



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 26, 2007

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Synopsis

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The Interested Parties, above, represent the interests 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]. For the reasons explained herein, the Interested Parties are **OPPOSED** to the Appellant (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 and legal 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.

26 **The Administrative Basis For A Stay
& The Scope Of The IBIA's Jurisdiction**

28 • The subject of this Appeal is the "Burdick Directive" of November 6, 2006 ^[2] and the
 30 "Regional Director's Determination" of April 2, 2007 ^[3] which affirmed that Directive.
 32 Those two determinations are derivative of and an implementation of the "Olsen Determina-
 34 tion/ Directive" of February 11, 2005 (a.k.a. The Olsen Mandate) ^[4]. In turn, that Olsen
 36 Mandate relied upon and incorporated into itself the prior "Risling Determination" of March
 38 26, 2004, which rejected a constitution that had been submitted to the BIA by the Appellant
 40 (Burley). That constitution was rejected on the basis that it did not reflect majoritarian
 42 principles. The Risling Determination was a determination that could be appealed; but Ms.
 44 Burley failed to do so. Accordingly, in that Olsen Mandate, it came to be the position of the
 46 BIA that there is no recognized authority for the Tribe, at the level of a Chairperson - neither
 48 Yakima Dixie nor Silvia Burley nor anyone else. The BIA would continue to recognize Ms.
 Burley only as "a representative" for the Tribe and, in that capacity, only for the purposes of
 administering the PL 638 grant. In this matrix of events and documents, the Burdick Direc-
 tive and the Regional Director's Affirmation of that directive are embedded within the Olsen
 Mandate; and that Mandate is an **unappealable, final agency action**, which the Agency is
 required to implement - being that it was directed to do so in that Olsen Mandate. A failure
 to implement that Mandate would be an abdication of the duty of the Superintendent and
 Regional Director and, such inaction, would, itself, constitute a cause for an administrative
 appeal and court action. To Stay the implementation of an unappealable Mandate would
 seem to be outside the jurisdiction of the IBIA and an abrogation by the Board of the proper
 exercise of the discretionary authority of the administrators of the BIA according to the
 provisions of 43 C.F.R. § 4.330 Scope.

50 "(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;

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

54 • The scope of the IBIA's authority (as cited in the above reference to "Tribal enrollment
 56 disputes") warrants further consideration. The BIA has repeatedly and clearly averred and
 demonstrated in its actions that the Bureau does not determine the membership for this or any

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

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

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

58 other Tribe. This means that the BIA does not determine the membership of the Tribe *qua*
 60 Tribe. However, in a situation, *a*) where the Tribe is unorganized (i.e., not having a constitu-
 62 tion that has been accepted by the Secretary), *b*) where the Tribe does not have a reputable
 64 and legitimate intra-tribal remedy for resolving its own disputes, and *c*) where the Tribe has
 66 been in such prolonged, acrimonious, and irreconcilable differences about its legitimate
 68 authority, then the Bureau, *does*, indeed, have an obligation to establish its own criteria for
 70 identifying legitimate members in the Tribe with whom the Bureau will deal on a
 72 government-to-government basis. This *sui juris* action on the part of the BIA is necessary to
 preserve the sovereign status of the Tribe, itself, and government-to-government relations.
 Such a determination would be a right that is inherent in the sovereignty of the United States
 of America through its delegated authority to the Secretary of Indian Affairs. Given that
 qualification, the fundamental *meta* issue, here, is a membership dispute within the Tribe;
 and on that basis, the IBIA, it would seem, should not have jurisdiction according to 43
 C.F.R. § 4.330(b)(1). Because the IBIA would not have jurisdiction would not nullify the
 BIA from exercising its discretionary authority to recognize an authority for the Tribe and to
 help that group organize the Tribe so that a formal government can be recognized by the
 Secretary, which is what the Public Notice of April 2007 does.

