



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, CALIFORNIA.

APPELLANT

PACIFIC REGIONAL DIRECTOR,
BUREAU OF INDIAN AFFAIRS.

APPELLEE

YAKIMA DIXIE, VELMA WHITEBEAR, AND
CHADD EVERONE.

INTERESTED PARTIES

**INTERESTED PARTIES:
A RENEWED REQUEST FOR
EXPEDITED DETERMINATION¹**

DOCKET No. IBIA 07-100-A

JUNE 9, 2008

More recent events require the Interested Parties to renew their request of an Expedited Determination on this Appeal and to emphasize that time is critical.

On August 29, 2007, the Interested Parties requested that the Board expedite its Determination on this Appeal.

<http://www.californiavalleymiwok.com/IBIA-2/2007-08-27-Interested-Parties-Recusal.pdf>

But on October 4, 2007, the Board denied that request, stating:

"The Board denies Interested Parties' request to expedite the Board's consideration of this appeal. Interested Parties have not convinced the Board that expedited consideration is warranted at this time, particularly in light of the considerable

¹ This document has been posted on the Internet in "pdf" format for easy referral and the retrieval of cited documents.

<http://www.californiavalleymiwok.com/IBIA-2/2008-06-09-Interested-Parties-Expedite.pdf>

All of the documents in this Appeal are also posted at:

<http://www.californiavalleymiwok.com/IBIA-2>

1 number of appeals on the Board's docker that are older than this one, and which
2 would be further delayed by expedited consideration of this appeal."

3 <http://www.californiavalleymiwok.com/IBIA-2/2007-10-04-IBIA-Denial-2007-08-18.pdf>

5 The following events have occurred subsequently to the above Denial. They are germane to this
7 Appeal and warrant a renewed request for an Expedited Determination.

9 I

11 **On January 7, 2008**, Silvia Burley, in the name of the Tribe, filed suit against the State of
12 California to demand the release of some \$4 million from the Revenue Sharing Trust Fund,
13 which is being withheld from distribution to the Tribe, pending the Determination of this IBIA
14 Appeal. If this Appeal had been dispatched, that would have obviated this litigation, which now
15 entails substantial amount of work on the part of the Attorney General of the State (as the Defen-
16 dant), on the part of Yakima Dixie, as one of the Interested parties in this Appeal), (as an Inter-
17 venor), and in terms of the expenditure of large, legal fees by Ms. Burley from the tribal money
18 which she continues to control. The issue of the State freezing the money has already been
19 litigated twice (once in an Injunction by Mr. Dixie and then in an Interpleader by the State) and
20 those suits failed due to lack of jurisdiction, so it seems unlikely that the money can be unfrozen
21 by another suit. Being that the release of these funds depends on a Determination in this Appeal,
22 all parties stand to benefit from a rapid determination - i.e., the time, effort and resources of all
23 of: 1) the State of California, as the Defendant; 2) Yakima Dixie, as the Interpleader; 3) the BIA,
24 as possible co-Defendant in a Joinder; 4) the Plaintiff, Silvia Burley, in that the Appeal is a
25 barrier her pleadings; and 5) the Tribe, so that it can move forward with its organization. The
26 pleadings in this case are listed at:

27 <http://www.californiavalleymiwok.com/Suit-Burley-v-CGCC/>

29 II

31 **On February 15, 2008**, the United States Court of Appeals Affirmed the District Court's
32 Dismissal of Silvia Burley's suit, which sought to abrogate the authority of the BIA to be
33 involved in helping the Tribe to become organized such that full, government-to-government
34 relations can be established between the Tribe and the U.S. Federal Government. The ruling of
35 the Court of Appeals was that she had no cause of action. The basis for her Complaint was
36 essentially the same as her basis for this Appeal; so, the substance of the Appeal has already
37 been subjected to Court rulings.

38 <http://www.californiavalleymiwok.com/dc-suit/2008-02-15-Court-Order.pdf>

39 Ms. Burley petitioned for a re-hearing, but that was denied.

41 <http://www.californiavalleymiwok.com/dc-suit/2008-04-24-Court-Order-RehearingDenied.pdf>

1 **III**

3 **On March 28, 2008**, Silvia Burley, in the name of the Tribe, filed another IBIA appeal - this to have the BIA restore the PL 638 grant money to her custody.

5 <http://www.californiavalleymiwok.com/IBIA-08-58-A-638/2008-03-28-Burley-Appeal.pdf>

7 Again, this action would have been obviated if this Appeal had been resolved. This recent filing is a contorted Appeal, being that it was filed after the 30 day expiration time period, and it seeks to have a letter by Ms. Burley to the Superintendent, which requested an "informal meeting", to be considered as a formal Appeal - a defect which could have been easily over-come by her captioning the letter "Notice of Appeal". Further, knowing that the IBIA docket was back-logged and as an act of judicial economy, these Interested Parties voluntarily withdrew their much earlier Appeal (IBIA 06-70-A) regarding the PL 638 matter on the assumption that the PL 638 matter was resolved by Ms. Burley not having filed a timely Appeal. Should the IBIA accept Ms. Burley's Appeal (IBIA 08-58-A), then that will force these Interested Parties to request reinstatement of their original Appeal, further complicating this whole issue. (The Interested Parties believe that Ms. Burley's late filing, change of attorney, and request for variance is simply a maneuver to impede resolution of this Appeal (IBIA 07-100-A) and confound the Board into inaction.)

