

**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

Hon. Richard W. Roberts

**ORDER GRANTING PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

This matter comes before the Court on Plaintiffs' motion pursuant to Federal Rule of Civil Procedure 65(a) for a preliminary injunction, enjoining the December 22, 2010 decision by the Assistant Secretary – Indian Affairs regarding the organization and membership of the California Valley Miwok Tribe ("Tribe") (the "2010 Decision"). Based on Plaintiffs' Motion for Preliminary Injunction and supporting Memorandum of Points and Authorities, Defendants' Opposition thereto, and all other pleadings and documents properly before this Court, the Court finds that Plaintiffs have shown a high likelihood of success on the merits, inasmuch as they are likely to prevail on their claims that the 2010 Decision was precluded by this Court's prior decision in *California Valley Miwok Tribe v. United States*, 424 F.Supp.2d 197 (D.D.C. Mar. 31, 2006), *affirmed*, 515 F.3d 1262 (2008), that the 2010 Decision reversed the Department's longstanding position and prior determinations without adequate analysis or explanation, and that the 2010 Decision was otherwise arbitrary, capricious, and in violation of the Administrative Procedure Act, 5 U.S.C. § 706.

The Court also finds that, absent preliminary injunctive relief, Plaintiffs will suffer irreparable harm to fundamental membership rights and to tribal self government activities, which cannot be remedied by relief granted later, should Plaintiffs prevail on the merits. The Court finds that a preliminary injunction will not cause substantial harm to federal defendants or third parties, because it will simply preserve the status quo that has existed since at least 2004, while the Court decides Plaintiffs' claims on the merits. Finally, the Court finds that an injunction to protect majoritarian values is in the public interest.

Therefore, IT IS HEREBY ORDERED AS FOLLOWS:

(1) Defendants, including the Secretary of the United States Department of the Interior, the Assistant Secretary, the Department of the Interior and the Bureau of Indian Affairs, or any of their officers or employees, shall take no action to implement the 2010 Decision without prior approval of this Court, including without limitation: (a) recognizing Silvia Burley ("Burley"), Rashed Reznor ("Reznor") or any other person as a representative or official of the California Valley Miwok Tribe ("Tribe"); (b) recognizing the results of any purported Tribal election; (c) recognizing any Tribal constitution, bylaws or other governing documents submitted or adopted by Burley, Reznor or any other person; (d) recognizing the Tribe as "organized" under the Indian Reorganization Act of 1934 ("IRA"); (e) engaging in government-to-government relations with the Tribe through Burley or Reznor; or (f) entering into any contract or agreement with the Tribe through Burley or Reznor, including without limitation the grant of any funds to the Tribe pursuant to a contract authorized by Public Law 93-638.

(2) Within twenty four (24) hours of the issuance of this Order, Defendants shall notify Burley and Reznor that the 2010 Decision has been enjoined and that any and all actions the

Defendants have taken to implement the 2010 Decision are suspended pending resolution of this case on the merits.

IT IS SO ORDERED.

DATED THIS ____ DAY OF _____, 2011.

BY THE COURT:

Honorable Richard W. Roberts
District Court Judge