



California Valley Miwok Tribe, California

(formerly the Sheep Ranch Rancheria of Me-Wuk Indians of California)

11178 Sheep Ranch Rd. (Sheep Ranch) - Mountain Ranch, California 95246 / 209-728-8726

Administration: 1231 E. Hazelton Ave. - Stockton California 95205 / 209-946-9266

{ www.californiavalleymiwok.com }

September 16, 2009

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



Jerry Gidner, Director
Bureau of Indian Affairs
1849 C Street NW MS 4513-M1B
Washington, DC 20240
Fax: 202-501-0679

Please note correct mailing address

This letter, with active links to documents, has been posted on the Internet at:

<http://www.californiavalleymiwok.com/2009-09-16-Tribe-mediation.pdf>

Mr. Gidner:

We received, indirectly, your correspondence with Silvia Burley (dated September 11, 2009), regarding her proposed mediation in respect to the Recognized Authority for this Tribe and a Stay in the proceedings of IBIA #07-100-A. An urgent reply by us is required. Please be advised that Yakima Dixie, Hereditary Chief, and the identified Putative Member Class for the organization of the Tribe (explained in the Antecedents, below @ #5), and the broader Member community (some 120 adults) are absolutely OPPOSED to any such mediation and INSIST that the administrative due process *via* the IBIA (now over 2 years in its resolution) be allow to take its course - unobstructed by any further administrative measures, such as mediation which is null, *per se*, and has already been attempted with Ms. Burley.

Please consult with to Elizabeth Walker, the Tribe's Special Counsel in D.C., before proceeding on this matter, thereby complicating the IBIA adjudication and creating the need for a large amount of unwinding.

Elizabeth T. Walker, Attorney at Law
112 South Royal Street
Alexandria, Virginia 22314
Telephone: 703.838.6284
Fax: 703.842.8458
Liz@Liz-Walker.com / www.Liz-Walker.com

56 The "Dixie Cohort" was not included as part of these preliminary deliberations on
mediation; and they must object to the unilateral proceedings which are fundamentally detri-
58 mental to the legitimate organization of the Tribe.

60 As early as 2003, Mr. Dixie attempted to open a discussion with Ms. Burley; but she
refused. Soon after the Olsen Determination (item #1) in March 2005, the BIA offered the
62 mediation services of Judge Katherine Lynn, but Ms. Burley flatly refused, while Yakima
Dixie eagerly accepted. Further, Ms. Burley was invited to participate both by Mr. Dixie
64 and the other tribal members and by the BIA in the organizational process; but again, she
refused and addressed the issue by a series of obstructive suits and the IBIA appeal which is
66 now in "consideration". At various times, Velma WhiteBear has offered to simply discuss
68 matters with Ms. Burley, but those gestures were rejected with derision by Ms. Burley. So,
it must be concluded that any willingness, now, to be cooperative on the part of Ms. Burley
70 would be disingenuous and a stratagem by her attorney in an attempt to circumvent adminis-
trative *stare decisis* that goes back to 2005. Further, any mediation between Silvia Burley
72 and Yakima Dixie is fundamentally flawed because, since the Olsen Determination of
74 February 2005, those two parties are NOT recognized as being the authority for the Tribe.
So, there is no one to mediate.

76 For background, please see the **Review of Antecedents** that is appended.
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80 Respectfully submitted,

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Yakima Dixie, Chief

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Velma WhiteBear
Executive Director

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92 drafted by: Chadd Everone, Deputy

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96 p.s. Please note the change in mailing address:

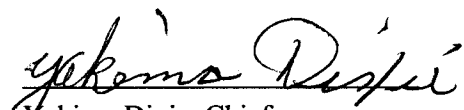
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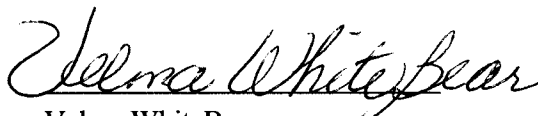
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Velma WhiteBear
Executive Director

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A Review of Antecedents

110 Here are the seminal documents in relationship to the organization of the California
112 Valley Miwok Tribe.

114 First, Yakima Dixie's appeal (in protest of the recognition of Silvia Burley as the tribal
116 authority by the BIA). That appeal was initiated in 1999 but culminated in the "Olsen Deter-
118 mination" of February 11, 2005. Therein, Principal Deputy, Assistant Secretary of Indian
120 Affairs determined that the BIA did NOT recognize Silvia Burley as Chairperson (and had not
122 so recognized her since one year prior in a determination that was made in March 2004 by
124 Superintendent Risling) nor did the Bureau recognized anyone else as Chairperson, including
126 Mr. Dixie, who had been so recognized for some 30 years prior. Olsen instructed Yakima
Dixie to resolve the issue of tribal Authority by formal organization under the auspices of the
BIA. Also, it was determined that the BIA would not recognize any intra-tribal remedy for
this situation.

128 #1. <http://www.californiavalleymiwok.com/2005-02-11-BIA-Determination.pdf>

130 The Olsen Determination was determined in Court to be an unappealable, final agency action.
132 See document #2.

134 Because the Olsen Determination was an unappealable, final agency action, there was no
136 remedy within the IBIA; so, Ms. Burley immediately filed suit in Federal District Court
138 challenging the authority of the BIA to be involved in helping to organize the tribe. That suit
was dismissed for failure to state a claim on March 30, 2006. See:

140 #2. <http://www.californiavalleymiwok.com/USDC-DC-05CV00739/2006-03-30-Memorandum.pdf>

142 Immediately thereafter, on July 19, 2006, Ms. Burley placed that case on Appeal; and the
144 U.S. Court of Appeals Affirmed the District Courts Dismissal on May 21, 2008, providing an
expanded rationale for doing so. See:

146 #3. <http://www.californiavalleymiwok.com/USDC-DC-05CV00739/2008-02-15-Court-Order.pdf>

148 Between the District Court's Dismissal in item #2 and the Court of Appeals Affirmation
150 in item #3, the BIA decided to move forward with organizing the tribe because the inability of
152 the tribe to present a unified representation was placing the Federal Recognition of the Tribe in
154 jeopardy. The sole impediment was Ms. Burley's adamant claim to be the only rightful author-
ity. Silvia Burley appealed the BIA's intention to organize the tribe, and her appeal was
denied by the Regional Director. See

156 #4. <http://www.californiavalleymiwok.com/2007-04-02-RegionToBurley.pdf>
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164 Immediately thereafter, the BIA published its Notice in which it identified the Putative
165 Members as the organizing body to work with the BIA. See:

166 #5. <http://www.californiavalleymiwok.com/2007-04-11-BIA-PublicNotice-AmadorLedgerDispatch.pdf>

168 And immediately after that, on April 20, 2007, Burley filed an IBIA Appeal. See:

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

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174 That Appeal became "ripe" in September 2007 and, after 2 years, it is now under consid-
175 eration by the Board.

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178 Yakima Dixie and the Putative Members of the Tribe and the extended tribal community
179 have cooperated in every possible way with the BIA and at each step in the process. Indeed,
180 they have done everything possible to include Silvia Burley in the tribal organization; but one
181 single person, Silvia Burley, has been able to obstruct the implementation of tribal organiza-
182 tion that was mandated in 2005 by an unappealable, final agency action - item #1.

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