

EXHIBIT F

to

**Affidavit of Robert J. Uram in Support of Plaintiffs'
Motion for Preliminary Injunction**

**Letter from BIA Pacific Regional Director to Silvia Burley (April 2, 2007) (the "2007
Decision")**



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825

APR - 2 2007

CERTIFIED MAIL NO. 7006 0810 0001 4950 9008
RETURN RECEIPT REQUESTED

Ms. Silvia Burley
10601 Escondido Place
Stockton, California 95212

Dear Ms. Burley:

The purpose of this correspondence is to inform you of my decision regarding your Notice of Appeal dated November 10, 2006, filed pursuant to 25 Code of Federal Regulation (CFR) Part 2, from the decision dated November 6, 2006 of the Bureau of Indian Affairs (BIA), Superintendent, Central California Agency (Agency), which noticed you and Yakima Dixie, because of your leadership claims, of the Agency's commitment to assist the California Valley Miwok Tribe, California (formerly the Sheep Ranch Rancheria of Me-Wuk Indians of California), with the Tribe's efforts to organize a formal governmental structure that is representative of all Miwok Indians who can establish a basis for their interest in the Tribe. Your Notice of Appeal, Statement of Reasons, Answer of Interested Party and the Administrative Record of the Superintendent were all received on January 11, 2007. The Superintendent has indicated that your Appeal was timely filed.

It is a well established BIA policy that the federal government not intervene in internal tribal disputes where there is no threat to government-to-government relationship. However, in this situation, where the BIA does not recognize a tribal government we feel that such a threat appears imminent, and we believe that the better course of action would be to allow the Agency to assist the Tribe to sort out the situation. Therefore, based on our analysis, it was concluded that I remand this matter back to the Superintendent and allow the Agency to continue with its plans to assist the Tribe with its organizational efforts. We present our analysis of the situation as follows.

BACKGROUND

An August 13, 1915 letter from Special Indian Agent to the Commissioner of Indian Affairs, Washington, D. C., reported his finding and in part, stated that, "The census the Indians designated Sheepranch-Indians only aggregating 12 in number, constitutes the remnant of once a larger band of Indians". A census of the Indians at and near Sheep Ranch in Calaveras County, California was attached to the August 13 letter that listed the follows individuals; Peter Hodge (1/2 Indian blood), Annie, wife (4/4 Indian blood), their children Malida, Lena, Tom, and

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Andy, Jeff Davis (4/4 Indian blood), Betsey, wife (4/4 Indian blood), Mrs. Limpey (4/4 Indian blood), John Tecumchey (4/4 Indian blood) and his wife Pinkey (4/4 Indian blood), and Mamy Duncan, granddaughter of Jeff Davis (3/4 Indian blood). Further states that the "to some extent the Indians of Sheepranch, Murphys, Six-Mile, Avery and Angies are interchangeable in their relationships." These communities are all located in Calaveras County, California.

On April 5, 1916, the Sheep Ranch Rancheria, comprising of 0.92 acres located in Calaveras County, California was purchased and held in trust by the United States of America for the use and benefit of certain homeless California Indians.

On June 8, 1935, the approved list of Voters for Indian Reorganization Act (IRA) for the Sheep Ranch Rancheria, Calaveras County, only listed a Jeff Davis, who voted to accept the terms of the IRA. Although Mr. Davis voted in 1935 to accept the terms of the IRA, the Tribe never formally organized under a constitution approved by the Secretary of the Interior. There were no documents located that referenced Mr. Davis attempted to organize the Tribe under the IRA or any record requesting the Agency to assist in the Tribe's efforts to organize.

On August 18, 1966, pursuant to the Rancheria Act (P.L. 85-671, 72 Stat. 619), as amended, whereby the distribution of the Rancheria's assets were made to one distributee, a Mabel Hodge Dixie. On April 11, 1967, the property was deeded to Mrs. Dixie; however, the transfer of title was nullified by a quit claim deed executed by Mrs. Dixie on September 6, 1967, which reverted title of the property to the United States of America. Prior to the complete implementation of the distribution plan, Mabel Hodge Dixie passed away on July 11, 1971. As a result of a probate decision in 1990, the Rancheria was distributed to five heirs, listed as follows; Richard Dixie, and Merle Butler, Mrs. Dixie's common-law husband. Melvin Dixie and Yakima Edward Dixie are the only two remaining heirs. BIA records reflect that the Rancheria land is held in trust for the heirs of Mable Hodge Dixie.

