



**California Valley Miwok Tribe, California**  
(formerly the Sheep Ranch Rancheria of Me-Wuk Indians of California)  
11178 Sheep Ranch Rd.; Sheep Ranch, California 95250  
209-728-8726

December 12, 2006

Chadd Everone, Deputy  
2054 University Ave. #407  
Berkeley, California 94704  
510-486-1314



Troy Burdick, Superintendent  
Bureau of Indian Affairs, Central California Agency  
650 Capitol Mall 8-500  
Sacramento, California 95814  
Tel: (916) 930-3680 (ext. 3774); Fax: (916) 930-3780

**ANSWER OF INTERESTED PARTY  
IN OPPOSITION TO THE  
NOVEMBER 13, 2006 APPEAL OF SILVIA BURLEY**

In compliance with the Code of Federal Regulations (25 CFR Ch.1 (4-1-05 Edition) Part 2 - Appeals From Administrative Actions, §2.11 et seq. "Answer of interested party" and other relevant sections, therein) Yakima K. Dixie, the Hereditary Chief of this Tribe, and the Putative Member Class of the Tribe (with the exception of Silvia Burley) hereby submits this Answer and Response in Opposition<sup>(1)</sup> to the Notice of Appeal<sup>(2)</sup> as lodged by Silvia Burley, as dated to have been received by the BIA on November 13, 2006 and as responded to by the Regional Director<sup>(3)</sup> on November 30, 2006, and as received by this Interested Party on December 6, 2006.

**Compliance Summary**

25CFRCh.1 § 2.11(a)	Party's Interest	Hereditary Chief and Putative Members (see below).
25CFRCh.1 § 2.11(b)	Party's Response	Respondants are Opposition to the Appeal (see below).
25CFRCh.1 § 2.11(c)	Response Time	Response is timely filed.
25CFRCh.1 § 2.11(d)	Location of filing.	Response is properly filed with the above and Interested Parties.
25CFRCh.1 § 2.11(e)1-3	The Response is:	Properly labeled in the pleading and the envelope and identifies the decision being appealed.

<sup>1</sup> See {<http://www.californiavalleymiwok.com/2006-12-09-BurleyAppealYakimaResp.pdf>}.

<sup>2</sup> See {<http://www.californiavalleymiwok.com/index-burley-appeal.html>}.

<sup>3</sup> See {<http://www.californiavalleymiwok.com/2006-11-30-GregoryToBurley.pdf>}.

### Terms

- |                           |   |   |
|---------------------------|---|---|
| The Burley Appeal         | - | The Notice of Silvia Burley to The Regional Director of the BIA, dated as received by the BIA on November 13, 2006.         |
| The Appellant             | - | Silvia Burley, the person filing the Appeal.  |
| The Administrative Agency | - | The governmental agency to whom the Appeal is addressed.  |
| The Interested Party      | - | Yakima Dixie (The Hereditary Chief of The Tribe) and The Putative Member Class (not including the Appellant, Silvia Burley) |

Mr. Burdick:

This will substitute the Appeal which was sent to you on December 9, 2006 by Chadd Everone. In substance, it is identical to that document only this is under the signatures of Yakima Dixie, Chief, and Velma WhiteBear, Executive Director. Because the documents in this case are well known to the BIA, rather than providing hard-copies, here, I have posted the Exhibits on the Internet for easy reference.

Yakima Dixie and the Putative Member Class (as defined in the Constitution of February 19, 2006<sup>(4)</sup> which has been submitted to the BIA for informal review) adamantly oppose any proceeding which impedes the implementation of the Olsen Determination/Mandate of February 11, 2005<sup>(5)</sup> and which the Burdick Notice of November 6, 2006<sup>(6)</sup> seeks to implement. Mr. Dixie's appeal for the recognition by the BIA of the proper authority for the Tribe in its organization can be dated from 6 years to almost 2 years, depending on at which point one wants to date it (i.e., either from his December 1999 protest and submittal of a constitution <sup>(7)</sup>, or from his the original filing of his administrative appeal in March 2003, or from its final placement with the BIA in Washington D.C. in October 2003 <sup>(8)</sup>, or from the Olsen Determination/Mandate (op. cit.) of February 2005). There has been more than sufficient time for administrative remedies to take effect, as is recognized by the Burdick Notice, when he says that further delay "... threatens to impair the government-to-government relationship between the Tribe and the United States." The Olsen Determination/Mandate of February 11, 2005 stated the following:

"Your (i.e., *Yakima Dixie's*) appeal of the BIA's recognition of Ms. Burley as tribal Chairman has been rendered moot by the BIA's decision of March 26, 2004 .... In that letter, the BIA made it clear that the Federal government did not recognize Ms. Burley as the tribal Chairman." Olsen further advised: "I encourage you, either in conjunction with Ms. Burley, other tribal members, or potential tribal members, to continue your efforts to organize the Tribe along the lines outlined in the March 26, 2004, letter so that the Tribe can become organized and enjoy the full benefits of Federal recognition. The first step in organizing the Tribe is identifying putative tribal members." (The emphasis is mine.)

