

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION

THE CALIFORNIA VALLEY MIWOK TRIBE, et al.,

Plaintiffs,

v.

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

Defendants.

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

The Hon. Richard W. Roberts

**JOINT STATUS REPORT REGARDING THE STATUS OF THE RECONSIDERED
DECISION OF THE ASSISTANT SECRETARY - INDIAN AFFAIRS AND MOTION
FOR EXTENSION OF THE TEMPORARY STAY OF LITIGATION**

Pursuant to this Court's order of April 25, 2011, the parties provide the following status report to the Court.

1. On January 24, 2011, Plaintiffs brought suit challenging the December 22, 2010 decision of the Assistant Secretary - Indian Affairs of the United States Department of the Interior ("Assistant Secretary"). *See* Dkt. No. 1.
2. On March 16, 2011, Plaintiffs filed a Motion for Preliminary Injunction, Dkt. No. 8, and, after granting the Defendants' Consent Motion for an Extension of Time, Dkt. No. 17, this Court ordered the Defendants to file their opposition to Plaintiffs' Motion for a Preliminary Injunction by April 5, 2011.
3. However, on April 1, 2011, the Assistant Secretary set aside the prior December 22, 2010 decision regarding the organization and governance of the California Valley Miwok Tribe. *See* Joint Motion to Stay Litigation, Dkt. No. 22, ex. 1.
4. On April 8, 2011, the Assistant Secretary sent letters to both Mr. Yakima Dixie and Ms. Silvia Burley requesting responsive briefing pertaining to a number of issues. Joint Motion to Stay Litigation, Dkt. No. 22, ex. 3.

5. The April 8, 2011, letter set May 3, 2011, as the deadline for the respective parties' submission of briefs responding to the Assistant Secretary's inquiries. Both Mr. Dixie and Ms. Burley submitted briefs on May 3, 2011.
6. On April 19, 2011, the parties jointly requested this Court stay the litigation and all attendant deadlines so that the Assistant Secretary could prepare and issue the reconsidered decision. *See* Joint Motion to Stay Litigation, Dkt. No. 22.
7. On April 25, 2011, this Court issued a minute order granting the parties' joint motion to stay until July 7, 2011, and ordered the parties to file a joint status report and proposed order on July 7, 2011 as well.
8. Since the submission of administrative briefs on May 3, 2011, work continues towards a reconsidered decision regarding the California Valley Miwok Tribe.
9. The Assistant Secretary requests that the Court extend the temporary stay until August 15, 2011, to accommodate the preparation and issuance of the reconsidered decision. Plaintiffs explained to Defendants that they would be willing to consent to that request, provided that (1) it is the final extension (*i.e.*, there is no further extension beyond August 15, 2011) and (2) the Assistant Secretary will in fact issue his reconsidered decision on or before August 15, 2011. Defendants explained although the Assistant Secretary fully anticipates the issuance of the reconsidered decision by August 15, that the Defendants would not agree to a condition mandating final agency action; the absence of a final agency action on August 15, 2011, at most, should justify expiration of the stay. Accordingly:
 - a. Plaintiffs request that the extension of the temporary stay until August 15, 2011 be the last extension granted and that the Assistant Secretary be ordered to issue his reconsidered decision by that date (see proposed Order at Exhibit A hereto);
whereas
 - b. Defendants request the extension of the temporary stay until August 15, 2011 (see proposed Order at Exhibit B hereto). In the event the Assistant Secretary

does not issue his reconsidered decision by August 15, Defendants request that the only result be a release of the voluntary stay.

Respectfully submitted this 7th day of July, 2011

IGNACIA S. MORENO
Assistant Attorney General
Environment and Natural Resources Division

/s/ Kenneth Rooney
KENNETH D. ROONEY
United States Department of Justice
Environment & Natural Resources Division
Natural Resources Section
P.O. Box 663
Washington, D.C. 20044-0663
Phone: (202) 514-9269
Fax: (202) 305-0506
E-mail: kenneth.rooney@usdoj.gov

OF COUNSEL
James W. Porter
Attorney-Advisor
Branch of Tribal Government and Alaska
Division of Indian Affairs
Office of the Solicitor, Department of the Interior
1849 C Street, N.W. Washington, D.C. 20240
Mail stop 6518

/s/ M Roy Goldberg
M. ROY GOLDBERG
(D.C. Bar No. 416953)
Christopher M. Loveland
(D.C. Bar No. 473969)
ATTORNEYS FOR PLAINTIFFS
Sheppard Mullin Richter & Hampton LLP
1300 I Street, N.W., 11th Floor East
Washington, DC 20005-3314
Tel: (202) 218-0007
Fax: (202) 312-9425
Email: rgoldberg@sheppardmullin.com
cloveland@sheppardmullin.com

ROBERT J. URAM (admitted pro hac vice)
Sheppard Mullin Richter & Hampton LLP
Four Embarcadero Center, 17th Floor
San Francisco, California 94111-4109
Tel: (415) 434-9100
Fax: (415) 434-3947
Email: ruram@sheppardmullin.com

