



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

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CALIFORNIA VALLEY MIWOK TRIBE, CALIFORNIA.

APPELLANT

PACIFIC REGIONAL DIRECTOR,
BUREAU OF INDIAN AFFAIRS.

APPELLEE

YAKIMA DIXIE, VELMA WHITEBEAR, AND
CHADD EVERONE.

INTERESTED PARTIES

**OPPOSITION OF
INTERESTED PARTIES To
APPELLANT'S (AMENDED) MOTION
TO ENFORCE AUTOMATIC STAY
DATED NOVEMBER 17, 2007**

DOCKET No. IBIA 07-100-A

NOVEMBER 21, 2007

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Synopsis

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The Interested Parties, above, (representing the Putative Member class of the Tribe, which could comprise many of the 480 persons who have submitted their genealogies to the BIA pursuant to the Bureau's Public Notices of April 2007 to organize the Tribe ^[1]), are, for the reasons explained herein, **OPPOSED** to the Appellant's (Silvia Burley's) Motion to have the IBIA order a Stay on the BIA in helping the Tribe to become organized in accordance with the criteria as defined in that Public Notice. The Interested Parties hold that such a Stay would *a*) be improper administrative due-process, *b*) artificially delay the inevitability of the organization of the Tribe, *c*) complicate the current issues surrounding the PL - 638 grant applications, and *d*) cause further, unnecessary and irreparable harm to many members of the Tribe.

¹ www.californiavalleymiwok.com/2007-04-11-BIA-PublicNotice-AmadorLedgerDispatch.pdf

24 The reasons for this opposition can be summarized as follows.

The Scope of the IBIA's jurisdiction

26 • The subject of this Appeal is the Burdick Directive of November 6, 2006 ^[2] and the
 28 affirmation of that Directive by the Regional Director of April 2, 2007 ^[3]. Those two deter-
 30 minations are derivative of and an implementation of the Olsen Determination/Directive of
 32 February 11, 2005 (a.k.a. The Olsen Mandate) ^[4]. (In turn, that Mandate relied upon and
 34 incorporated into itself the prior Risling Determination of March 26, 2004, which rejected a
 36 constitution that had been submitted to the BIA by Ms. Burley. It was rejected on the basis
 38 that it did not reflect majoritarian principles. The Risling Determination was appealable but
 40 Ms. Burley failed to do so. Accordingly, no authority for the Tribe as the level of Chairper-
 42 son, was recognized by the BIA; and subsequently Ms. Burley was recognized as "a repre-
 44 sentative" for the Tribe.) As such, the Burdick Directive and the Regional Director's
 46 Affirmation are embedded within the Olsen Mandate; and that Mandate is an **unappealable,
 48 final agency action**, which the Agency is required to implement - being that it was directed
 50 to do so in that Olsen Mandate. The failure to implement that Mandate would be abdication
 52 of the duty of the Superintendent and such inaction would, itself, constitute a cause for an
 54 administrative appeal and court action. To Stay the implementation of an unappealable
 56 Mandate would seem to be outside the jurisdiction of the IBIA and a abrogation by the Board
 of the proper exercise of the discretionary authority of the administrators of the BIA in
 accord with the provisions of 43 C.F.R. § 4.330 Scope.

"(b) Except as otherwise permitted by the Secretary or the Assistant Secretary--Indian
 Affairs by special delegation or request, the Board shall not adjudicate:

(1) Tribal enrollment disputes;

(2) Matters decided by the Bureau of Indian Affairs through exercise of its discretion-
 ary authority; "

• The scope of the IBIA's authority (as cited above in reference to "Tribal enrollment
 disputes") warrants further consideration. The BIA has repeatedly and clearly averred that
 the Bureau does not determine the membership for this or any other Tribe. This means that
 the BIA does not determine the membership of the Tribe *qua* the Tribe. This is repeatedly
 documented in determinations of the BIA in reference to this situation. However, in this
 situation, *a*) where the Tribe is unorganized, *b*) where the Tribe does not have a reputable
 and legitimate intra-tribal remedy for resolving its own disputes, and *c*) where the Tribe has
 been in such prolonged, acrimonious, and irreconcilable differences about its legitimate
 authority, the Bureau *does* have an obligation to establish its own criteria for identifying

² www.californiavalleymiwok.com/IBIA-2/2006-11-06-BIA-Burdick-Mandate.pdf
 Superintendent Burdick's Mandate to move forward in tribal organization.

