given to an application submitted by federally recognized tribe with a recognized governing body. The Department of the Interior does not recognize that the California Valley Miwok Tribe has a governing body. The District Court for the District of Columbia has upheld that determination, California Valley Miwok Tribe v. United States, 424 F Supp. 2d 197 (D.C.D.C. 2006). That decision is now on appeal.

Because we do not recognize any current governing body for the California Valley Miwok Tribe, we are unable to accept the proposal for the above stated reason. We are hereby returning the proposal.

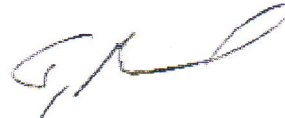
Should you wish to appeal any portion of this letter, you are advised that you may do so by complying with the following:

This decision may be appealed to the Regional Director, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, W-2820 Sacramento, California 95825. In accordance with the regulations in 25 CFR Part 2 (copy enclosed), your notice of appeal must be filed in this office within 30 days of the date you receive this decision. The date of filing your notice of appeal is the date it is postmarked or the date it is personally delivered to this office. Your notice of appeal must include your name, address and telephone number. It should clearly identify the decision to be appealed. If possible attach a copy of the decision. The notice of appeal and the envelope which it is mailed, should be clearly labeled "NOTICE OF APPEAL." The notice of appeal must list the names and addresses of the interested parties known to you and certify that you have sent them copies of the notice.

You must also send a copy of your notice to the Regional Director, at the address given above.

If no timely appeal is filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

Sincerely,



Troy Burdick  
Superintendent

Enclosure