

**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

**UNITED STATES' ANSWER TO PLAINTIFFS' FIRST AMENDED COMPLAINT**

Federal Defendants Ken Salazar, Larry Echo Hawk, and Michael Black, in their official capacities, hereby answer Plaintiffs' First Amended Complaint for Declaratory and Injunctive Relief. The following paragraphs are numbered to correspond with the paragraphs in Plaintiffs' Complaint. Federal Defendants deny any allegations not specifically denied, admitted, or modified.

1. Federal Defendants admit that the California Valley Miwok Tribe ("CVMT")<sup>1</sup> is federally recognized and included on the list of "Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs." *See* 75 Fed. Reg. 60810 (Oct. 1, 2010); *see also* 75 Fed. Reg. 66124 (Oct. 27, 2010) (supplemental listing adding the Shinnecock Indian Nation to the list of federally recognized tribes). Federal Defendants admit

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<sup>1</sup> Reference to the CVMT in this answer refers to the federally recognized tribe and is not to be confused with Mr. Dixie's Tribal Council.

the United States purchased the Sheep Ranch Rancheria for the benefit of a small band of Miwok Indians living near Sheep Ranch, California. The remaining allegations in the first sentence of Paragraph 1 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied. Federal Defendants deny that the CVMT consists of 242 adult members and approximately 350 members under the age of 18.

2. Federal Defendants admit the allegations in the first sentence of the Paragraph 2 to the extent that a special election was held and the only election participant did not vote against the application of the IRA. *See* 25 U.S.C. § 478. The allegations contained in the second and third sentences are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied. To the extent a response is deemed required, the allegations are denied.

3. Federal Defendants admit the CVMT never organized under the IRA. To the extent allegations in the second sentence of Paragraph 3 contain factual allegations, those allegations are denied.

4. Federal Defendants admit allegations in the first sentence to the extent that Silvia Burley contacted BIA for information related to her Indian heritage, which BIA provided, and that BIA suggested Ms. Burley contact Yakima Dixie. Federal Defendants also admit that Yakima Dixie, as Tribal spokesperson for the CVMT, enrolled Ms. Burley and her two daughters in the Tribe. Federal Defendants deny the remaining allegations in Paragraph 4.

5. Federal Defendants admit the allegations in the first sentence of Paragraph 5. Federal Defendants admit that the BIA informed Mr. Dixie that the people entitled to participate in the initial organization of the Tribe were determined by a plan for distribution of tribal assets that had been approved in 1966 as part of an unsuccessful attempt to “terminate” the Tribe under the

California Rancheria Act. That plan named Mabel Hodge Dixie as the only Indian living on the Sheep Ranch, and the United States denied the claims of Lena Shelton, her brother Tom Hodge, her daughter Dora Shelton Mata and her two granddaughters, finding no evidence that they had ever lived on the Rancheria. Federal Defendants also admit that in 1998, the BIA informed Mr. Dixie that he, his brother Melvin Dixie, and the Burleys were entitled to participate in the initial tribal organization. Federal Defendants deny the remaining allegations in the second and third sentences of Paragraph 5. The allegations contained in the fourth sentence of Paragraph 5 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

6. The allegations contained in the first sentence of Paragraph 6 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied. To the extent a response is deemed required, the allegations are denied. Federal Defendants lack knowledge and information sufficient to form a belief as to the truth of the remaining allegations in this paragraph and on that basis denies them.

7. Federal Defendants admit the first and second sentences of Paragraph 7. Federal Defendants admit the allegations in the third sentence to extent that Mr. Dixie and Ms. Burley signed the resolution on November 5, 1998. The remaining allegations in the third sentence of Paragraph 7 are denied. The allegations contained in the fourth sentence of Paragraph 7 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

8. Federal Defendants admit the allegations of Paragraph 8 to the extent that the CVMT never organized under the IRA and that leadership disputes arose between Mr. Dixie and Ms. Burley following the passage of the 1998 resolution.

