

EXHIBIT 2

To

Memorandum of Points and Authorities in Support of Plaintiffs' Motion for Preliminary Injunction

AFFIDAVIT OF YAKIMA K. DIXIE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Civil Division

THE CALIFORNIA VALLEY MIWOK
TRIBE, *et al.*,

v.

KEN SALAZAR, in his official capacity
as Secretary of the United States
Department of the Interior, *et al.*

Case No. 1:11-cv-00160-RWR

Affidavit of Yakima Dixie In Support of
Plaintiffs' Motion for Preliminary
Injunction

Hon. Richard W. Roberts

AFFIDAVIT OF YAKIMA K. DIXIE

I, Yakima K. Dixie, declare as follows:

1. I am an individual and a party in the above-entitled action. I am over the age of 18 and a resident of Calaveras County, California. I have personal knowledge of the facts set forth herein, which are known by me to be true and correct, and if called as a witness, I could and would competently testify thereto.

2. This affidavit is submitted in support of Plaintiffs' Motion for Preliminary Injunction.

3. I am a member of the California Valley Miwok Tribe ("Tribe") (also known as the Sheep Ranch Rancheria of Me-wuk Indians of California), the Hereditary Chief and the Traditional Spokesperson for the Tribe, the historical Chairperson of the Tribe, and a member of the Tribal Council. I inherited the position of Hereditary Chief upon the death of my mother, Mabel Hodge Dixie, on July 11, 1971. My tribal lineal descent through my mother goes back to the Hodge family of the 1915 census of the Sheepranch Indians.

1 4. In 1998, Silvia Burley approached me seeking to be allowed into the
2 Tribe so that she and her daughters could obtain medical and education benefits available
3 to members of federal Indian tribes. In August 1998 I allowed Burley and her two
4 daughters, Rashel Reznor and Anjelica Paulk, and her granddaughter Tristan Wallace
5 (collectively, the "Burley Faction") into the Tribe.

6
7 5. Shortly after I enrolled Burley and her family members, Burley and I
8 met with the BIA to discuss organizing the Tribe under the Indian Reorganization Act.
9 The BIA advised me in September 1998 that enrollment criteria should be used to identify
10 the members of the Tribal community eligible to participate in the initial organization of
11 the Tribe, in addition to myself and the Burley Faction.

12
13 6. In November 1998, Burley submitted to the BIA a document
14 described as Resolution #GC-98-01 (the "1998 Resolution"), which purported to be a
15 Tribal resolution establishing a General Council to serve as the governing body of the
16 Tribe.

17
18 7. The Resolution was not signed by a majority of the Tribe's known
19 adult members, which at that time included, among others, me and my brother Melvin
20 Dixie. As I told the BIA, Melvin was living in the Sacramento area at the time and could
21 be found regularly at Loaves and Fishes there.

22
23 8. In April 1999, Burley submitted to the BIA a document allegedly
24 showing my resignation as Tribal Chairman. I did not sign it.

25
26 9. Burley then held a purported "general election" in May 1999, at which
27 she was allegedly elected Chairperson of the Tribe. That election was not valid, and I have
28

1 never recognized Burley as Tribal Chairperson or as an authority or representative of the
2 Tribe.

3
4 10. Although I informed the BIA that my resignation was forged and
5 disputed the validity of the May 1999 election, the BIA initially recognized Burley as
6 Chairperson of the Tribe, over my protests, in June 1999.

7
8 11. Since 1999, Burley has attempted several times to have the BIA
9 recognize a Tribal constitution drafted by her and ratified only by Burley and her
10 daughters. I have never been involved in the drafting of the constitutions submitted by
11 Burley. To my knowledge, Burley has never involved any member of the Tribe other than
12 herself and her daughters in the drafting or attempted adoption of her constitutions.

13
14 12. Beginning in 1999, Burley received money, from both the United
15 States government and the state of California, that belonged to the Tribe. I never received
16 any of those funds, and I am not aware of any other Tribal member who received any of
17 the funds except for Burley and her immediate family. I am not aware of any programs or
18 services for the benefit of Tribe members that were established or supported using the
19 funds.

20
21 13. In 2003, I filed a formal appeal with the BIA, challenging its
22 recognition of Burley as Chairperson of the Tribe. The BIA never ruled on the merits of
23 my appeal, but in 2005 the Assistant Secretary for Indian Affairs stated that my appeal was
24 moot because the BIA did not regard the Tribe as organized, did not recognize any
25 government of the Tribe, and therefore could not recognize anyone, including Burley, as
26 Chairperson.

1 14. In 2003 I renewed efforts to organize the Tribe with the participation
2 of the entire Tribal community. Exercising my traditional authority as the Hereditary
3 Chief of the Tribe, I appointed a Tribal Council to oversee the Tribe's affairs. The Council
4 currently consists of me and five other persons who are recognized as persons of authority
5 within the Tribe: Velma Whitebear, Antonia Lopez, Michael Mendibles, Evelyn Wilson
6 and Antone Azevedo. With few exceptions, the Council has met each month since 2003 to
7 conduct Tribal business, enact resolutions, and perform other governmental functions.

