

EXHIBIT 9

To

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

AFFIDAVIT OF BRIANA CREEKMORE

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 Briana Creekmore In Support
of Plaintiffs' Motion for Preliminary
Injunction

Hon. Richard W. Roberts

AFFIDAVIT OF BRIANA CREEKMORE

I, Briana Creekmore, declare as follows:

1. 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"). I trace my tribal lineal descent through my mother, Yolanda Geto, and my grandparents, Dora Wilson and Louis Geto, to Jeff Davis and Rose ("Limpy") Davis, who were listed in the 1915 federal census of Sheepranch Indians. In April 2007, the BIA published public notices requesting that individuals who asserted a claim to Tribal membership provide the BIA with documentation of their claims, such as personal genealogies showing their descent from historical members of the Tribe. I submitted my genealogy to the BIA.

1 4. I recognize Yakima Dixie as the Hereditary Chief and Traditional
2 Spokesperson of the Tribe. I recognize the Tribal Council, which consists of Yakima
3 Dixie, Velma Whitebear, Michael Mendibles, Evelyn Wilson, Antone Azevedo and
4 Antonia Lopez, as the duly appointed representatives of the Tribe.

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

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8 6. Around 2004, Yakima Dixie appointed the members of the Tribal
9 Council and began to hold open meetings of the Tribe's entire membership. I participate
10 regularly in those open meetings, which are held approximately once per month.

11
12 7. I am a member of the Tribe's Cultural Preservation Committee
13 ("Committee"). Several members of the Committee, including me, have been trained to
14 serve as cultural monitors on behalf of the Tribe at construction sites that may affect
15 Native American cultural, religious and burial sites.

16
17 8. The California Native American Heritage Commission
18 ("Commission") initially recognized the Committee as representing the Tribe. But since
19 the Assistant Secretary's decision in December 2010 to recognizing Silvia Burley as the
20 Tribe's representative, the Commission only lists me and other Tribe members as
21 individuals, not as representatives of the Tribe. As individuals, the rights of Committee
22 members to perform monitoring and protect Native American cultural resources are
23 uncertain.

24
25 9. On at least two occasions, Silvia Burley or her representatives
26 prevented members of the Committee from performing monitoring at Native American
27 cultural sites where Caltrans and the Calaveras County Public Works Department were
28 conducting projects. Burley contacted those agencies and told them that the Committee

1 and its members did not represent the Tribe. Now that the Assistant Secretary has
2 recognized Burley as the Tribe's representative, I fear that the members of the Committee
3 will be denied the right to represent the Tribe or to perform cultural monitoring at any
4 project sites.

5
6 10. I am the Vice-Chairperson of the Calaveras Healthy Impacts Products
7 Solutions project ("CHIPS"), a community supported project that seeks to reduce wildfire
8 hazards to local communities while providing economic opportunity for local workers.
9 CHIPS received a grant from the United States Department of Agriculture in 2007 to
10 support retraining for workers to participate in new jobs within the forestry and vegetation
11 control industry. I have been involved with CHIPS since its inception in 2004.

12
13 11. Among other things, CHIPS has trained Native American workers to
14 perform restoration work on federal lands with sensitive Native American heritage
15 resources, so that they could participate in programs such as the CFLRP. Eligibility for
16 such work requires certification by the BIA. In light of the ongoing Tribal leadership
17 dispute, the BIA previously allowed Tribe members to participate in that training.
18 However, the December 22 Decision has called into doubt the Tribe members' eligibility to
19 receive certification from the BIA. At a ACCG meeting in January 2011, Bill Haigh of the
20 BLM's Folsom Field Office told me and Tribal Council member Velma Whitebear that he
21 had received correspondence from Silvia Burley stating that the members who participate
22 in CHIPS are not Tribe members and should not be allowed to perform work in Native
23 American heritage areas.

24
25 12. CHIPS is affiliated with the Amador-Calaveras Consensus Group
26 ("ACCG"), a coalition of groups representing the interests of environmental, Native
27 American, commercial and governmental entities in Amador and Calaveras counties. The
28 ACCG has been preparing an application for participation in the United States Forest

1 Service's ("USFS") Collaborative Forest Landscape Restoration Program ("CFLRP").
2 Participation in the CFLRP would allow local workers to work with the USFS and Bureau
3 of Land Management ("BLM") on landscape restoration and forest stewardship projects.
4 In particular, the USFS is seeking Native American crews to participate in programs to
5 reintroduce fire as a management technique on federal lands with sensitive Native
6 American heritage resources.

7
8 13. Because Burley maintains that I and others involved in the CHIPS
9 program are not members of the Tribe, the Assistant Secretary's December 22 Decision to
10 legitimize Burley will prevent the Tribe and its Tribe members from participating in the
11 CFLRP. This threatens the viability of the ACCG's participation in the CFLRP, because
12 the Tribe is the only federally recognized Indian tribe in Calaveras County. The entire
13 community will be harmed if the ACCG is unable to participate in the CFLRP.

14
15 14. In addition, the December 22 Decision will prevent the Tribe from
16 accessing the BIA's Natural Resources Program, which makes heavy equipment (e.g.,
17 wood chippers, splitters, etc.) and services available to recognized tribes without charge.
18 This program would have assisted the Tribe in its efforts to train workers and establish
19 native-owned businesses under CHIPS and the CFLRP. Because the December 22
20 Decision denies the Tribe its status as a federally recognized Indian tribe, it will now have
21 to rent or buy equipment for CHIPS and CFLRP using its own funds. This threatens the
22 financial viability of those programs, particularly since other sources of funding, such as
23 government-supported grants and subsidies, are also only available to federally recognized
24 Tribes.

25
26 15. Along with other members of the Tribe, I am involved in efforts to
27 construct a traditional brush house for the Tribe on U.S. Forest Service land at Sourgrass,
28 near the Tribe's ancestral village. A brush house is an open-roofed building for conducting

1 dances and other traditional ceremonies. It is a key element in Indian cultural and religious
2 traditions, equivalent to a tribe's church.

3
4 16. My daughter graduated from high school in 2010 and is seeking
5 admission to colleges and universities. Because of the December 22 Decision, she will not
6 be eligible for financial assistance and other programs eligible to members of federally
7 recognized tribes.

8
9 17. 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 Calaveras County, California.

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23 Briana Creekmore
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