

**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

Hon. Richard W. Roberts

**JOINT STATUS REPORT**

Further to their September 1, 2011, Joint Status Report, Docket No. 27, the Parties state as follows for their new Joint Status Report:

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 (the "Assistant Secretary"), regarding the organization and governance of the California Valley Miwok Tribe (the "December 22 Decision"). Docket No. 1.

2. On March 16, 2011, Plaintiffs filed a Motion for Preliminary Injunction seeking to enjoin the implementation of the December 22 Decision. Docket No. 8.

3. On March 17, 2011, Proposed Intervenors filed a Motion to Intervene. Docket No. 11. That motion is fully briefed, *see* Docket No. 14, 16, 20, and pending before this Court.

4. On April 1, 2011, however, the Assistant Secretary withdrew his December 22 Decision. *See* Exhibit 1 to Joint Motion to Stay Litigation, Docket No. 22. Plaintiffs therefore

withdrew their Motion for Preliminary Injunction as moot on the same day, April 1, 2011. Docket No. 19.

5. 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 relating to his reconsideration of his December 22 Decision. Joint Motion to Stay Litigation, Docket No. 22, Ex. 3.

6. 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 and exhibits on May 3, 2011.

7. 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, Docket No. 22.

8. 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.

9. On July 7, 2011, the parties filed a joint status report and requested this Court stay the litigation and all attendant deadlines until August 15, 2011, to accommodate the Assistant Secretary's ongoing preparation of the reconsidered decision. *See* 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, Docket No. 23.

10. On July 11, 2011, this Court granted the Joint Motion for Temporary Stay of Litigation. Docket No. 24. This Court subsequently extended the stay until September 2, 2011. Docket No. 26.

11. On August 31, 2011, the Assistant Secretary issued his reconsidered decision (the “August 31 Decision”). The Assistant Secretary stayed the effectiveness of the August 31 Decision pending resolution of this matter. Specifically, page 8 of the August 31 Decision states:

This decision is final for the Department and effective immediately, but implementation shall be stayed pending resolution of the litigation in the District Court for the District of Columbia, *California Valley Miwok Tribe v. Salazar*, C.A. No. 1:11-cv-00160-RWR (filed 03/16/11).

12. Consistent with the August 31 Decision, Plaintiffs and Defendants stated, in their Joint Status Report to this Court dated September 1, 2011, that “the Assistant Secretary stayed the effectiveness of the August 31, 2011 decision pending resolution of this matter. As a result, the August 31, 2011 decision will have no force and effect until such time as this court renders a decision on the merits of plaintiffs’ claims or grants a dispositive motion of the Federal Defendants.” Docket No. 27 (¶ 13).

13. In their status report dated September 1, 2011, the parties requested that the stay of the litigation be terminated and that the parties, on or before September 16, 2011, file a joint Status Report to address procedural issues arising out of the issuance of the August 31 Decision. Docket No. 27.

14. Plaintiffs anticipate filing an amended complaint by October 17, 2011 to address the issuance of the August 31 Decision. Defendants respectfully request they be allowed 45 days to file their responsive pleading to the amended complaint. Accordingly, Defendants will file an answer or other responsive pleading by December 1, 2011.

15. Defendants anticipate filing the administrative record by December 1, 2011.

16. The parties expect the matter to be resolved based on the administrative record. However, Plaintiffs reserve the right to seek discovery following their review of the administrative record. Accordingly, Plaintiffs seek to have 30 days to review the administrative record and file objections or requests for supplementation or discovery. Defendants maintain, however, that it is only in rare and exceptional circumstances where the courts of this circuit have permitted supplementation of an administrative record, and it is well established that a party who seeks to supplement the administrative record bears the burden of showing that supplementation is justified. Therefore, Defendants reserve the right to seek a protective order preventing either supplementation or discovery. After the administrative record is complete, the parties intend to file cross motions for summary judgment.

Respectfully submitted,

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