³ www.californiavalleymiwok.com/IBIA-2/2007-04-02-BIA-Gregory-Determination.pdf
 Regional Director's Denial of Burley Appeal of the Burdick Directive.

⁴ www.californiavalleymiwok.com/2005-02-11-BIA-Determination.pdf
 Olsen Determination/Directive of February 11, 2005.

58 legitimate members with whom the Bureau will deal on a government-to-government basis.
 60 This is necessary to preserve the sovereign status of the Tribe, itself. And indeed, such a
 62 determination is a right that is inherent in the sovereignty of the United States of America
 and its delegated authority to the Secretary of Indian Affairs. Given that qualification, the
 fundamental issue for the Tribe is, within the Tribe itself, a membership dispute; and on that
 basis, the IBIA, it would seem, should not be involved.

64 **Insufficient Basis For A Stay**

66 • For the IBIA to issue a Stay on the Olsen Determination/Directive as implemented by the
 Burdick Directive and as affirmed by the Regional Directors denial of the Burley Appeal
 68 and, therefore, for the IBIA to impede the organization of the Tribe with a Stay, this would
 seem to be, in effect, TRO/Injunction. And the Appellant (Burley) in this case clearly would
 70 not have sufficient legal justification for a TRO/Injunction, within the guidelines of the
 Federal Rules of Civil Procedure - Rule 65. That is: *1)* the Appellant cannot demonstrate
 72 "irreparable harm" if the injunction or Stay is not issued, and any harm that might be asserted
 by Appellant can be easily compensated by monetary damages, *2)* the Appellant does not
 74 have substantial likelihood of ultimately prevailing in her Appeal; and *3)* the balancing of
 relative hardship between the Appellant and the Appellee and the Putative Member is
 76 weighted heavily in favor of the interests of Appellee and the Interested Parties (as represen-
 tative of the Putative Members).

78 • Further, assuming that a Stay would be the equivalent of a TRO/Preliminary Injunction,
 80 then the Appellant (Burley) has already been denied such a remedy in Federal Court.^[5] It
 would seem that, in effect, this Appeal, in general, and this Stay, in particular, are a way to
 82 circumvent the determinations and order of that Court. Two months after the Olsen
 Determination/Directive, knowing that the Mandate was unappealable, the Appellant
 84 (Burley) file suit on April 12, 2005 in U.S. District Court for Injunctive relief to prevent the
 BIA from being involved in the organization of the Tribe. On March 30, 2006, that case was
 86 dismissed for failure to state a claim.^[6] Subsequently, the Appellant (Burley) Appealed the
 matter to the U.S. Court of Appeals and that decision was heard on October 12, 2007, with
 88 the ruling pending, as of this date.

90 **The Notion An "Automatic" Stay As Being Required By Code**

92 • The Appellant asserts in her Motion for a Stay that an "automatic stay" is required by
 25 C.F.R. § 2.6 and 43 C.F.R. § 4.314. The text of those regulations does not seem dictate
 any such automatic Stay for this particular situation. The relevant sections of 25 C.F.R. § 2.6
 94 state the following:

⁵ www.californiavalleymiwok.com/dc-suit

California Valley Miwok v. USA U.S. Dist Ct. - D.C.; case #1:05cv00739-JR.

⁶ Ibid.

www.californiavalleymiwok.com/dc-suit/2006-03-30-Memorandum.pdf and
www.californiavalleymiwok.com/dc-suit/2006-03-30-Order.pdf

96 "(a) No decision, which at the time of its rendition is subject to appeal to a superior
 98 authority in the Department, shall be considered final so as to constitute Departmental
 100 action subject to judicial review under 5 U.S.C. 704, unless when an appeal is filed, the
 official to whom the appeal is made determines that public safety, protection of trust
 resources, or other public exigency requires that the decision be made effective
 immediately.