9. Federal Defendants admit that in 1999 both Mr. Dixie and Ms. Burley submitted a proposed constitution that identified the base enrollees as Mr. Dixie, Ms. Burley, and Ms. Burley's two daughters and granddaughter, as well as the direct lineal descendants of those base enrollees. Federal Defendants admit that the BIA did not call a Secretarial Election, but deny that the constitution was rejected. Federal Defendants admit that the Ms. Burley also submitted a constitution in 2000 and requested that BIA call an election for its ratification. However, Ms. Burley subsequently abandoned her request for a vote on that constitution, and the BIA, therefore, never acted on it. Federal Defendants admit that Ms. Burley submitted constitutions in 2001 and 2004, which the BIA also rejected. Federal Defendants admit that the 2004 constitution limited membership to Ms. Burley and her two daughters but excluded Mr. Dixie and his descendants. Federal Defendants admit that the BIA informed Ms. Burley that where a tribe has not previously organized, efforts to organize should involve the tribal community. The BIA identified Mr. Dixie, Melvin Dixie, the offspring of Merle Butler, Tillie Jeff or Lenny Jeff, and other persons who were known to have resided at the Rancheria in the past 75 years, as persons whose participation the BIA suggested should be included. Federal Defendants admit the third sentence of Paragraph 9.

10. The allegations in the first sentence of Paragraph 10 purport to characterize *California Valley Miwok Tribe v. U.S.*, 424 F.Supp.2d 197 (D.D.C. 2006), which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the decisions, they are denied. The allegations in the second sentence of Paragraph 10 purport to characterize *California Valley Miwok Tribe v. U.S.*, 515 F.3d 1262 (D.C. Cir. 2008), which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the decisions, they are denied. The allegations in the third sentence of

Paragraph 10 purport to characterize the Federal Defendants' arguments in the D.C. Circuit, which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the documents, they are denied. The allegations contained in the fourth sentence of Paragraph 10 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

11. The allegations in Paragraph 10 purport to characterize *California Valley Miwok Tribe*, 515 F.3d at 1267, which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the decision, they are denied.

12. Federal Defendants admit the BIA attempted to assist the CVMT in its efforts to organize, and the first step in the organizational process supported by BIA was to identify putative members of the CVMT. Federal Defendants admit that BIA issued public notice identifying lineal descendants of persons identified on the August 13, 1915 Census of Indians at or near Sheep Ranch, Calveras County, as included among those individuals. The allegations in the third sentence of Paragraph 12 purport to characterize Ms. Burley's administrative appeal, which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the documents, they are denied. Federal Defendants admit the allegations in the fourth sentence of Paragraph 12.

13. The allegations in Paragraph 13 purport to characterize the Assistant – Secretary's August 31, 2011, decision, which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the decision, they are denied.

14. The allegations in the first sentence of Paragraph 14 purport to characterize the Assistant Secretary's August 31, 2011, decision, which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the decision, they are

denied. The allegations in the second sentence of Paragraph 14 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

15. The allegations in Paragraph 15 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

16. The allegations in Paragraph 16 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied. To the extent a response is deemed required, the allegations are denied.

17. Admitted.

18. Admitted.

19. Admitted.

20. Admitted.

21. Admitted.

22. Admitted.

23. Admitted.

24. Admitted.

25. Federal Defendants admit the California Valley Miwok Tribe, also known as the “Sheep Ranch Rancheria,” the “Sheep Ranch Rancheria of Me-Wuk Indians of California,” and the “Sheep Ranch Band of Mewuk Indians of the Sheep Ranch Rancheria,” is a federally recognized Indian tribe that historically was situated in Calveras County. The allegations in the second sentence of Paragraph 25 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied. To the extent a response is deemed required, the allegations are denied. Federal Defendants deny allegations in the third sentence

of Paragraph 25. Federal Defendants lack knowledge and information sufficient to admit or deny the allegations of the fourth sentence of Paragraph 25 and on that basis denies them.

26. Federal Defendants admit that Mr. Dixie was the sole member and representative of the Sheep Ranch Rancheria prior to the adoption of Burley, and was also the first chairman elected under the GC 1998, but deny the remaining allegations in the first sentence of Paragraph 26. Federal Defendants lack knowledge and information sufficient to admit or deny the allegations of the fourth sentence of Paragraph 26 and on that basis denies them.

27. Federal Defendants deny the allegations contained in the first sentence of Paragraph 27. To the extent Paragraph 27 alleges facts, Federal Defendants lack knowledge and information sufficient to admit or deny those allegations and on that basis denies them. Federal Defendants lack knowledge and information sufficient to admit or deny those allegations of the second sentence of Paragraph 27 and on that basis denies them.