74 **The Legal Basis For A Stay/Injunction**

- 76 • For the IBIA to issue a Stay on the Olsen Determination/Directive as implemented by the
 78 Burdick Directive and as affirmed by the Regional Director's denial of the Burley Appeal
 and, therefore, for the IBIA to impede the organization of the Tribe with a Stay, this would
 80 seem to be, in effect, TRO/Injunction. And the Appellant (Burley), in this case, clearly
 would not have sufficient legal justification for this kind of action. A TRO/Injunction,
 82 within the guidelines of the Federal Rules of Civil Procedure - Rule 65, must satisfy three
 criteria; and the Appellant fails on all three - i.e., *1*) the Appellant cannot demonstrate
 84 "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
 have a substantial likelihood of ultimately prevailing in her Appeal; and *3*) the balancing of
 86 relative hardship between the Appellant and the Appellee/Interested Parties is weighted
 heavily in favor of the interests of Appellee and the Interested Parties (as a representative of
 88 the Putative Members).
- 90 • Further, assuming that a Stay would be the analogous of a TRO/Injunction, then the
 Appellant (Burley) has already been denied such a remedy in her Federal Court action.^[5] It
 92 would seem that, in effect, this Appeal, in general, and this Stay, in particular, are a way to
 circumvent the determinations and order of that Court. Two months after the Olsen
 94 Determination/Directive was issued (knowing that the Mandate was unappealable), the
 Appellant (Burley) file suit on April 12, 2005 in U.S. District Court for Injunctive relief to
 96 prevent the BIA from being involved in the organization of the Tribe. On March 30, 2006,
 that case was dismissed for failure to state a claim.^[6] Subsequently, the Appellant (Burley)

⁵ www.californiavalleymiwok.com/dc-suit (See all pleadings.)
 California Valley Miwok v. USA U.S. Dist. Ct. - D.C.; case #1:05cv00739-JR.

⁶ Ibid.

98 Appealed the matter to the U.S. Court of Appeals and that case was heard on October 12,
2007, with the ruling pending, as of this date.

100 **The Notion Of An "Automatic" Stay, As Being Required By Code**

102 • 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 to dictate
104 any such automatic Stay for this particular situation. The relevant sections of 25 C.F.R. § 2.6
state the following:

106 "(a) No decision, which at the time of its rendition is subject to appeal to a superior
authority in the Department, shall be considered final so as to constitute Departmental
108 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
110 resources, or other public exigency requires that the decision be made effective
immediately.

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

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

120 Addressing the above subsections *vis a vis* this situation, with respect to subsec-
tion (a) and as discussed above, the Olsen Determination/Directive was an
122 unappealable final agency action and the Burdick Directive, its affirmation by the
Regional Director, and the Public Notice of April 2007 are all derivative and an
124 implementation thereof. Consequently, the Burdick Directive would not be a "...
decision, which at the time of its rendition is subject to appeal to a superior
126 authority in the Department". Further, with respect to subsection (b), because
the Risling Determination was **not** appealed by Ms. Burley within the allowed 30
128 days (i.e., by May 26, 2004) or at any time, it and the Olsen Mandate of February
11, 2005 which relied upon it and the Burdick Determination of November 6,
130 2006, which implemented it, all should be considered "Decisions ... effective
when the time for filing a notice of appeal has expired and no notice of appeal has
132 been filed." Finally, with respect to subsection (c), because the Olsen
Determination/Directive of February 11, 2005 was made by the Principal Deputy,
134 Acting Assistant Secretary - Indian Affairs, that Mandate might properly be
considered "... effective immediately unless the Assistant Secretary--Indian
136 Affairs provides otherwise in the decision", which he did not in this case.

