

**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

**PLAINTIFFS' NOTICE OF WITHDRAWAL OF
MOTION FOR PRELIMINARY INJUNCTION AS MOOT**

Plaintiffs hereby respectfully withdraw their pending Motion for Preliminary Injunction (filed March 16, 2011, Docket No. 8) as moot in light of the decision issued today (April 1, 2011) by the Honorable Larry Echo Hawk, Assistant Secretary – Indian Affairs, U.S. Department of Interior (the “2011 Decision”). A copy of the 2011 Decision is attached as Exhibit 1 hereto.

The Motion for Preliminary Injunction sought immediate injunctive relief with regard to Count One of the Plaintiffs’ Complaint, which, in turn, challenged the December 22, 2010 decision of the Assistant Secretary relating to the California Valley Miwok Tribe (the “2010 Decision”). Plaintiffs claimed that the 2010 Decision was arbitrary and capricious, and otherwise unlawful. Plaintiffs alleged, *inter alia*:

The 2010 Decision is precluded by the prior judicial proceedings under the doctrines of collateral estoppel and judicial estoppel. The 2010 Decision fails to provide a reasoned analysis supporting the Assistant Secretary’s reversal of longstanding Department policy and previous decisions regarding the Tribe. The 2010 Decision decides issues not properly before the Assistant Secretary. The

Decision violates the [Indian Reorganization Act] and the Secretary's trust responsibility to the Tribe.¹

The 2011 Decision issued today sets aside the 2010 Decision in its entirety, stating, among other things:

On January 24, 2011 [suit was filed] in Federal district court seeking to have the Department's decision vacated.

Subsequent actions by the parties involved in this dispute have led me to reconsider the matters addressed in the December 22, 2010, decision letter. ***By means of today's letter, the December 22 decision is set aside.***

Exhibit 1, at 1 (emphasis added).

In light of this corrective action taken today by the federal Defendants, the Motion for Preliminary Injunction is now moot and, for the reasons set forth above, Plaintiffs are hereby withdrawing the Motion for Preliminary Injunction.

Count Two of the Complaint does not specifically challenge the 2010 Decision and Count Two was not addressed in the Motion for Preliminary Injunction. Nor was Count Two directly resolved by the issuance of the 2011 Decision. However, Plaintiffs are currently in the process of assessing their plans with regard to both Counts One and Two of the Complaint in light of the 2011 Decision.

¹Plaintiffs' Memorandum of Points and Authorities in Support of Preliminary Injunction Motion, at 15.

Respectfully submitted,

/s/

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Dated: April 1, 2011

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I certify that on April 1, 2011, I caused a copy of the foregoing Notice to be filed with the Court pursuant to the electronic filing rules. All participants are registered CM/ECF users, and will be served by the CM/ECF system.

/s/
Christopher M. Loveland