28. Federal Defendants lack knowledge and information sufficient to admit or deny the allegations in Paragraph 28 and on that basis denies them.

29. Admitted.

30. Federal Defendants admit the allegations of the first sentence except it denies that the Assistant Secretary is head of the BIA. Federal Defendants affirmatively aver that the Assistant Secretary is a secretarial officer that has responsibility for overseeing the BIA, but Michael Black is the "head" of the BIA. Federal Defendants admit the remaining allegations in Paragraph 30.

31. Admitted.

32. Federal Defendants admit the first sentence only to the extent that in 1915, a United States Indian Service official discovered a small cluster of Miwok Indians living in or near Sheep

Ranch, California. Federal Defendants Federal lack knowledge and information sufficient to admit or deny the remaining allegations in first sentence of Paragraph 32 and on that basis denies them. Defendants admit that, in 1916, the United States purchased approximately one acre of land in Sheep Ranch and created the Sheep Ranch Rancheria for the benefit of those Indians. Federal Defendants admit only that the Sheep Ranch Band of Me-wuk Indians is a federally recognized tribe. Federal Defendants deny the remaining allegations contained in Paragraph 32.

33. The allegations in the first sentence of Paragraph 33 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied. The second and third sentence purport to quote the 1915 report of a United States Indian Service official, which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the documents, they are denied.

34. Federal Defendants admit the United States held an election IRA election in 1935, in which the lone Indian resident on the Rancheria voted not to reject the application of the IRA. Federal Defendants admit the voter list showed one resident Indian, Jeff Davis.

35. The allegations in Paragraph 35 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied. To the extent a response is deemed required, the allegations are denied.

36. The allegations in Paragraph 36 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

37. Federal Defendants admit the United States held an election IRA election in 1935, in which the lone Indian resident on the Rancheria voted not to reject the application of the IRA.

38. The allegations in the first sentence of Paragraph 38 purport to characterize the provisions of the IRA, which speaks for themselves and are the best evidence of their contents.



To the extent the characterizations are inconsistent with the documents, they are denied. The allegations in the second sentence of Paragraph 38 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

39. The allegations in Paragraph 39 purport to characterize the provisions of the IRA, which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the IRA, they are denied.

40. The allegations in Paragraph 40 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

41. The allegations in Paragraph 41 purport to characterize the provisions of the California Rancheria Act, which speaks for themselves and are the best evidence of their contents. To the extent the characterizations are inconsistent with the Act, they are denied.

42. Federal Defendants admit that CVMT was never terminated. Federal Defendants admit that CVMT is included on the list of federally recognized Indian tribes. Federal Defendants deny the remaining allegations in Paragraph 42.

43. The allegations in the first sentence of Paragraph 43 purport to characterize the 1998 Resolution, which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the document, they are denied. Federal Defendants deny the allegations in the second sentence of Paragraph 43. Federal Defendants admit a “majority” means more than one-half. Federal Defendants admit that only Mr. Dixie and Ms. Burley signed the 1998 Resolution.

44. The allegations in the first, second, and third sentences of Paragraph 44 purport to characterize the 1998 Resolution, which speaks for itself and is the best evidence of its contents.

The allegations in the fourth sentence of Paragraph 44 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

45. The allegations in Paragraph 45 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied. To the extent Paragraph 45 alleges facts, Federal Defendants lack knowledge and information sufficient to admit or deny those allegations and on that basis denies them.

46. Federal Defendants admit the allegations in the first sentence to the extent that Melvin Dixie did not participate in the process of drafting or voting on the 1998 Resolution, because his whereabouts were unknown at the time, according to Mr. Dixie. Federal Defendants deny that the “1998 Adult Members” or the “now-deceased members” were entitled to notice or to participate in the drafting and passage of the 1998 Resolution. Federal Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in the second sentence of Paragraph 46 and on that basis denies them.

47. The allegations in the Paragraph 47 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

48. Federal Defendants deny the allegations in the first and fourth sentences of Paragraph 48. Federal Defendants admit allegations in the second sentence. Federal Defendants admit the allegations in the third sentence to the extent that in 1999, Mr. Dixie resigned and appointed Ms. Burley as Chairperson.

49. Federal Defendants admit the allegations in the first and second sentences of Paragraph 49. Federal Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in the third sentence of Paragraph 49 and on that basis denies them.