8
9 15. The Tribal Council, including myself, met with the BIA in September
10 2003 and presented them with documentation of the Council's legitimate claim to Tribal
11 authority. We also presented the BIA with a list of Tribal community members who
12 should be allowed to participate in the initial organization of the Tribe. We requested that
13 the BIA call a Secretarial election under the IRA to select a tribal government by majority
14 vote that would be recognized by the United States government. The BIA did not act on
15 the Council's request to call a Secretarial election but continued to meet with the Council
16 to discuss efforts to organize the Tribe.

17
18 16. Tribal Council meetings are open to all members of the Tribal
19 community. Attendance at the meetings ranges from approximately 30 persons to more
20 than 100 persons. Attendance records are kept and meetings are recorded and archived. I
21 participate regularly in these meetings. Burley was specifically invited to the initial
22 meetings and has never been excluded, but she has never attended any of the meetings at
23 which I was present.

24
25 17. Under the leadership of the Council, the Tribe has initiated a number
26 of programs aimed at benefiting the full Tribal membership, strengthening the tribal
27 community, and reestablishing historic ties with the larger Indian community.

28

1 18. In April 2007, the BIA published public notices requesting that
2 individuals who asserted a claim to Tribal membership provide the BIA with
3 documentation of their claims, such as personal genealogies showing their descent from
4 historical members of the Tribe. I submitted my genealogy to the BIA. To my knowledge,
5 no member of the Burley Faction submitted any documentation of their claims to
6 membership.

7
8 19. On December 22, 2010, the Assistant Secretary for Indian Affairs
9 informed me by letter that he considered the Tribe organized under the invalid 1998
10 Resolution, that he was rescinding the BIA's 2005 decision denying recognition of Burley
11 as a Tribal leader, and that he was rescinding the BIA's efforts to assist the Tribe in
12 organizing with the participation of the entire Tribal community (the "December 22
13 Decision"). The Assistant Secretary directed the BIA to reestablish "government to
14 government" relations with the Tribe through its General Council, as established by the
15 invalid 1998 Resolution. As a result of the December 22 Decision, my traditional
16 authority as Hereditary Chief and Traditional Spokesperson is infringed, and the Tribal
17 Council's authority is infringed. As a result of the December 22 Decision, the United
18 States does not recognize the Council or its members as representatives or authorities of
19 the Tribe.

20
21 20. Based on the December 22 Decision, Burley held a "special meeting"
22 on January 7, 2011, at which only Burley, her daughters, her granddaughter and myself
23 were allowed to attend. Burley characterized this as a meeting of the Tribe's General
24 Council and attempted to hold a Tribal election at the meeting. I do not recognize Burley's
25 authority to call a Tribal election or General Council meeting and did not participate in the
26 January 7 meeting.

1 21. I do not recognize the results of the election Burley conducted at that
2 meeting, in which only Burley and her family members voted. However, the BIA has
3 issued decisions recognizing the results of the election and recognizing Burley as
4 Chairperson and her daughter Rashel Reznor as Secretary/Treasurer of the Tribe.

5
6 22. Burley also seeks to use the December 22 Decision as a basis to
7 prevent members of the Council from participating in litigation that she filed in California
8 Superior Court to gain access to more than \$6 million in Revenue Sharing Trust Fund
9 ("RSTF") money held in trust for the Tribe by the state of California. If Burley receives
10 the funds, neither the Tribe itself, nor the Council, nor any other members of the Tribe will
11 receive any of the funds or benefit from the funds.

12
13 23. The December 22 Decision effectively gives the Burley Faction the
14 power to deny membership in the Tribe to anyone who is not a member of Burley's
15 immediate family.

16
17 24. The Burley Faction has already attempted to disenroll me from the
18 Tribe, in 2005, in an attempt to deny me a basis to intervene in a federal lawsuit that
19 Burley had filed, purportedly on behalf of the Tribe. In 2009, the Burley Faction
20 attempted to reenroll me, in an attempt to deny me a basis to participate in litigation filed
21 by Burley in California Superior Court.

22
23 25. I fear that Burley will attempt to disenroll me again as soon as it is no
24 longer useful for her to assert my membership as an obstacle to my participation in the
25 state litigation. If I am disenrolled from the Tribe, I will lose access to the federal medical
26 and other benefits provided to members of recognized federal Indian tribes.

1 26. Based on the December 22 Decision, the BIA has resumed payment
2 of tribal "self-determination" funds to Burley under Public Law 93-638. Those funds are
3 intended to assist the Tribe in organizing itself, forming a representative government and
4 performing governmental services and functions. If Burley receives the funds, the Tribe,
5 the Council and its members will be deprived of the funds. In addition, the funds will
6 support Burley's continued efforts to deny the benefits of Tribe membership to other
7 members.

8
9 I declare under penalty of perjury under the laws of the United States of
10 America that the foregoing is true and correct.

11
12 Executed March 5, 2011, at Sheep Ranch, California.

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14
15 
16 Yakima K. Dixie