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U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CALIFORNIA VALLEY MIWOK TRIBE,)
formerly SHEEP RANCH RANCHERIA)
OF ME-WUK INDIANS OF CALIFORNIA,)

Plaintiff,

v.

UNITED STATES OF AMERICA,)
UNITED STATES DEPARTMENT OF)
THE INTERIOR, GAIL NORTON,)
SECRETARY OF INTERIOR, DAVID)
ANDERSON¹, ASSISTANT SECRETARY)
OF THE INTERIOR FOR INDIAN)
AFFAIRS,)

Defendants.

CASE NO. CIV.S-02-0912 FCD/GGH

DECLARATION OF BRIAN GOLDING, SR.,
IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT

DATE: May 14, 2004
TIME: 10:00 A.M.
COURTROOM: 2

I, BRIAN GOLDING, SR., declare:

1. I have been an employee of the Bureau of Indian Affairs since October 1997, when I was hired as a Tribal Operations Specialist. Currently, I serve half-time as a Tribal Operations Specialist in the Branch of Tribal Operations at the Central California Agency of the Bureau of Indian Affairs ("BIA") as well as half-time in the same position at the Pacific Regional Office of the BIA. I have personal knowledge of the facts set forth in this declaration.

¹ Former Assistant Secretary Neal A. McCaleb has retired from federal service. David Anderson is now the Assistant Secretary for Indian Affairs. Pursuant to Fed.R.Civ.P. 25(d), Mr. Anderson is substituted as defendant in place of Mr. McCaleb.

1 2. The Central California Agency ("CCA") provides assistance and information to
2 approximately 54 tribes situated in Central California, including the California Valley Miwok Tribe,
3 which was formerly known as the Sheep Ranch Rancheria of Me-Wuk Indians ("the Tribe"). CCA
4 also maintains historical files pertaining to the tribes in our geographical jurisdiction, including files
5 relating to the government's efforts to comply with the California Rancheria Act, Pub.L. 85-671, 72
6 Stat. 619 (Aug. 18, 1968), *as amended*, Pub.L. 88-419, 78 Stat. 390 (Aug. 11, 1964). With respect to
7 the Sheep Ranch Rancheria and its tribe, CCA has records dating back to 1915 and the records of this
8 office are more extensive than those maintained by the Pacific Regional Office.

9 3. I have searched CCA's records to determine whether any objections were received in
10 response to public notice of the election to be held on the issue of whether a plan should be drafted to
11 distribute the assets of the Sheep Ranch Rancheria. I could find no record of any objections. I also
12 searched for any records establishing that a conservatorship had been established for Mabel Hodge
13 Dixie and did not find any. I searched for any records showing that notice had been published in the
14 Federal Register confirming the final distribution of the assets of the Sheep Ranch Rancheria and
15 confirming the termination of the federal-tribal relationship. Again, I did not find any. 4. I have
16 searched the records of this office and have not found any record reflecting or suggesting that the
17 Bureau of Indian Affairs ("BIA") has ever deemed Sheep Ranch Rancheria to be a terminated tribe.
18 To the contrary and based upon the records of this office, the termination of the tribe was never
19 completed and federal recognition was never withdrawn from this tribe. The earliest publication of
20 federally recognized tribes of which I am aware is a booklet published in 1972 entitled "American
21 Indians and Their Federal Relationship." The Sheep Ranch Rancheria is listed therein as a
22 recognized tribe. In my search of the records of CCA, I have not found any record showing that a
23 Notice of Termination was ever published in the Federal Register or other letter or notice stating the
24 federal government's intention to terminate services to and/or relations with the Sheep Ranch
25 Rancheria. For this reason and others, BIA does not view this tribe as a "restored" tribe, which is a
26 term of art that refers to a tribe once acknowledged as a federally-recognized tribe, then was
27 "terminated," and subsequently "restored" to federal recognition.