50. Admitted.

51. Federal Defendants admit the allegations of the paragraph to the extent that Ms. Burley submitted a constitution to the BIA in February 2004. The remaining allegations in Paragraph 51 purport to characterize the 2004 constitution which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the document, they are denied.

52. The allegations in Paragraph 52 purport to characterize the Complaint in *California Valley Miwok Tribe v. United States*, No. 02-0912 (E.D. Cal. filed April 29, 2002), and also purport to characterize Ms. Burley's proposed constitution, both of which speak for themselves and are the best evidence of their contents. To the extent the characterizations are inconsistent with the documents, they are denied.

53. The allegations in Paragraph 53 purport to characterize the March 26, 2004, letter from the BIA to Ms. Burley, which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the document, they are denied.

54. The allegations in Paragraph 54 purport to characterize the March 26, 2004, letter from the BIA to Ms. Burley, which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the document, they are denied.

55. The allegations in Paragraph 55 purport to characterize the February 11, 2005, letter from the Acting Assistant Secretary to Mr. Dixie and Ms. Burley, which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the document, they are denied.

56. The allegations in Paragraph 56 purport to characterize the February 11, 2005, letter from the Acting Assistant Secretary to Mr. Dixie and Ms. Burley, which speaks for itself and is

the best evidence of its contents. To the extent the characterizations are inconsistent with the document, they are denied.

57. Federal Defendants admit the allegations in the first sentence to the extent that following the February 11, 2005, decision, the BIA sought to work with the CVMT, which included Mr. Dixie and Ms. Burley, to complete the organization process. Federal Defendants admit the allegations in the second sentence to the extent that Ms. Burley was invited to participate and that Ms. Burley challenged the February 11, 2005, decision in *California Valley Miwok Tribe v. United States*, 424 F.Supp. 2d 197 (D.D.C. 2006).

58. The allegations in Paragraph 58 purport to characterize *California Valley Miwok Tribe v. United States*, 424 F.Supp. 2d 197 (D.D.C. 2006), which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the decision, they are denied.

59. The allegations in Paragraph 59 purport to characterize *California Valley Miwok Tribe v. United States*, 424 F.Supp. 2d 197 (D.D.C. 2006), which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the decision, they are denied.

60. The allegations in Paragraph 60 purport to characterize *California Valley Miwok Tribe v. United States*, 515 F.3d 1262 (D.C. Cir. 2008), which speaks for itself and is the best evidence of its contents.

61. The allegations in Paragraph 61 purport to characterize *California Valley Miwok Tribe v. United States*, 515 F.3d 1262 (D.C. Cir. 2008), which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the decision, they are denied.

62. Paragraph 62 quotes a document submitted by Federal Defendants in *California Valley Miwok Tribe v. U.S.*, 515 F.3d 1262 (D.C. Cir. 2008), which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the document, they are denied.

63. Paragraph 63 quotes a document submitted by Federal Defendants in *California Valley Miwok Tribe v. U.S.*, 515 F.3d 1262 (D.C. Cir. 2008), which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the document, they are denied.

64. Paragraph 64 quotes a document submitted by Federal Defendants in *California Valley Miwok Tribe v. U.S.*, 515 F.3d 1262 (D.C. Cir. 2008), which speaks for itself and is the best evidence of its contents.

65. Federal Defendants deny the allegations of Paragraph 65 to the extent that plaintiffs, other than Dixie, are members of the tribe. Defendants lack knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 65 and on that basis denies them.

66. Federal Defendants admit the allegations of the first sentence of the paragraph to the extent that the BIA met with Mr. Dixie in September 2003 and that Mr. Dixie requested the BIA call an election pursuant to the IRA. Federal Defendants admit the allegations in the second sentence of Paragraph 66.

67. Federal Defendants deny the allegations of paragraph 67 to the extent that plaintiffs, other than Dixie, are members of the tribe. Defendants lack knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 67, including the sub paragraphs, and on that basis denies them.

68. Federal Defendants deny the allegations of the paragraph to the extent that plaintiffs, other than Dixie, are members of the tribe. Defendants lack knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 68 and on that basis denies them.

69. Federal Defendants deny the allegations of the paragraph to the extent that plaintiffs, other than Dixie, are members of the tribe. Defendants lack knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 65 and on that basis denies them.