102 (b) Decisions made by officials of the Bureau of Indian Affairs shall be effective when
 the time for filing a notice of appeal has expired and no notice of appeal has been filed.

104 (c) Decisions made by the Assistant Secretary--Indian Affairs shall be final for the
 106 Department and effective immediately unless the Assistant Secretary--Indian Affairs
 provides otherwise in the decision."

108 Parsing the above subsections *vis a vis* this situation, with respect to subsection
 110 (a) and as discussed above, the Olsen Determination/Directive was an unappeal-
 112 able final agency action and the Burdick Directive is derivative and an implemen-
 114 tation thereof. Consequently, the Burdick Directive would not be a "... decision,
 which at the time of its rendition is subject to appeal to a superior authority in the
 Department". Further, with respect to subsection (b), because the Risling
 116 Determination was not appealed by Ms. Burley within the allowed 30 days (i.e.,
 by May 26, 2004), it and the Olsen Mandate of February 11, 2005 which relied
 upon it and the Burdick Determination of November 6, 2006 which implemented
 118 it should be considered "Decisions ... effective when the time for filing a notice of
 appeal has expired and no notice of appeal has been filed." Finally, with respect
 120 to subsection (c), because the Olsen Determination/Directive of February 11,
 2005 was made by the Principal Deputy, Acting Assistant Secretary- Indian
 122 Affairs, that Mandate should be considered "... effective immediately unless the
 Assistant Secretary--Indian Affairs provides otherwise in the decision", which he
 124 did not.

126 **A Stay Would Confuse The PL 638 Grant Applications And Cause Irreparable Harm**
 128 **To The Rightful Authority For the Tribe**

- 130 At issue, currently before the BIA and also in an action before the IBIA, is the allocation
 132 of the PL 638 grant to the proper authority for the Tribe. There are competing grant applica-
 134 tions - one by the Appellant (Burley) and the other by the Putative Member class. It is in
 doubt that the Appellant (Burley) can be classified as a Putative Member of the Tribe,
 something which was alluded to in the denial of her Appeal by the Regional Director when
 he said:

136 "On August 5, 1998, by letter signed by Yakima Dixie, as Spokesperson/Chairman of
 the Sheep Ranch Rancheria informed the Agency that he had accepted you and your
 138 daughters ... as enrolled members of the Tribe. However, he did not provide the criteria
 he used to determine your eligibility to be enrolled into the Tribe; what documentation
 that you provided to substantiate your eligibility to be enrolled and his authority to initi-
 140 ate this enrollment action. " ^[7]

⁷ *ibid.* Regional Director's Denial of Burley Appeal, April 2, 2007 page 3 ¶ 2.

142 Consequently, to impose a Stay on the organization will confound who is the proper
 144 representative for the Tribe to whom this grant money should be entrusted. Implement-
 ing the Burdick Determination according to the Public Notices of April 2007 would
 certainly clarify and perhaps resolve both Appeals that are now before the IBIA.

146 **A Stay Would Countermand A Prior Posture Of The IBIA**

- 148 • On June 19, 2007, Superintendent Burdick declined a request by Silvia Burley to meet
 150 privately. The decline was predicated on the grounds that this Appeal had divested the BIA
 152 of authority to take further action. On June 26, 2007, the IBIA, in an unusual move and by
 its own Motion, allowed "discussion between BIA and the interested parties to this appeal,
 154 including Burley". This was in the interest of facilitating a settlement of the dispute within
 the Tribe. To a much greater extent, to impose a Stay on the BIA from continuing to assist
 the Tribe in its organization by implementing the Public Notices of April 2007 would also
 impede a settlement of the dispute within the Tribe.

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158 **Discussion and Arguments**

160 The best way to keep track of the many twists and turns in the pleadings of this case is to
 162 keep reviewing the main points in the history of this particular situation. At various junctures in
 this review, reference will be made to why the IBIA should deny this Motion for a Stay.