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<sup>4</sup> See posting at { <http://www.californiavalleymiwok.com/2006-02-19-Constitution.pdf> }

<sup>5</sup> See posting at { <http://www.californiavalleymiwok.com/2005-02-11-BIA-Determination.pdf> }

<sup>6</sup> See posting at { <http://www.californiavalleymiwok.com/2006-11-06-BIA-Mandate.pdf> }

<sup>7</sup> See posting at { <http://www.californiavalleymiwok.com/1999-12-11-Constitution.pdf> }

<sup>8</sup> See posting at { <http://www.californiavalleymiwok.com/2003-10-30-BIA-Appeal.pdf> }

The Olsen Determination/Mandate was an unappealable Determination because it rests on the earlier Risling Determination of March 26, 2004, which was, itself, appealable but which was never appealed by Silvia Burley and became time-barred from appeal. As a derivative of the Olsen Determination/Mandate, the Burdick Notice would also be an unappealable event. Besides that, the Burdick Notice is not a determination; it is a process. And it would seem that only a determination or the results of a process can be appealed - not the process, itself. Finally, on April 12, 2005, Silvia Burley did attempted to have the Court prohibit the BIA from being involved in the organization of the Tribe, and the Court dismissed that action, sustaining the right of the BIA to be involved <sup>(9)</sup>. Consequently, this Interested Party holds that the current Burley Appeal is not sustainable on both substantive and procedural grounds, and it should be rejected by the BIA.

Addressing the 5 points of justification in the Burley Appeal, the following remarks are made.

Item #1 - The Court case which is cited<sup>(10)</sup> is not relevant to this situation. An analysis can be provided if so desired; but a cursory readings should be sufficient to demonstrate that. Indeed, the "judicial precedence" which she referenced was fulfilled by Ms. Burley's suit as cited above and which was dismissed, sustaining the right of the BIA to be involved in tribal organization.

Item #2 - The history of who has been the recognized Chairmanship for the Tribe by the BIA is nullified by the Olsen Determination/Mandate of February 11, 2005 in which he determines that the matter shall be resolved by formal organization under the auspices of the BIA. Firm evidence can be provided, if necessary, that the authority which Silvia Burley claims to have been given by Yakima Dixie is fraudulent and even the exact nature of her membership can be placed in doubt by the affidavit of Mary Wynne<sup>11</sup>, who was the attorney for the Tribe from April to September 1999, during the period when Silvia Burley claims that she obtained authority. However, those arguments will probably be obviated by the organizational process.

Item #3 - No comment can be made.

Item #4 - There seems to be a chronic misunderstanding about what authority the BIA does or does not have *vis a vis* the organization of this Tribe. First, let us not forget that the United States of America is a sovereign entity, itself. It is an autonomous sovereign entity and a superior sovereign in this case because all of the substantive privileges and benefits which flow to the Tribe come from the United States of America, which is represented by the Department of the Interior and its Bureau of Indian Affairs. Although the United States of American cannot determine who is or is not a member of a Tribe, it can determine with whom, in the tribe, the U.S. government chooses to deal on a government-to-government basis. And because of its own constitutional obligations to the American people and its unique trust responsibility to Indians, the federal government has a duty to be dealing with a tribal government that is formed by legitimate members who represent fairly the tribal community and who are of benefit to that community.

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<sup>9</sup> California Valley Miwok Tribe v. USA et al. Civil Action No. 05-0739 U. S. District Court for the District of Columbia. See posting at {<http://www.californiavalleymiwok.com/2006-03-30-Memorandum.pdf>} and {<http://www.californiavalleymiwok.com/2006-03-30-Order.pdf>}

<sup>10</sup> See posting at {<http://www.californiavalleymiwok.com/2005-09-13-424F-3rd959-9thCir2005.pdf>}

<sup>11</sup> See posting at {<http://www.californiavalleymiwok.com/2004-03-15-Wynn-Decl.pdf>}

Item #5 - The governance of the Tribe under Silvia Burley is not the "lawful government" of the Tribe.

**In Summary**

Yakima Dixie (as the Hereditary Chief) and the Putative Member Class (as constituted under its submitted Constitution and which includes the Appellant, Silvia Burley) has an interest in the Burley Appeal, and their interests can be severely damaged if the BIA allows that appeal to impede the implementation of the Burdick Notice and to forestall the organization of the Tribe. This Response should fulfill all of the necessary sections of the Code of Federal Regulations that pertain to an Answer of Interested Party - 25CFRCh.1 § 2.11(a-e) . If there are any short-comings, please advise me as soon as possible.

Finally, this Burley Appeal is just another attempt, in a prolonged series of attempts, to obstruct justice and the BIA in its administrative due process. And this Respondent requests that the BIA proceed with exigency in the implementation of the Burdick Notice and the formal organization of the Tribe.

Sincerely,

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Yakima Dixie, Chief

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Date

\_\_\_\_\_  
Velma WhiteBear, Executive Director

\_\_\_\_\_  
Date

Drafted by: Chadd Everone, Deputy

Distribution List.

Silvia Burley  
10601 Escondido Pl.  
Stockton, California 95212  
Phone 209-931-4567 Fax 209-931-4333  
USPS Tracking 0306 0302 0003 2281 7371

Clayton Gregory, Regional Director  
United States Department of the Interior  
Bureau of Indian Affairs, Pacific Regional Office  
2800 Cottage Way  
Sacramento, California 95212  
Tel: (916) 930-3680 (ext. 3774); Fax: (916) 930-3780

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

Depart of Interior  
Bureau of Indian Affairs  
Director, Bureau of Indian Affairs  
Attention MS 4606-MIB  
1849 C Street, NW., MS-4513-MIB  
Washington, D.C. 20240