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

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140 • At issue, currently before the Bureau and also in another action before the IBIA, is the
142 allocation of the PL 638 grant to the proper authority for the Tribe. There are competing
grant applications - one by the Appellant (Burley) and the other by the Putative Member
144 class. It is in doubt that the Appellant (Burley) can be classified as a Putative Member of the
Tribe, according to the criteria in the Public Notices of April, 2007 and something which was
alluded to in the denial of her Appeal by the Regional Director when he said:

146 "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
148 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
150 that you provided to substantiate your eligibility to be enrolled and his authority to initi-
ate this enrollment action. " ⁷

152 For many reasons, Ms. Burley's induction into the Tribe could be questioned, not the
least of which was the fact that Yakima Dixie's brother, Melvin Dixie, was never
154 consulted nor approved nor even knew about, the enrollment of Ms. Burley. Conse-
quently, to impose a Stay on the organization will confound who is the proper representa-
156 tive for the Tribe to whom this grant money should be entrusted for the benefit of the
Tribe. Implementing the Burdick Determination according to the Public Notices of April
158 2007 would certainly clarify and perhaps resolve both Appeals that are now before the
IBIA.

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A Stay Would Be Inconsistent With The Prior Posture Of The IBIA

162 • On June 19, 2007, Superintendent Burdick declined a request by Silvia Burley to meet
164 privately because of this IBIA Appeal. On June 26, 2007, the IBIA, on its own Motion,
issued an Order which allowed "discussion between BIA and the interested parties to this
166 appeal, including Burley". This was in the interest of facilitating a settlement of the dispute
within the Tribe. Likewise, to impose a Stay on the BIA from continuing to assist the Tribe
168 in its organization by implementing the Public Notices of April 2007 would stifle any
motivation toward a settlement of the dispute within the Tribe.

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Discussion and Arguments

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

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

Basic Background

180
 182 The California Valley Miwok Tribe, California (formerly the Sheep Ranch Rancheria of
 184 Me-Wuk Indians of California) is a federally recognized tribe, established in 1915 under a
 186 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,
 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
 Pinkey 40, full bloods, Mary Duncan, granddaughter of Jeff 8 years old 3/4 blood."). ^[8]

188
 190 The Rancheria amounted to 0.92 acres. Over the years, various relatives of this original
 192 group came and went, some living on the reservation or in the adjacent township for extended
 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
 never a formal allotment to either the Tribe nor to particular individuals.

194
 196 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,
 198 neither the Tribe nor the BIA effected the organization; and the Tribe has remained unorganized
 and operating under traditional governance up to the present date. ^[9]

200
 202 In 1966, Mabel Hodge Dixie, a member of the Tribe who had live on the reservation for
 over 30 years, voted "YES (in favor) ... to prepare a plan for the distribution of the tribal assets
 of the SHEEP RANCH RANCHERIA...." under the Rancheria Termination Act (72 Stat. 619;
 204 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]

206
 208 Thus, there were 14 (actually 13) historical members whom the BIA had officially identi-
 fied and with whom some type of government-to-government business had been transacted. As
 we will see later, those are the 14 individuals who are named in the BIA's Public Notice of April
 2007, the lineal descendants of whom are to be recognized by the Bureau as "putative members"
 210 for the purpose of tribal organization. One of the Interested Parties, Yakima Dixie, and his
 brother (Melvin Dixie) absolutely qualify as a putative member - being the lineal descendant of
 212 Mable Hodge Dixie. The Appellant (Silvia Burley) apparently would not qualify as a putative
 member because she is not a lineal descendant of one of the historic, putative members.

214

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

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

216 Upon the death of Mabel Dixie in 1971, the authority for the Tribe passed to her eldest
son, Yakima Dixie, who has maintained his residence on the Rancheria at Sheep Ranch, Califor-
218 nia, 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.

