

EXHIBIT 4

To

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

AFFIDAVIT OF ANTONIA LOPEZ

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**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 Antonia Lopez In Support of
Plaintiffs' Motion for Preliminary
Injunction**

Hon. Richard W. Roberts

AFFIDAVIT OF ANTONIA LOPEZ

I, Antonia Lopez, 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 Amador County, California. I have personal knowledge of

1 the facts set forth herein, which are known by me to be true and correct, and if called as a
2 witness, I could and would competently testify thereto.

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

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7 3. I am a member of the California Valley Miwok Tribe ("Tribe") and of
8 its Tribal Council ("Council"). I trace my tribal lineal descent from my mother, Alice
9 Geto, my grandmother, Laura Jeff, and my great-grandparents, John Jeff and Tillie Jeff.

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11 4. I recognize Yakima Dixie as the Hereditary Chief and Traditional
12 Spokesperson of the Tribe.

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14 5. I do not recognize Silvia Burley as any authority for the Tribe.

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16 6. In 2003, Yakima Dixie appointed me to the Council. The Council
17 currently consists of Yakima Dixie, me, and four other persons who are recognized as
18 persons of authority within the Tribe: Velma Whitebear, Michael Mendibles, Evelyn
19 Wilson and Antone Azevedo. With few exceptions, the Council has met each month since
20 2003 to conduct Tribal business, enact resolutions, and perform other governmental
21 functions.

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24 7. The Tribal Council met with the BIA in September 2003 and
25 presented them with documentation of the Council's legitimate claim to Tribal authority.
26 We also presented the BIA with a list of Tribal community members who should be
27 allowed to participate in the initial organization of the Tribe. We requested that the BIA
28 call a Secretarial election under the IRA to select a tribal government by majority vote that

1 would be recognized by the United States government. The BIA did not act on the
2 Council's request to call a Secretarial election but continued to meet with the Council to
3 discuss efforts to organize the Tribe.
4

5 8. Tribal Council meetings are open to all members of the Tribal
6 community. Attendance at the meetings ranges from approximately 30 persons to more
7 than 100 persons. Attendance records are kept and meetings are recorded and archived. I
8 participate regularly in these meetings. Burley was specifically invited to the initial
9 meetings and has never been excluded, but she has never attended any of the meetings that
10 I attended.
11

12 9. Under the leadership of the Council, the Tribe has initiated a number
13 of programs aimed at benefiting the full Tribal membership, strengthening the tribal
14 community, and reestablishing historic ties with the larger Indian community. These
15 programs and activities include the following:
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17 10. The Tribe has participated, with other Miwok tribes, in an intertribal
18 Miwok Language Restoration Group. Evelyn Wilson is the senior Miwok member who
19 still speaks the Miwok language.
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22 11. The Tribe has formed a ceremonial Indian dance group that represents
23 the Tribe at events throughout California.
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25 12. The Tribe has consulted with Caltrans and other agencies regarding
26 Indian cultural artifacts and remains found at development sites.
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1 13. The Tribe has offered classes in traditional crafts and skills, such as
2 basket weaving, and participates in ongoing efforts to revive the gathering of native plants,
3 pine nuts, and other materials for such crafts, as well as to protect the sites where those
4 materials are gathered.

5
6 14. The Tribe participates in the annual Salmon Distribution Project in
7 which it obtains several tons of fresh salmon from the Oroville Dam hatchery and
8 distributes it to Tribe members.

9
10 15. The Tribe has issued Tribal identification cards and keeps a
11 membership roll that is updated regularly.

12
13 16. In April 2007, the BIA published public notices requesting that
14 individuals who asserted a claim to Tribal membership provide the BIA with
15 documentation of their claims, such as personal genealogies showing their descent from
16 historical members of the Tribe. I submitted my genealogy to the BIA. To my knowledge,
17 no member of the Burley Faction submitted any documentation of their claims to
18 membership.

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21 17. As a result of the Assistant Secretary for Indian Affairs' December 22,
22 2010 Decision to recognize the Tribe as organized under an invalid 1998 resolution (the
23 "December 22 Decision"), the Tribal Council's authority is infringed, and the United
24 States does not recognize the Council or its members as representatives or authorities of
25 the Tribe.

26
27 18. I would like to participate in the organization of the Tribe under the
28 Indian Reorganization Act, but as a result of the December 22 Decision, neither I nor any

1 other member of the Tribal Council will be allowed to participate in the organization
2 process, the drafting and adoption of a Tribal constitution, or the creation of a Tribal
3 government that is recognized by the United States.

4
5 19. Based on the December 22 Decision, Burley held a "special meeting"
6 on January 7, 2011, at which only Burley, her daughters, and her granddaughter were
7 allowed to attend. I was not permitted to attend the special meeting.

8
9 20. Burley characterized the special meeting as a meeting of the Tribe's
10 General Council and attempted to hold a Tribal election at the meeting. I do not recognize
11 Burley's authority to call a Tribal election or General Council meeting.

12
13 21. I do not recognize the results of the election Burley conducted at that
14 meeting, in which only Burley and her family members voted. However, the BIA has
15 issued decisions recognizing the results of the election and recognizing Burley as
16 Chairperson and her daughter Rashel Reznor as Secretary/Treasurer of the Tribe.

17
18 22. Burley also seeks to use the December 22 Decision as a basis to
19 exclude me and the other members of the Council from participating in litigation that she
20 filed in California Superior Court to gain access to more than \$6 million in Revenue
21 Sharing Trust Fund ("RSTF") money held in trust for the Tribe by the state of California.

22 23. Based on the December 22 Decision, the BIA has resumed payment of tribal "self-
23 determination" funds to Burley under Public Law 93-638. Those funds are intended to
24 assist the Tribe in organizing itself, forming a representative government and performing
25 governmental functions and services.

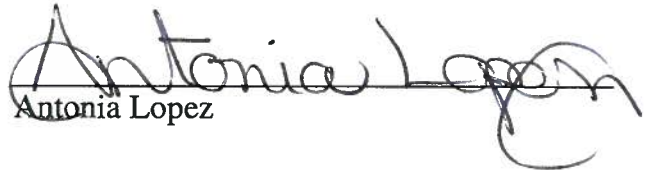
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27 24. I have never received any of the RSTF money that Burley previously
28 received from the state of California, or any of the federal self-determination funds that

1 Burley previously received from the United States under Public Law 93-638. I am not
2 aware of any other Tribal member who received any of the funds except for Burley and her
3 immediate family. I am not aware of any programs or services for the benefit of the Tribe
4 or its members that were established or supported using the funds. If Burley receives the
5 funds, neither the Tribe itself, nor the Council, nor any other members of the Tribe will
6 receive any of the funds or benefit from the funds. In addition, the funds will support
7 Burley's continued efforts to deny the benefits of Tribe membership to other members.

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9 28. The Assistant Secretary's December 22 Decision deprives me of
10 membership in the Tribe, because it allows Burley to deny membership to anyone who is
11 not a member of her immediate family. As a result of this deprivation, I feel a loss of my
12 cultural identity and my place in the Native American community. In addition, I will not
13 have access to federal medical benefits and other services available to members of
14 federally recognized Indian tribes.

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16 I declare under penalty of perjury under the laws of the United States of
17 America that the foregoing is true and correct.

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19 Executed March 8, 2011, at Amador County, California.

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23 Antonia Lopez
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