1 5. Among other things, termination would mean that tribal members would no longer be
2 eligible to receive any services from the federal government based on their status as Indians. I have
3 searched available records to determine whether services were ever denied to Mabel Hodge Dixie or
4 her four sons since 1967, and found no such records. I did not discover any records demonstrating
5 that BIA ever denied anyone any services on the grounds that the Sheep Ranch Rancheria was a
6 terminated tribe. With respect to federally recognized tribes that are unorganized, have no formal
7 government structure and/or have no formal enrollment document or list of members and where a
8 distribution plan was prepared for the Tribe, such as Sheep Ranch Rancheria, it has been BIA's
9 practice to acknowledge the distributees listed on the plan and their lineal descendants as putative
10 members of the tribe. Pursuant to this practice, Yakima Dixie was and has been acknowledged by
11 BIA as a putative member of the Tribe.

12 6. I am familiar with the "Report of Population by Tribe" dated February 8, 1989, that I
13 understand appears as Plaintiff's Exhibit 29. As indicated on this report, the data thereon was derived
14 from 1987/88 Labor Force Report, a document I have not located at this time. Each one of the tribes
15 listed on this "Report of Population by Tribe" is a federally-recognized tribe. That "zero" is reported
16 for Sheep Ranch Rancheria does not mean the Tribe is or was terminated. Instead, this report, which
17 continues to be prepared today, is based on the service population area that was defined at that time in
18 accordance with 25 C.F.R. § 20.1(r)(1989). Population "on" the reservation refers to persons living
19 on trust land; population "off" reservation refers to persons living in "areas or communities adjacent
20 or contiguous to reservations." 25 C.F.R. § 20.1(r)(1989). Consequently, the information contained
21 in this "Report of Population by Tribe" means that BIA was unaware of tribal members living on the
22 Sheep Ranch Rancheria or adjacent or contiguous thereto as of February 1989. It does not mean that
23 there were no tribal members and is not used for that purpose.

24 7. I am familiar with the letter sent by Raymond Fry on November 26, 1997, which I
25 understand appears as Plaintiff's Exhibit 30. I drafted this letter for Mr. Fry's signature. In stating
26 that the Tribe "is not presently engaged in a government-to-government relationship with the United
27 States," this office intended to convey that we did not have any ongoing or regular contact with
28

1 anyone on behalf of the Sheep Ranch Rancheria of Me-Wuk Indians, as the Tribe was then known.
2 Based on the records of this office, the Tribe was unorganized, lacked any formal government
3 structure or governing documents, and consisted of a loosely knit community of Indians in Calaveras
4 County. The Tribe had not engaged in contracting for services under the Indian Self-Determination
5 Act and no one affiliated with the Tribe had requested any services or assistance from this office,
6 apart from a request from one individual for housing assistance. Essentially, at that time, the Tribe
7 kept to itself. In no way was the letter intended to suggest that the Tribe had no members or that the
8 Tribe did not exist or had been terminated or, in any way, was ineligible for services or recognition
9 from the federal government as a tribe.

10 8. Based on the records of this office and my own personal knowledge since coming to work
11 for the Bureau of Indian Affairs, the Sheep Ranch Rancheria of Me-Wuk Indians, also known as the
12 California Valley Miwok Tribe, has never been restored to federal recognition precisely because its
13 federal recognition was never severed or ended. Certainly, the letter dated July 26, 2000, that served
14 to introduce Ms. Burley to Assistant Secretary – Indian Affairs Kevin Gover, which I understand is
15 plaintiff's exhibit 32 in support of its summary judgment motion, was not and is not intended to
16 suggest that the tribe is a restored tribe. Within the BIA, this letter does nothing more and nothing
17 less than simply introduce Ms. Burley. Moreover, this office does not have authority to restore
18 federal recognition to tribes.

19 9. At the present time, the Bureau of Indian Affairs acknowledges Silvia Burley as the
20 authorized representative of the California Valley Miwok Tribe with whom government-to-
21 government business is conducted. However, the BIA does not view the Tribe to be an organized
22 tribe and, therefore, declines to recognize Ms. Burley as a "tribal chairperson" in the traditional sense
23 as one who exercises authority over an organized Indian tribe.

24 10. BIA recently received from Silvia Burley a document purporting to be the tribe's
25 Constitution. Attached hereto as Exhibit "a" is a true and correct copy of that document. BIA has
26 declined to accept the document as evidence that the Tribe is now organized. Attached hereto as
27 Exhibit "b" is a true and correct copy of BIA's response to the Tribe concerning the constitution.

Pursuant to the provisions of 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 29th day of April 2004 in Sacramento, California.


BRIAN GOLDING, Sr.