164 **Basic Background**

166 The California Valley Miwok Tribe, California (formerly the Sheep Ranch Rancheria of
 Me-Wuk Indians of California) is a federally recognized tribe, established in 1915 under a
 168 Congressional allocation for homeless Indians in California. In the original census, 12 individu-
 als were identified as members of the tribe (i.e., "Peter Hodge 56, wife Annita 48, and 4 children,
 170 Malida 19, Lena 15, Tom 13 and Andy 10 (Hodge is 1/2 and his wife full blood), _____ Jeff 58
 and wife Betsey 60, full bloods, Mrs. Limpey 80, full blood, John Tecumchey 46 and wife
 172 Pinkey 40, full bloods, Mary Duncan, granddaughter of Jeff 8 years old 3/4 blood.").^[8]

174 The Rancheria amounted to 0.92 acres. Over the years, various relatives of this original
 group came and went, some living on the reservation or in the adjacent township for extended
 176 periods of time; and the property was always a gathering point for the broader Indian
 community, mostly those in Calaveras County. However, like the other Rancherias, there was
 178 never a formal allotment to either the Tribe nor to particular individuals.

180 In 1936, a member of the Tribe (Jeff Davis of the above census) voted for organization
 under the Indian Reorganization Act (73 Stat. 984 et seq.; PL383; June 18, 1934). However,

⁸ www.californiavalleymiwok.com/1915-08-13-SheepRanch.pdf

182 neither the Tribe nor the BIA effected the organization; and the Tribe has remained under tradi-
 184 tional governance up to the present date.^[9]

186 In 1966, Mabel Hodge Dixie, a member of the Tribe who had live on the reservation for
 188 over 30 years, voted "YES (in favor) ... to prepare a plan for the distribution of the tribal assets
 190 of the SHEEP RANCH RANCHERIA...." under the Rancheria Termination Act (72 Stat. 619;
 PL 85-671; August 18, 1958). However, the Tribe was never officially terminated even though
 the land was deeded to Mrs. Dixie and held in trust for her.^[10]

192 Thus, there were 14 (actually 13) historical members whom the BIA had officially identi-
 194 fied and with whom some type of government-to-government business had been transacted. As
 196 we will see later, those are the 14 individuals who are named in the BIA's Public Notice of April
 198 2007, the lineal descendants of whom are to be recognized by the Bureau as "putative members"
 for the purpose of preliminary, tribal organization. One of the Interested Parties, Yakima Dixie,
 and his brother (Melvin Dixie) absolutely qualify as a putative member - being the lineal descen-
 dant of Mable Hodge Dixie. The Appellant (Silvia Burley) apparently would not qualify as a
 putative member.

200 Upon the death of Mabel Dixie in 1971, the authority passed to her eldest son, Yakima
 202 Dixie, who has maintained his residence on the Rancheria at Sheep Ranch, California, ever
 since. And from that date to 1999 (close to 30 years), the BIA recognized Yakima Dixie as the
 Hereditary Authority, Spokesperson, Chief, and Chairperson for the Tribe.

204 In 1996's, a person by the name of Silvia Burley (The Appellant) was seeking member-
 206 ship in some of the Indian tribes in Amador County, where she lived, so that she and her daugh-
 208 ters might receive medical and educational benefits through the federal government; however,
 she was not accepted by those tribes. Agents of the BIA suggested that she contact Yakima
 Dixie, at Sheep Ranch in Calaveras County, to see if he might be willing to give her tribal status
 210 in exchange for helping him to organize the Tribe. Many of the Indians in Amador, Tuolumne,
 and Calaveras Counties are relatives; and Silvia Burley is a remote relative of Mr. Dixie, even
 212 though they had never met prior to their introduction in 1996. After some consideration and
 facilitating by the BIA, Mr. Dixie apparently admitted Ms. Burley to tribal status, although the
 214 circumstances and validity of such admission remain dubious. (See page 3 ¶ 1 of the Regional
 Director's denial of Ms. Burley Appeal of April 2, 2007, in which he calls into question the
 216 authenticity of Ms. Burley's tribal enrollment^[11].) Soon thereafter, Ms. Burley usurped the
 authority of Mr. Dixie. Using a document which purported to be the resignation of Mr. Dixie as
 218 Chairperson (a document which would be invalid for many reasons and which, by expert

⁹ www.californiavalleymiwok.com/1936-06-06.pdf

¹⁰ www.californiavalleymiwok.com/1966a-SheepRanchDoc.pdf
www.californiavalleymiwok.com/1966b-SheepRanchDoc.pdf
www.californiavalleymiwok.com/1966c-SheepRanchDoc.pdf

¹¹ www.californiavalleymiwok.com/IBIA-2/2007-04-02-BIA-Gregory-Determination.pdf
 Regional Director's denial of Silvia Burley's Appeal.