70. Federal Defendants admit the allegations in the first sentence to the extent that Mr. Dixie and his purported Tribal Council, not the CVMT, adopted Resolution 2011-07-16(b). Federal Defendants admit the allegations in the second sentence to the extent Mr. Dixie provided the Assistant Secretary and the BIA with a letter from Mr. Robert J. Uram, which outlined Mr. Dixie's "continued progress toward Tribal organization under the [IRA]" and included the Resolution as an attachment. Federal Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in the third and fourth sentences of Paragraph 70 and on that basis denies them.

71. The allegations in Paragraph 71 purport to characterize the November 6, 2006, letter from Troy Burdick, Superintendent of the Central California Agency, Bureau of Indian Affairs, which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the document, they are denied.

72. Defendants admit that Ms. Burley appealed the Superintendent's decision. The allegations in Paragraph 72 purport to characterize the Regional Director's April 2, 2007,

decision, which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the document, they are denied.

73. The allegations in Paragraph 73 purport to characterize public notices which the BIA published on April 10 and April 17, 2007, which speak for themselves and are the best evidence of their contents. To the extent the characterizations are inconsistent with the notices, they are denied.

74. Federal Defendants admit the allegations of Paragraph 74 to the extent that: approximately 500 individuals submitted paperwork in response to the public notices; Plaintiffs Velma Whitebear, Antonia Lopez, Michael Mendibles, Evelyn Wilson, and Antone Azevedo each submitted genealogies and other documentation to the BIA in response to the public notices; and that there are five individuals with the last name of Burley that submitted paperwork, however, Silvia Burley, Angelica Paulk, Rashel Reznor, Tristian Wallacen, and Mildren Burley did not respond to the public notices. Federal Defendants lack knowledge and information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 73 and on that basis denies them.

75. Admitted.

76. Federal Defendants admit the allegations in the first sentence of Paragraph 76. The remaining allegations in Paragraph 76 purport to characterize *California valley Miwok Tribe v. Pacific Regional Director, BIA*, 51 I.B.I.A. 103, No. 07-100-A (January, 28, 2010), which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the decision, they are denied.

77. The allegations in Paragraph 77 purport to characterize *California valley Miwok Tribe v. Pacific Regional Director, BIA*, 51 I.B.I.A. 103, No. 07-100-A (January, 28, 2010), which speaks

for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the decision, they are denied.

78. Admitted.

79. The allegations in Paragraph 79 purport to characterize the proceedings in California state court, which speak for themselves and are the best evidence of their contents. To the extent the characterizations are inconsistent with the documents, they are denied.

80. Admitted.

81. The allegations in Paragraph 81 purport to characterize the August 31, 2011, decision of the Assistant Secretary, which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the document, they are denied.

82. Federal Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 82 and on that basis denies them.

83. Federal Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 83 and on that basis denies them.

83(a). The first sentence of Paragraph 83(a) purports to characterize the August 31, 2011, decision of the Assistant Secretary, which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the document, they are denied. Federal Defendants deny the allegations in the second sentence of Paragraph 83(a). The allegations in third sentence of Paragraph 83(a) are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

83(b). The first sentence of Paragraph 83(b) purports to characterize the August 31, 2011, decision of the Assistant Secretary, which speaks for itself and is the best evidence of its



contents. To the extent the characterizations are inconsistent with the document, they are denied. Federal Defendants admit the allegations in the second sentence of 83(b).

84. Denied.

85. Federal Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 83 and on that basis denies them.

86. Federal Defendants admit that Plaintiffs, except for Mr. Dixie, are not currently entitled to participate in the organization and governance of the Tribe.

86(a). The allegations in the first sentence of Paragraph 86(a) are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied. The second sentence of Paragraph 86(a) purports to characterize the August 31, 2011, decision of the Assistant Secretary, which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the document, they are denied.

86(b). The allegations in Paragraph 86(b) purport to characterize the August 31, 2011, decision of the Assistant Secretary, which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the document, they are denied.

87. Denied.

88. The allegations in the first sentence of Paragraph 88 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied. To the extent the first sentence of Paragraph 88 alleges facts, Federal Defendants lack knowledge and information sufficient to form a belief as to the truth of those allegations and on that basis denies them. The allegations in the second and third sentences of Paragraph 88 purport to characterize the lawsuit pending in California state court, *California Valley Miwok Tribe v. California Gambling Control Commission*, No. 37-2008-00075326 (Sup. Ct. San Diego), which

speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the lawsuit, they are denied.

