

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CALIFORNIA VALLEY MIWOK TRIBE,
et al.,

Plaintiffs,

v.

KEN SALAZAR, et al.,

Defendants.

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

**AFFIDAVIT OF ROBERT A. ROSETTE IN SUPPORT OF REPLY TO PLAINTIFFS'
OPPOSITION TO THE CALIFORNIA VALLEY MIWOK TRIBE'S MOTION TO
INTERVENE**

I, Robert A. Rosette, hereby declare:

1. I am an attorney licensed to practice before all the courts of the District of Columbia and the United States District Court for the District of Columbia. I am the Managing Partner of the law firm Rosette & Associates, P.C., attorneys of record for the California Valley Miwok Tribe ("Tribe"), a federally-recognized Indian tribe and Proposed Intervenors in the above-captioned matter. I make this declaration in support of the Tribe's Motion for Leave to Intervene as a Defendant in this action.

2. I have personal knowledge of the facts stated herein and would be competent to testify as to those facts if called upon to do so in a court of law.

3. On November 5, 1998, my client, the California Valley Miwok Tribe, established its governing body through Resolution #GC-98-01. This resolution is referenced several times in the final agency action at issue in this case. My client provided me with a true and correct copy of this correspondence during the course of my representation of the Tribe. (Attached hereto as Exhibit A is a true and correct copy of the California Valley Miwok Tribe's Resolution #GC-98-01, enacted on November 5, 1998.)

4. On September 24, 1998, the Tribe received correspondence from Dale Risling, Central California Agency Superintendent, Bureau of Indian Affairs, that verifies the enrollment and recognition of Yakima Dixie, Silvia Burley, Rashel Reznor, Anjelica Paulk, and Tristian Wallace as Tribal members. My client provided me with a true and correct copy of this correspondence during the course of my representation of the Tribe. (Attached hereto as Exhibit B is a true and correct copy of the letter from Superintendent Dale Risling to Yakima K. Dixie, Spokesperson of the Sheep Ranch Rancheria, dated September 24, 1998.)

5. On February 4, 2000, the Tribe received correspondence from Dale Risling, Central California Agency Superintendent, Bureau of Indian Affairs, that recognizes Silvia Burley, Rashel Reznor, Anjelica Paulk and Tristian Wallace as members of the Tribe “enjoying all benefits, privileges, rights, and responsibilities of Tribal membership.” My client provided me with a true and correct copy of this correspondence during the course of my representation of the Tribe. (Attached hereto as Exhibit C is a true and correct copy of the letter from Superintendent Dale Risling to Yakima K. Dixie, Vice-Chairperson of the Sheep Ranch Rancheria, dated February 4, 2000.)

6. On March 7, 2000, the Tribe received correspondence from Dale Risling, Central California Agency Superintendent, Bureau of Indian Affairs, that confirms the Bureau of Indian Affairs’ acknowledgement of Silvia Burley, Rashel Reznor, Anjelica Paulk and Tristian Wallace as enrolled Tribal members. My client provided me with a true and correct copy of this correspondence during the course of my representation of the Tribe. (Attached hereto as Exhibit D is a true and correct copy of the letter from Superintendent Dale Risling to Silvia Burley, Chairperson of the Sheep Ranch Rancheria, dated March 7, 2000.)

7. On December 22, 2010, I received a copy of correspondence from Larry Echo Hawk, Assistant Secretary – Indian Affairs wherein Mr. Echo Hawk explicitly vested the right to determine membership with the already-recognized California Valley Miwok Tribe (“Tribe”). The Assistant Secretary expressly stated that there was no need for the Bureau of Indian Affairs

(“BIA”) to continue previous efforts to organize the Tribe’s government because it was organized as a General Council pursuant to a resolution already adopted. This decision explicitly rescinds previous correspondence from the BIA with respect to these issues and the decision explicitly recognizes the members of the Tribe as being Silvia Burley, Yakima Dixie, Rashel Reznor, Anjelica Paulk and Tristian Wallace. (Attached hereto as Exhibit E is a true and correct copy of the December 22, 2010 decision issued by Larry Echo Hawk, Assistant Secretary – Indian Affairs sent to me on December 22, 2010.)

8. On December 23, 2010, the Tribe issued a Public Notice regarding a Special Meeting of the Tribe’s General Council, scheduled to take place on January 7, 2011 at 10601 N. Escondido Place, Stockton, California 95212 at 10:00 a.m. This Public Notice states that the December 22, 2010 decision issued by Larry Echo Hawk, Assistant Secretary – Indian Affairs, rescinded previous letters from the Bureau of Indian affairs that had previously challenged the authority, leadership and organizational status of the Tribe. As such, the Tribe issued a public notice of a Special Meeting in accordance with General Council Resolution # GC-98-01. This notice also stated that the Tribe recognized Silvia Burley as its Chairperson, with four adult federally recognized members: Silvia Burley, Yakima Dixie, Anjelica Paulk and Rashel Reznor. (Attached hereto as part of Exhibit F is a true and correct copy of the December 23, 2010 Public Notice of a Special Meeting of the General Council to all federally-recognized enrolled members of the Tribe, which was noticed to take place at 10601 N. Escondido Place, Stockton, California 95212 on January 7, 2011 at 10:00 a.m.)