220 In about 1996, a person by the name of Silvia Burley (The Appellant) was seeking
membership in some of the Indian tribes in Amador County, where she lived, so that she and her
222 daughters 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
224 Yakima Dixie, at Sheep Ranch in Calaveras County, to see if he might be willing to give her
tribal status in exchange for helping him to organize the Tribe. Many of the Indians in Amador,
226 Tuolumne, and Calaveras Counties are relatives; and Silvia Burley is possibly a remote relative
of Mr. Dixie, even though they had never met nor known of each other prior to their introduction
228 in 1996. After some consideration and facilitating by the BIA, Mr. Dixie apparently admitted
Ms. Burley to tribal status, although the circumstances and validity of such admission remain
230 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 authenticity of Ms. Burley's tribal enrollment ^[11].) Soon there-
232 after, Ms. Burley usurped the authority of Mr. Dixie. Using a document which purported to be
the resignation of Mr. Dixie as Chairperson (a document which would be invalid for many
234 reasons and which, by expert examination, is probably a forgery), she had herself recognized by
the BIA as the authority for the Tribe; and henceforth, she conveyed, only to herself and immedi-
236 ate family, large sums of money (totaling close to \$7 million) from federal PL 638 grants and
from the California Revenue Sharing Trust Fund. Meanwhile, Mr. Dixie and other rightful
238 members of the Tribe received zero benefits. Further, Ms. Burley "disenrolled" Mr. Dixie and
prohibited any tribal member or legal representative from attending tribal meetings or examining
240 the Tribe's financial records. Further, as the administrator of tribal assets, Ms. Burley has never
conducted any meaningful program or service for members or for the broader Indian community.
242

244 Upon discovering that his authority had been usurped, Mr. Dixie, as far back as 1999,
initiated his appeal of the BIA's recognition of Ms. Burley as the rightful authority for the Tribe.
Over the course of a long and tortuous effort, his appeal finally became properly lodged in D.C.;
246 and on February 11, 2005, Michael Olsen, Acting Principal Deputy Assistant Secretary, issued
his unappealable Determination/Directive regarding the authority for the Tribe. ^[12] In that
248 Determination/Directive, Olsen mandated that *a*) there is no recognized authority for this Tribe,
b) the dispute in tribal authority was to be resolved by tribal organization, and *c*) the BIA would
250 not recognize any intra-tribal forum for adjudicating the issue of tribal authority, with any such
resolution residing under the auspices of the BIA.
252

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

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

¹² www.californiavalleymiwok.com/2005-02-11-BIA-Determination.pdf
Olsen Determination/Directive of February 11, 2005. See page 3 ¶ 1.

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Relevant Events

256 The Olsen Determination/Directive of February 11, 2005 relied upon and incorporated
 258 into itself an earlier official Determination by Superintendent Dale Risling, Sr. of March 24,
 260 2004, in which Risling rejected a constitution that had been submitted by the Appellant (Burley).
 262 Risling's Determination was based on the grounds that her constitution did not "... reflect the
 involvement of the whole tribal community." Superintendent Risling made abundantly clear that
 Ms. Burley could appeal his Determination and that the BIA was available to help her do so.
 However, he admonishes:

264 "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."

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

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

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

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

282 "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.
 284 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
 arbitrary, capricious, and unlawful agency action under the Administrative Procedure Act
 286 ... also fails to state a claim" ^[14]

288 During the 12 months of the pendency of that court action, the BIA averred, in its
 negotiations with the Tribe, that that action would not prevent the implementation of the Olsen
 290 Determination/Directive and that organization of the Tribe within the auspices of the Bureau
 would continue to move forward. And, in fact, it did. In other words, during the proceedings of

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.

292 the District Court the organizational process was not stayed; and there is no reason why the IBIA
 294 Appeal should either. But more significantly and to the point, given the District Court's
 296 dismissal of the Appellant (Burley's) injunction on the Olsen Mandate, the matter which is being
 298 appealed to the IBIA has already been adjudicated in that Court, and it was dismissed. Such
 adjudication should supersede any jurisdiction of the IBIA in this matter. Again, the Burdick
 Determination, which is being Appealed here, is embedded within the Olsen Mandate; and there-
 fore, a stay or injunction on it has collaterally been dismissed by the District Court.

