



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
801 NORTH QUINCY STREET  
SUITE 300  
ARLINGTON, VA 22203

July 30, 2007

Phillip E. Thompson, Esq.  
Native American Law and Economic  
Development Center  
601 Pennsylvania Ave.  
Suite 900, South Building  
Washington, D.C. 20005

Re: *Chadd Everone and Velma Whitebear v. Pacific Regional Director,*  
Docket No. IBIA 06-70-A  
*California Valley Miwok Tribe v. Pacific Regional Director,*  
Docket No. IBIA 07-100-A

Dear Mr. Thompson:

This letter is in response to your letter to me dated July 25, 2007, in which you suggest that an ex parte communication may have occurred between Ms. Jane Smith, of the Solicitor's office, and Judge Debora Luther, concerning the Tribe's above-referenced appeal. You request that I issue a "show cause" order pursuant to 43 C.F.R. 4.27(b)(2). You also suggest that, based on her prior involvement in matters and cases involving the Tribe, Judge Luther be disqualified from participating in any action involving the Tribe.

Please be advised that Judge Luther is already recused from participating in these two appeals and she has had no involvement in either appeal during her tenure on the Board. Regardless of whether such recusal would have been required pursuant to the judicial canons of ethics, Judge Luther and I agreed upon her arrival to the Board that it would be prudent for her to be recused from participating in the *Everone* appeal, given her previous involvement, as an Assistant U.S. Attorney, in various matters involving the Bureau of Indian Affairs and the Tribe. Similarly, she has been recused from the subsequent appeal filed by the Tribe. In discussing and deciding upon her recusal, Judge Luther and I have had no discussions concerning the merits of any issues involving the Tribe or issues raised in these appeals.

Obviously, any determination regarding Judge Luther's involvement in future appeals that involve the Tribe would be premature.

Because Judge Luther is and has been recused from participating in these appeals, I find no reason to inquire further into your allegations, although I note that you provide no details of the alleged substance of the alleged conversation regarding the Tribe's case.

Similarly, I find no grounds for issuing a show cause order.

Sincerely,



Steven K. Linscheid  
Chief Administrative Judge

cc: Distribution lists for Docket Nos. IBIA 06-70-A and 07-100-A

Distribution: IBIA Nos. 06-70-A and  
07-100-A

Phillip E. Thompson, Esq.  
for California Valley Miwok Tribe  
and Silvia Burley  
601 Pennsylvania Ave. NW  
Suite 900, South Building  
Washington, DC 20005

Yakima Dixie  
11178 Sheep Ranch Road  
P.O. Box 41  
Sheep Ranch, CA 95250

California Valley Miwok Tribe  
c/o 11178 Sheep Ranch Rd.  
P.O. Box 41  
Sheep Ranch, CA 95250

California Valley Miwok Tribe  
c/o 10601 Escondido Pl.  
Stockton, CA 95212

Chadd Everone  
2140 Shattuck Ave. #602  
Berkeley, CA 94704

Velma WhiteBear  
213 Downing Dr.  
Galt, CA 95632

Superintendent  
Central California Agency, BIA  
650 Capitol Mall 8-500  
Sacramento, CA 95814

Regional Director  
Pacific Regional Office  
Bureau of Indian Affairs  
2800 Cottage Way  
Sacramento, CA 95825

Regional Solicitor  
Pacific Southwest Regional Office  
U.S. Department of the Interior  
2800 Cottage Way, Room E-1712  
Sacramento, CA 95825

Jane M. Smith, Esq.  
Branch of Tribal Government  
& Alaska, Division of Indian Affairs  
Office of the Solicitor  
MS-6513-MIB  
1849 C Street, N.W.  
Washington, DC 20240