A Notice of Termination was never published in the Federal Register or other letter or notice stating the federal government's intention to terminate services to and/or relations with the Sheep Ranch Rancheria. Furthermore, as evident by the earliest publication of federally recognized tribes in a booklet published in 1972 entitled "American Indians and Their Federal Relationship." The Sheep Ranch Rancheria was listed therein as a recognized tribe eligible for funding and services from the Bureau by virtue of their status as an Indian tribe. This notice and subsequent notices were published pursuant to Section 104 of the Act of November 2, 1994 (Pub. L. 103-454; 108 Stat. 4791, 4792). The Federal Register, dated November 25, 2005; Sheep Ranch Rancheria is listed as the California Valley Miwok Tribe. For the above reasons, the BIA has never viewed this Tribe as a "restored" tribe, which is a term that refers to a tribe once acknowledged as a federally-recognized tribe, then was "terminated," and subsequently "restored" to federal recognition.

DISCUSSION

The BIA has recognized Mr. Yakima Dixie, one of the two remaining heirs, as the spokesperson of the Tribe until April 1999. This recognition was based on the fact that Yakima Dixie is a lineal descendant of the sole distributee, his mother Mable Hodge Dixie. Mrs. Dixie was

identified in the Plan for the Distribution of assets of the Sheep Ranch Rancheria, as approved by the Associate Commissioner of Indian Affairs on October 12, 1966. Yakima Dixie was also one of two remaining heirs identified in the Order of Determination of Heirs issued on November 1, 1971 and reaffirmed by a subsequent Order issued on April 14, 1993.

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 daughters; Rashel K. Reznor and Angelica J. Paulk, and granddaughter Tristian S. Wallace 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 initiate this enrollment action. The above individuals, including Melvin Dixie, comprised the total membership of the Tribe.

On September 8, 1998, a meeting was held at the Rancheria between the Agency staff, you and Yakima Dixie, Spokesperson/Chairman of the Tribe. The purpose of the meeting was to discuss the process of formally organizing the Tribe, the status of the Tribe, membership, governance, grant funding and other issues. The Agency staff advised that Yakima Dixie, as the Spokesperson of the Tribe and as one of the two remaining heirs, had the right to choose the membership criteria, which may possibly, include a larger community.

Since the resignation letter dated April 20, 1999 of Yakima Dixie, which you submitted to the Agency, you had initiated a number of actions such as; to recognize yourself as Chairperson and your daughters as the only members of the Tribe. You provided Meeting Notices to the Agency indicating that the Tribe was proposing to adopt a Constitution and ordinances for the purpose of organizing the Tribe. Prior to this, the Tribe had never formally organized or requested assistance for the organization of the Tribe even though the Tribe voted to accept the provisions of the 1934 Indian Reorganization Act (IRA).

On April 21, 1999, by letter from Yakima Dixie, he notified you that he cannot and will not resign as Chairman of the Tribe; however, he gave you the right to act as a delegate to represent the Tribe. This began the constant dispute between you and Yakima Dixie as to who is the rightful Chairperson of the Tribe.

The Agency continued to provide technical assistance to the Tribe for the purpose of awarding a P.L.93-638 Contract. This process was to assist in the development of the Tribe and organization for the benefit of future tribal members. During this period, the Agency continued to work separately with you and Mr. Dixie by providing technical assistance for the purpose of organizing.

On March 7, 2000, by letter to you, the Agency stated that it would not interfere in the internal matters of the Tribe unless the dispute regarding the composition of the governing body of the Tribe continues without resolution, and the government-to-government relationship between the Tribe and the United States may be compromised and in such situations, the Agency will advise the Tribe to resolve the dispute internally within a reasonable period of time.

On March 26, 2004, by letter to you, the Agency addressed its concerns regarding the constitution you had submitted to the Agency in which you attempted to demonstrate that the Tribe is organized. The Agency advised you, that you were considered as a person of authority within an unorganized tribe, for the purpose of receiving P.L. 93-638 contract/grants and services from the United States Government. The Agency addressed the fact that the BIA also has a responsibility to determine that the organizational efforts reflect the involvement of the whole tribal community and that the Constitution provided did not demonstrate involvement of a greater tribal community. In fact, a Constitution, ratified March 8, 2000, which you submitted, under Article III, Membership, identified the base roll, consisting of only five living members: Silvia Burley, Yakima Dixie, Rashel Reznor, Anjelica Paulk, and Tristian Wallace. In a document dated January 9, 2006, you submitted a revised Official Tribal Roll which excluded Yakima Dixie, indicating that he was disenrolled.