300 Because the Olsen Determination/Directive was an unappealable Mandate, all subsequent
 302 actions by the BIA have been, simply, implementations of that Mandate. And it would follow
 304 that the implementation of an unappealable Mandate could not be stayed - unless such imple-
 306 mentations were in violation of the original Mandate (which, in this case, they are not). Subse-
 308 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
 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
 (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
 litigation, and this obstructionistic administrative appeal and this Motion to Stay.

312 Finally, after almost 2 years of such attempts to help the tribe organize itself (at a consid-
 314 erable cost to the BIA in terms of time, effort, human resources, and money), when no recon-
 316 ciliation seem possible and when the government-to-government relations became threatened 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 by the
 U.S. government. For the BIA to further delay the process would be in violation of the Olsen
 318 Determination/Directive and, itself, be subject to an Appeal and litigation on that basis of
 inaction of a public agency. With a Court decision that the BIA was not prohibited to be
 320 involved in helping the Tribe to become organized, the Superintendent moved forward with his
 Determination of November 6, 2006. On November 10, 2006 Ms. Burley initiated her Appeal
 322 and, after some procedural delay, on April 2, 2007, the Regional Director denied that Appeal and
 affirmed the Superintendent's Determination to move forward on tribal organization. Soon
 324 thereafter, the BIA issued its Public Notices for organization.

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

Month	Year	Actions			
		Yakima Dixie Administrative Appeal within BIA	Burley Suit U.S. District Court #1:05-cv-00739-JR	Burley IBIA Appeal IBIA 07-100-A	
December	1999	Appeal Initiated			
	↓				
March	2004	Risling Determination			
	↓				
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				
August	2006		Appeal #06-5203		
September	2006				
October	2006				
November	2006	Burdick-Directive			
December	2006	negotiations/organization			
January	2007				
February	2007	↓			
March	2007				
April	2007	Gregory Affirms/Public 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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344

In Summation

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 348 The idea of Justice can be defined as: a fair hearing, in an expedient manner, with a
 350 determination that can be enforced. This generic rule of Justice would apply to all three
 352 branches of our government including administrative due process. Although it has been a long
 354 and arduous struggle since Mr. Dixie originated his appeal in 1999, it can be said that the BIA
 356 has given an appropriate measure of justice to this matter. The proceedings or "hearings" have
 358 been reasonably "fair" in terms of administrative due process. The proceedings have, in fact,
 360 moved forward and they have done so in as expedient a manner as is probably possible, given
 362 that the Tribe is supposed to resolve its own disputes and must be given the opportunity to do so.
 364 And the determination, as enunciated in the Public Notices of April 2007, provides a resolution
 that is rational, legally defensible, 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, whose personal lives have been impacted, would culmi-
 nate all of this work in a real injustice. All of the facts that pertain to this matter have been
 disclosed for a long time; no new conditions will be revealed; The Olsen Mandate was an
 unappealable final agency action and the Burdick Determination (the subject of this Appeal) is a
 mandatory implementation of that. The Olsen Mandate has been sustained in Federal District
 Court. All of the matters in those proceedings are a *fait accompli* and would seem to be
 estopped, if that term is applicable.

366 To emphasize a vital point, in the transcript of hearing on January 19, 2006, in the above
 368 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.

370
 372 "25 THE COURT: Well, let me -- I'm trying to
 1 find out what happens if I dismiss this case. What
 2 does the BIA do if I dismiss this case? What do
 374 3 you next? Anything? Or just let the Miwok set
 4 there as unorganized and keep sending them money
 376 5 every year and - - " ^[15]

378 (The remarks which were expurgated from the transcript by the notation "- -"
 were, as this Party recalls, quite harsh on the BIA for not getting things resolved
 in a timely manner.)

380 For the reasons stated herein, the Interested Parties believe that Appellant's Amended Motion to
 382 Enforce Automatic Stay of November 17, 2007 should be denied.

Ho!

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

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Respectfully,

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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

213 Downing Dr.
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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:

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