

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

THE CALIFORNIA VALLEY MIWOK
TRIBE,
11178 Sheep Ranch Road
Mountain Ranch, CA 95246

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

THE TRIBAL COUNCIL,
11178 Sheep Ranch Road
Mountain Ranch, CA 95246

YAKIMA DIXIE,
11178 Sheep Ranch Road
Mountain Ranch, CA 95246

VELMA WHITEBEAR,
213 Downing Drive
Galt, CA 95632

ANTONIA LOPEZ
P.O. Box 1432
Jackson, CA 95642

MICHAEL MENDIBLES,
P.O. Box 1432
Jackson, CA 95642

EVELYN WILSON
4104 Blagen Boulevard
West Point, CA 95255

ANTOINE AZEVEDO,
4001 Carribee Court
North Highlands, CA 95660

Plaintiffs,

v.

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

1849 C Street, N.W.
Washington, D.C. 20240
LARRY ECHO HAWK, in his official
capacity as Assistant Secretary-Indian Affairs
of the United States Department of the Interior,
Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

MICHAEL BLACK, in his official capacity as
Director of the Bureau of Indian Affairs within
the United States Department of the Interior,
Bureau of Indian Affairs
MS-4606
1849 C Street, N.W.
Washington, D.C. 20240

Defendants.

**ORDER GRANTING INTERVENOR-DEFENDANT’S MOTION TO DISMISS
PLAINTIFFS’ FIRST AMENDED COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

On December, 2011, Intervenors, the California Valley Miwok Tribe (“Tribe”), moved the Court to grant leave to intervene in the above-captioned action. Upon the Tribe’s limited inclusion in the litigation, the Tribe moved this Court to dismiss Plaintiffs’ First Amended Complaint (“Amended Complaint”) based upon lack of subject matter jurisdiction, failure to join a necessary and indispensable party and for failure to state a claim upon which relief can be granted pursuant to Fed. R. Civ. P. Rules 12(b)(1), 12(b)(6) and 19, respectively.

Therefore, IT IS HEREBY ORDERED AS FOLLOWS:

1. This Court lacks subject matter jurisdiction over all of Plaintiffs’ claims alleged in the Amended Complaint because Plaintiffs lack standing, this Court lacks jurisdiction to adjudicate internal tribal disputes, and Plaintiffs’ seek to litigate time barred claims;

2. Plaintiffs have failed to join the Tribe, a necessary party pursuant to Fed. R. Civ. P. 19(a) into this litigation. Because the Tribe retains sovereign immunity from suit and, therefore, cannot be made a party to this action, it is also indispensable. Therefore, dismissal of the Amended Complaint is proper pursuant to Fed. R. Civ. P. 19;
3. Plaintiffs have failed to state a claim upon which relief can be granted by this Court.

For the foregoing reasons, Intervenor-Defendant's Motion to Dismiss for lack of subject matter jurisdiction, failure to join a necessary and indispensable party and for failure to state a claim upon which relief can be granted pursuant to Fed. R. Civ. P. Rules 12(b)(1), 12(b)(6), and 19 respectively, is **GRANTED** and Plaintiffs' action is dismissed with prejudice.

IT IS SO ORDERED.

DATED THIS _____ day of December, 2011.

BY THE COURT:

Honorable Richard W. Roberts
District Court Judge