220 examination, is probably a forgery), she had herself recognized by the BIA as the authority for
 221 the Tribe; and henceforth, she conveyed, only to herself and immediate family, large sums of
 222 money (totaling close to \$7 million) from federal PL 638 grants and from the California Revenue
 223 Sharing Trust Fund. Meanwhile, Mr. Dixie and other rightful members of the Tribe received
 224 zero benefits. Further, Ms. Burley "disenrolled" Mr. Dixie and prohibited any tribal member or
 225 legal representative from attending her meetings or examining her accounting. Further, as the
 226 administrator of tribal assets, Ms. Burley has never conducted any meaningful program or
 service for members or for the broader Indian community.

228 Upon discovering that his authority had been usurped, Mr. Dixie, as far back as 1999,
 229 initiated his appeal of the BIA's recognition of Ms. Burley as the rightful authority for the Tribe.
 230 Over the course of a long and tortuous effort, his appeal finally became properly lodged in D.C.;
 231 and on February 11, 2005, Michael Olsen, Acting Principal Deputy Assistant Secretary, issued
 232 his unappealable Determination/Directive regarding the authority for the Tribe.^[12] In that
 233 Determination/Directive, Olsen mandated that *a*) there is no recognized authority for this Tribe,
 234 *b*) the dispute in tribal authority was to be resolved by tribal organization, and *c*) the BIA would
 235 not recognize any intra-tribal forum for adjudicating the issue of tribal authority, with any such
 236 resolution residing under the auspices of the BIA.

238 This brings us to contemporary events that pertain to this Appeal and the present Motion

240 **Relevant Events**

242 The Olsen Determination/Directive of February 11, 2005 relied upon and incorporated
 243 into itself an earlier official Determination by Superintendent Dale Risling, Sr. of March 24,
 244 2004, in which Risling rejected a constitution that had been submitted by the Appellant (Burley).
 245 Risling's Determination was based on the grounds that her constitution did not "... reflect the
 246 involvement of the whole tribal community." Superintendent Risling made abundantly clear that
 247 Ms. Burley could appeal his Determination and that the BIA was available to help her do so.
 248 However, he admonishes:

250 "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."

252 Ms. Burley never filed any response or appeal of the Risling Determination.

254 The Olsen Determination/Directive of February 11, 2005, itself, offered no appeal, and it
 255 was predicated on the Risling Determination, any appeal of which had long expired. Further, the
 256 finality of the Olsen and Risling mandates was affirmed for the purpose of the U.S. Federal
 257 District Court, D.C., in its dismissal of the Appellant (Burley's) court action to prevent the BIA
 258 from being involved in tribal organization. The Court stated that it

¹² www.californiavalleyemiwok.com/2005-02-11-BIA-Determination.pdf

Olsen Determination/Directive of February 11, 2005. See page 3 ¶ 1.

260 "... accepts that the letters of February 11, 2005 and March 26, 2004 were final agency
actions." ^[13]

262 Knowing that the Olsen Determination/Directive of February 11, 2005 was an unappeal-
264 able, final, agency action, there would be no basis for an IBIA appeal; and therefore, Ms. Burley
proceeded to U.S. District Court, 2 months later in April 2005, filing a complaint for injunctive
266 relief to prevent the BIA from being involved in tribal organization. About a year thereafter, on
March 30, 2006, that action was dismissed by the Court.