Since the purported resignation of Yakima Dixie and his disenrollment, for the purpose of organizing the Tribe, you and Yakima Dixie separately began initiating a number of actions such as; recognizing each of yourselves as Chairperson, proposing to adopt a Constitution and ordinances, and creating lists of potential members. The documents for which you both provided to the Agency were returned by the Agency without action or passed back for further information in order to process requests for which you requested.

The Agency has been meeting with the both of you and with your representatives to discuss and offer assistance in your organizational efforts of the Tribe. However, it is evident that the ongoing leadership dispute between you and Yakima Dixie is at an impasse and the likelihood of this changing soon seems to be remote. The Agency currently recognizes you as the authorized representative of the California Valley Miwok Tribe with whom government-related business is conducted; however, the Agency does not yet view the Tribe to be an "organized" Indian Tribe. This is due to the fact that both of you have failed to identify the whole community who are entitled to participate in the Tribe's efforts to organize, which the Agency has been mentioning in prior correspondences and meetings with you and Yakima Dixie.

CONCLUSION:

Please be advised that Federal Law requires that we know with whom we are dealing with when we contract on a government-to-government basis with tribes pursuant to, for example, the 1974 Indian Financing Act, 25 U.S.C. 1451; the 1975 Indian Self-Determination and Education Assistance Act, Public Law 93-638; the 1978 Indian Child Welfare Act, 25 U.S.C. 1901, and other federal statutes intended to benefit Indian tribal governments. In instances where there is a dispute as to the identity of the rightful tribal leaders empowered to conduct business on behalf of the tribe and it is apparent that no tribal resolution is forthcoming, we are authorized to determine whether or not to continue our government-to-government relationship with the tribe.

Congress has delegated to the Secretary of the Interior broad authority over "public business relating to ... Indians." 43 U.S.C. § 1457.¹ At the core of this authority is a responsibility to ensure that Secretary deals only with a tribal government that actually represents the members of

¹ In turn, the Secretary has delegated this responsibility to the BIA and the Principal Deputy Assistant Secretary - Indian Affairs.

a tribe. As early as 1942, when the government still held lands in trust for many tribes, the Supreme Court stated that the Department had a duty to conduct business only with lawfully-constituted governing bodies who represent the tribal membership.

It is the Agency's position that both factions are at an impasse and cannot come to an agreement for the organization of the Tribe. We believe it is not the goal of the Agency to determine membership of the Tribe or the intent of the Agency to determine who the members of the Tribe will be. The purpose of the November 6, 2006, letter was to bring together the "putative group" who believe that they have the right to participate in the organization of the Tribe, contrary to your assertions. We believe that the main purpose was to assist the Tribe in identifying the whole community, the "putative" group, who would be entitled to participate in the Tribe's efforts to organize a government that will represent the Tribe as a whole. A determination of who is a tribal member must, however, preclude any determination of who is a tribal leader. It is our belief that until the Tribe has identified the "putative" group, the Tribe will not have a solid foundation upon which to build a stable government.

In all fairness to the current tribal membership and the "putative" group, and for the reasons stated above, I agree with the Superintendent's proposed actions as stated in his November 6th letter to assist the Tribal in its efforts to organize. Therefore, to further assist the Tribe regarding this matter, I am, by copy of this letter, remanding this matter back to the Superintendent, Central California Agency to implement the actions mentioned in his November 6th letter, and as soon as possible publish a Notice in the newspapers, within the Miwok region, of the Agency's plan to assist in identifying the "putative" group of the Tribe. Furthermore, the Superintendent will provide personal oversight to assure that the proposed actions outlined in his November 6th letter are fully implemented and completed.

This decision may be appealed to the Interior Board of Indian Appeal, 801 North Quincy Street, Arlington, Virginia 22203, in accordance with regulations in 43 CFR § 4.310 - 4.340. Your Notice of appeal to the Board must be signed by you or your attorney and must be mailed within 30 days of the date you receive this decision. It should clearly identify the decision being appealed. If possible, attach a copy of the decision. You must send copies of your Notice of Appeal to (1) The Assistant Secretary - Indian Affairs, 4140 MIB, U.S. Department of the Interior, 1849 C Street, N. W. Washington, D.C. 20240, (2) each interested party known to you, and (3) this office. Your Notice of Appeal sent to the Board of Indian Appeals must certify that you have sent copies to these parties. If you file a Notice of Appeal, the Board of Indian Appeals will notify you of further appeal procedures. If no appeal is timely 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.

Sincerely,



Regional Director

cc: See List of Interested Parties
TO/fdj/03/21/2007/1236-P5Burley

List of Interested Parties:

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