21 **IV**

23 On February 16, 2008, the Interested Parties renewed their request for an expedited determination in this Appeal; but no response from the IBIA was received.

25 <http://www.californiavalleymiwok.com/IBIA-2/2008-02-16-InterestedParties-Request.pdf>

27 Recently, the Interested Parties were informed that all of the Briefs in this Appeal have been filed and that the case has been "ripe" for determination since September 2007 or for about 9 months. Further, the Interested Parties are informed that this case is about 90th in the docketing que which could mean that a Determination is over 1 year away. The Interested Parties hold that further delay is unnecessary from the point of the substance of the Appeal and that further delay dramatically complicates the organization of the Tribe, causing all parties including the Appellant substantial damage.

35 **V**

37 **Why the Board should immediate rule on this Appeal**

39 1) Silvia Burley does not have standing to make this Appeal in the name of the Tribe. She could make an Appeal in her own personal name; but then there would not be any cause of action, until after organization. By continuing to let her Appeal remain lodged, it could be viewed that the Board seems to inferentially validate her claim to being the authority for the Tribe. The Olsen Mandate of February 11, 2005 and the subsequent determinations by the BIA, extinguished or suspended the BIA's recognition of any authority for the Tribe, pending the formal organization under the Indian Reorganization Act, on which the Tribe had voted in favor. By default, Olsen's suspension of authority left the authority under Miwok tradition, which, indisputably, was and continues to be Yakima K. Dixie; and long ago he dismissed Silvia Burley as being an

1 administrator for the Tribe. In further determinations by the BIA regarding the Bureau's criteria
3 for recognizing Putative Members of the Tribe, Silvia Burley would not qualify as a Putative
5 Member by both her lineal descent and because she refused to file a genealogy for herself and
7 children, according to the requirements in the April 2007 Public Notices of the BIA. Although
9 she might still become a member by adoption, that is contingent upon the Tribe being allowed to
11 organize.

13 2) In this instant Appeal, Silvia Burley objects to the April 2007 Public Notices of the BIA
15 which announce the commencement of the organization of the Tribe. The grounds for her objec-
17 tion are the same as the grounds for her suit in District Court, which was Dismissed for failure to
19 state a claim; and that Dismissal was Affirmed by the Court of Appeals. Thus, the substance of
21 this IBIA Appeal has already been adjudicated; and there is nothing for the Board to determine.
23 The BIA should be allowed to proceed in assisting the Tribe to become organized!

25 3) The Area Superintendent is in favor of the Dismissal of this Appeal. The Regional Director
27 is for Dismissal of this Appeal. The Central Administrators and their Solicitor are for Dismissal.
29 The Courts have, in effect, Dismissed this Appeal. The Tribe and its legitimate members are
31 being severely damages by the delay. And even the interests of the Appellant are being
33 mitigated by the delay.

35 The Interested Parties, with respect, request that the Board expedite its Determination on this
37 Appeal.

*Authorized by Phone,
Signed Copy On File*

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

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

35 Drafted for Interested Parties by:

37 _____
39 Chadd Everone, Deputy
41 2140 Shattuck Ave. #602
43 Berkeley, California 94704
45 510-486-1314

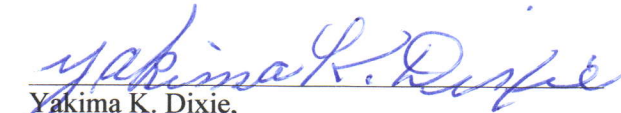
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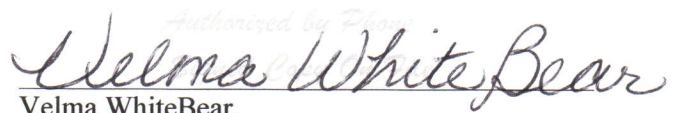
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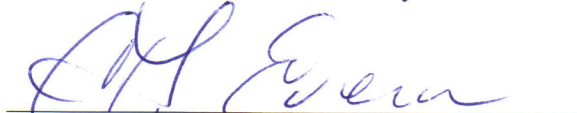
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Yakima K. Dixie,
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31 California)

25
27 
Velma WhiteBear,
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California Valley Miwok Tribe (formerly
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California)

33 Drafted for Interested Parties by:

35
37 
Chadd Everone, Deputy
2140 Shattuck Ave. #602
39 Berkeley, California 94704
510-486-1314

41 Date: June 10, 2008

Certificate of Service

I hereby certify that, on or about June 10, 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

Phillip E. Thompson, Esq.
601 Pennsylvania Ave., NW, Suite 900
South Building
Washington, D.C. 20004

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