268 "Plaintiff's claim of government interference in the internal affairs of the Tribe depends
entirely on their reading of subsection 476(h), which, as I have explained, is erroneous.
270 The first count of plaintiffs' complaint, asserting a "violation" of 25 U.S.C. § 476(h), thus
fails to state a claim upon which relief can be granted. The second count, asserting
272 arbitrary, capricious, and unlawful agency action under the Administrative Procedure Act
... also fails to state a claim" ^[14]

274 During the 12 months of the pendency of that court action, the BIA averred that it would,
and indeed it did, move forward in implementing the Olsen Determination/Directive. In other
276 wards, that Court action did not stay the organizational process; and there is no reasons why the
IBIA Appeal should either. More to the point, given this Court decision, the matter which is
278 being appealed to the IBIA has already been adjudicated in District Court; and such adjudication
should supersede the jurisdiction of the IBIA in this matter. Consequently, any derivative
280 actions such as this Motion for a Stay would be invalid and should be denied.

282 Again, the Olsen Determination/Directive was an unappealable Mandate. All subsequent
actions by the BIA have been, simply, implementations of that Mandate. And it would follow
284 that the implementation of an unappealable Mandate could not be stayed - unless such imple-
mentations were in violation of the original Mandate (which, in this case, they are not). Subse-
286 quent to the Olsen Determination/Directive of February 11, 2005, the BIA and the Interested
Parties held numerous meetings to which the Appellant (Burley) was invited to attend but never
288 attended. The BIA made available, to all Parties, mediation services; but Appellant (Burley)
declined. The BIA formally called for a meeting of the contesting parties; but Appellant
290 (Burley) refused to attend. All attempts by the BIA and the Interested Parties to organize the
Tribe with the participation of Appellant (Burley) were met with her opposition, obstructionistic
292 litigation, and this obstructionistic administrative appeal and this Motion to Stay.

294 Finally, after almost 2 years of such attempts to help the tribe organize itself, when no
reconciliation seem possible and when the government-to-government relations became threat-
296 ened by the inability for the Tribe to resolve, by itself, the dispute over authority, the BIA had no
option but to move forward with the organization of the Tribe in a manner that could be accepted
298 by the U.S. government. For the BIA to further delay the process would be in violation of the

¹³ <http://www.californiavalleymiwok.com/2006-03-30-Memorandum.pdf> footnote, page 10.
<http://www.californiavalleymiwok.com/2006-03-30-Order.pdf>
California Valley Miwok Tribe v. USA, et al.; United States District Court for the District
of Columbia - case 1_05-cv-00739-JR; Memorandum and Order filed March 30, 2006.

¹⁴ Ibid. See page 15 of the above Memorandum.

300 Olsen Determination/Directive and, itself, be subject to an Appeal and litigation on that basis of
 301 inaction of a public agency. With a Court decision that the BIA was not prohibited to be
 302 involved in helping the Tribe to become organized, the Superintendent moved forward with his
 303 Determination of November 6, 2006. On November 10, 2006 initiated her Appeal and, after
 304 some procedural delay, on April 2, 2007, the Regional Director denied that Appeal and affirmed
 305 the Superintendent's Determination to move forward on tribal organization. Soon thereafter, the
 306 BIA issued its Public Notices for organization.

307 **Table I - This table represents the chronology and inter-relationship between the Olsen**
 308 **Mandate and its implementation by the Burdick Directive and the Regional Director's**
 309 **affirming that Directive with the suit in Federal District Court by Silvia Burley, her Appeal**
 310 **in the Court of Appeals, and her IBIA Appeal.**

Month	Year	Actions			
		Dixie BIA Appeal	Burley Suit U.S. District Court #1:05-cv-00739-JR	Burley IBIA Appeal IBIA 07-100-A	
December	1999	Appeal Initiated			
February	2005	Olsen Mandate			
March	2005				
April	2005	initial meetings	Complaint filed		
May	2005	mediation K. Lynn			
June	2005	negotiations/organization			
July	2005				
August	2005				
September	2005				
October	2005				
November	2005				
December	2005				
January	2006	∩∩			
February	2006	constitution submitted		Complaint dismissed	
March	2006	negotiations/organization			
April	2006				
May	2006				
June	2006				
July	2006		Appeal #06-5203		
August	2006				
September	2006				
October	2006	∩∩			
November	2006	Burdick-Directive			
December	2006	negotiations/organization			
January	2007				
February	2007				
March	2007	∩∩			
April	2007	Gregory Affirms / Notice		Complaint	
May	2007				
June	2007				
July	2007				
August	2007				
September	2007				
October	2007				
November	2007				
December	2007		Hearing of Appeal		