9. The Special Notice (attached as part of Exhibit F in the above paragraph) stated the purpose of the General Council Special Meeting, which was to elect Tribal Officers, including but not limited to a Chairperson and a Secretary/Treasurer pursuant to General Council Resolution # GC-98-01 to assist in administering the daily governmental affairs and operations of the Tribe and not to pursue any efforts to formally organize the Tribe as that had previously been verified by the December 22, 2010 decision by the Assistant Secretary of Indian Affairs

(See Exhibit E attached herein.)

10. On December 23, 2010, I caused to be served by personal service upon Yakima Dixie a copy of the Public Notice (attached as part of Exhibit F herein) by Al Costa, Al Costa Enterprises. The Declaration of Personal Service made by Al Costa explains that Yakima Dixie was personally served with this Public Notice at his home located at 11178 Sheep Ranch Road., Sheep Ranch, California 95250. Al Costa personally served two copies of the Public Notice on Yakima Dixie at 11:26 a.m. on December 23, 2010. (Attached hereto as part of Exhibit F is a true and correct copy of Al Costa's Declaration of Personal Service dated December 23, 2010, timed 1:25 p.m. for service made upon Yakima Dixie at his home address.)

11. On December 30, 2010, the Tribe issued a "Reminder Notice" of the above-referenced Special Meeting of the Tribe's General Council. The Special Meeting was set to take place at 10601 N. Escondido Place, Stockton, California 95212 on January 7, 2011 at 10:00 a.m. (Attached hereto as part of Exhibit F is a true and correct copy of the December 30, 2010 Reminder Notice of the Special Meeting of the General Council to all federally-recognized enrolled members of the Tribe.)

12. On December 30, 2010, I caused to be served by personal service upon Yakima Dixie a copy of the Reminder Notice to Appear for the Public Special Meeting (attached as part of Exhibit F herein) by Al Costa, Al Costa Enterprises. The Declaration of Personal Service made by Al Costa explains that Yakima Dixie was personally served with this Reminder Notice at his home located at 11178 Sheep Ranch Road., Sheep Ranch, California 95250. Al Costa personally served two copies of the Reminder Notice on Yakima Dixie at 2:51 p.m. on December 30, 2010. (Attached hereto as part of Exhibit F is a true and correct copy of Al Costa's Declaration of Personal Service dated December 30, 2010, timed 2:51 p.m. for service made upon Yakima Dixie at his home address.)

13. On January 12, 2011, the Tribe received correspondence from Dale Risling, Central California Agency Superintendent, Bureau of Indian Affairs, acknowledging receipt of the

Tribe's Report of Tribal Election and Addendum to Report of Tribal Election and recognizing the results of the election and the status of Silvia Burley as Chairperson and Rashel Reznor as Secretary/Treasurer. I received a true and correct copy of the correspondence from my client upon the Tribe's receipt of the correspondence. (Attached hereto as Exhibit G is a true and correct copy of the letter from Superintendent Dale Risling to Silvia Burley, Chairperson of the California Valley Miwok Tribe, dated January 12, 2011.)

14. On January 21, 2011, I received a copy of correspondence from Pilar M. Thomas, Deputy Solicitor, Indian Affairs, Office of the Solicitor, U.S. Department of the Interior, to Mr. Robert J. Uram, Esq., of Sheppard, Mullin, Richter & Hampton, LLP. The letter states that "the Assistant Secretary has declined to reconsider the December 22, 2010 decision" (Attached hereto as Exhibit H is a true and correct copy of the January 21, 2011 correspondence from Pilar Thomas to Robert J. Uram.)

15. On February 24, 2011, my firm prepared correspondence that was sent to the Assistant Clerk of Court alerting the Court to the use of the "California Valley Miwok Tribe's" name without its consent in the current litigation and addressed ethical concerns regarding such a representation to the Court.

16. On March 15, 2011, prior to the filing of the Tribe's Motion to Intervene, my firm prepared additional correspondence in response to the ex parte letter Plaintiffs' attorneys conveyed to the Court and transmitted that correspondence via e-mail. I did not know nor have any reason to believe that the Court had requested a response to the February 24 letter and believed the communication to be ex parte because there was no order from the Court exhibited on PACER requiring Plaintiffs' counsel to answer the February 24 letter.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 4th day of April, 2011.

By: /s/ Robert A. Rosette
Robert A. Rosette