88(a). Federal Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 88(a) and on that basis denies them.

88(b). The allegations in the Paragraph 88(b) purport to characterize the lawsuit pending in California state court, *California Valley Miwok Tribe v. California Gambling Control Commission*, No. 37-2008-00075326 (Sup. Ct. San Diego), which speaks for itself and is the best evidence of its contents. To the extent the characterizations are inconsistent with the lawsuit, they are denied.

88(c). Denied.

88(d). Denied.

89. The allegations in the first sentence of Paragraph 89 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied. Federal Defendants admit the allegations in the second sentence to the extent that the CVMT received federal grant money that was provided through a “self-determination contract” pursuant to the Indian Self-Determination and Education Assistance Act, 25 U.S.C. § 450 *et seq.* The remaining allegations in the paragraph purport to characterize the PL-638 contracts, which speak for themselves and are the best evidence of their contents. To the extent the characterizations are inconsistent with the contracts, they are denied.

a. Denied.

b. Federal Defendants admit they previously indicated their intent to enter into a new PL 638 contract with the CVMT, following judicial review. The allegations in

the second sentence of Paragraph 89(b) are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

90. Federal Defendants hereby incorporate and reassert the foregoing paragraphs of their Answer.

91. The allegations in Paragraph 91 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

92. The allegations in Paragraph 92 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

93. The allegations in Paragraph 93 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

94. The allegations in Paragraph 94 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

95. The allegations in Paragraph 95 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

96. The allegations in Paragraph 96 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

97. The allegations in Paragraph 97 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

98. The allegations in Paragraph 98 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

99. The allegations in Paragraph 99 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

100. The allegations in Paragraph 100 are conclusions of law, which require no response.

To the extent a response is deemed required, the allegations are denied.

101. The allegations in Paragraph 101 are conclusions of law, which require no response.

To the extent a response is deemed required, the allegations are denied.

102. The allegations in Paragraph 102 are conclusions of law, which require no response.

To the extent a response is deemed required, the allegations are denied.

103. The allegations in Paragraph 103 are conclusions of law, which require no response.

To the extent a response is deemed required, the allegations are denied.

104. The allegations in Paragraph 104 are conclusions of law, which require no response.

To the extent a response is deemed required, the allegations are denied.

105. The allegations in Paragraph 105 are conclusions of law, which require no response.

To the extent a response is deemed required, the allegations are denied.

106. The allegations in Paragraph 106 are conclusions of law, which require no response.

To the extent a response is deemed required, the allegations are denied.

107. Denied.

108. Denied.

109. Denied.

110. Denied.

111. Federal Defendants hereby incorporate and reassert the foregoing paragraphs of their

Answer.

112. The allegations in Paragraph 112 are conclusions of law, which require no response.

To the extent a response is deemed required, the allegations are denied.

113. Federal Defendants hereby incorporate and reassert the foregoing paragraphs of their Answer.

114. The allegations in Paragraph 114 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

115. The allegations in Paragraph 115 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

116. The allegations in Paragraph 116 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

117. Federal Defendants hereby incorporate and reassert the foregoing paragraphs of their Answer.

118. The allegations in Paragraph 118 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

119. The allegations in Paragraph 119 are conclusions of law, which require no response. To the extent a response is deemed required, the allegations are denied.

The remaining allegations in Plaintiffs' Complaint constitute Plaintiffs' prayer for relief, which requires no response. To the extent a response is required, Federal Defendants deny that Plaintiffs are entitled to the relief requested or any relief whatsoever.

#### **AFFIRMATIVE DEFENSES**

1. The complaint fails in whole or in part to state a claim upon which relief may be granted.

WHEREFORE, having fully answered Plaintiffs' First Amended Complaint, Federal Defendants pray that Plaintiffs' Complaint and all claims therein be dismissed with prejudice, that judgment be entered against Plaintiffs and for Federal Defendants, that the BIA be awarded its costs in this

action, and that the Court grant such other and further relief as the Court may deem just and appropriate.

Respectfully submitted,

IGNACIA S. MORENO  
Assistant Attorney General  
Environment and Natural Resources Division  
United States Department of Justice

/s/ Kenneth D. 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](mailto:kenneth.rooney@usdoj.gov)

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