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In Summation

314
 316 The idea of Justice can be defined as: a fair hearing, in an expedient manner, with a
 318 determination that can be enforced. This generic rule of Justice would apply to all three
 320 branches of our government including administrative due process. Although it has been a long
 322 and arduous struggle since Mr. Dixie originated his appeal in 1999, it can be said that the BIA
 324 has given an appropriate measure of justice to this matter. (The hearings have been reasonably
 326 fair in terms of administrative due process. Although not expedient, the proceedings have
 328 moved forward. And the determination, as enunciated in the Public Notices of April 2007,
 provides a resolution that is rational and can be enforced.) However, to not follow through, at
 this point, and to attenuate this process further without a substantive and rational cause and
 without considering that there are real people involved, whose personal lives have been
 impacted, would culminate all of this work in a real injustice. This would seem obvious from the
 above cited history. To emphasize the point, in the transcript of hearing on January 19, 2006, in
 the above mentioned suit which was brought by Ms. Burley to prevent the BIA from being
 involved in the organization of the Tribe and which was dismissed by the Court for failure to
 state a claim, Judge Robertson made the following remark.

330 "25 THE COURT: Well, let me -- I'm trying to
 332 1 find out what happens if I dismiss this case. What
 334 2 does the BIA do if I dismiss this case? What do
 3 3 you next? Anything? Or just let the Miwok set
 4 there as unorganized and keep sending them money
 5 every year and - - "

336 United States District Court for the District Of Columbia California Valley
 Miwok v. United States of America; CA 05-0739. Line 25, page 26 et seq. [15]

338 (The remarks which were expurgated from the transcript by the notation "- -"
 340 were, as this Party recalls, harsher on the BIA for getting things resolved in a
 timely manner.)

342 For the reasons stated herein, the Appellant's Amended Motion to Enforce Automatic Stay of
 November 17, 2007 should be denied.

344 *Ho!*

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¹⁵ www.californiavalleymiwok.com/dc-suit/2006-01-19-HearingTranscript.pdf

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Respectfully,

Yakima K. Dixie, Chief & Hereditary
Authority
California Valley Miwok Tribe (formerly
Sheep Ranch Rancheria of Me-Wuk Indians of
California)
11178 Sheep Ranch Rd. (Sheep Ranch)
Mountain Ranch, California 95246
209-728-8726
Date: _____

Velma WhiteBear, Executive Director

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916-690-2312

Date: _____

Drafted for Interested Parties by:

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Date: _____

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Certificate of Service

I hereby certify that on or about November 21, 2007, 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:

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NOTE: THE MAILING ADDRESS HAS CHANGED SOMEWHAT.


Chadd Everone, Deputy

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364

 **FROM:** Sheep Ranch Rancheria of MiWok Indians of California c/o CHADD EVERONE 2140 Shattuck Ave. #602, Berkeley, California 94704


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

 **FROM:** Sheep Ranch Rancheria of MiWok Indians of California c/o CHADD EVERONE 2140 Shattuck Ave. #602, Berkeley, California 94704


TO:
United States Department of the Interior
Office of Hearings and Appeals
Interior Board of Indian Appeals
801 North Quincy Street #300
Arlington, Virginia 22203

 **FROM:** Sheep Ranch Rancheria of MiWok Indians of California c/o CHADD EVERONE 2140 Shattuck Ave. #602, Berkeley, California 94704


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

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TO:
Regional Solicitor
Pacific Southwest Region
U.S. Department of the Interior
2800 Cottage Way, Room E-1712
Sacramento, CA 95825-1890

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TO:
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Pacific Regional Office
Bureau of Indian Affairs
2800 Cottage Way
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 **FROM:** Sheep Ranch Rancheria of MiWok Indians of California c/o CHADD EVERONE 2140 Shattuck Ave. #602, Berkeley, California 94704

TO:
Silvia Burley
California Valley Miwok Tribe
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TO:
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