

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

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

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

YAKIMA DIXIE,
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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

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

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.

**MOTION TO EXPEDITE CONSIDERATION OF THE PROPOSED INTERVENOR-
DEFENDANT’S AMENDED MOTION FOR LEAVE TO INTERVENE AS
DEFENDANT**

I. INTRODUCTION

Pursuant to 28 U.S.C. § 1657, Proposed Intervenor the California Valley Miwok Tribe (“Tribe” or “Proposed Intervenor”), a federally-recognized Indian tribe, seeks an order expediting consideration of its Amended Motion for Leave to Intervene As Defendant (“Amended MTT”) in the above-captioned matter.¹ As elaborated further below, good cause

¹ Pursuant to the requirements of Local Civil Rule 7(m), on November 28, 2011 an attorney from undersigned counsel’s office contacted counsel to Plaintiffs, Roy Goldberg, as well as counsel to Defendants, Kenneth Rooney, to notify them as to Proposed Intervenor’s instant motion. Mr. Goldberg has indicated that Plaintiffs would oppose Proposed Intervenor’s amended motion for leave to intervene but did not advise as to Plaintiffs position on the instant motion. Mr. Rooney indicated that the United States takes no position on the instant motion. *See* Declaration of Robert A. Rosette In Support of Proposed Intervenor-Defendant’s Amended

exists for granting expedited consideration of the Proposed Intervenor’s Amended MTI. The August 31, 2011 decision of the Assistant Secretary – Indian Affairs, Department of the Interior (“August 2011 Decision”), explicitly and definitively upheld the governing body and authority of the Tribe, the composition of its citizenship and the validity of its governmental organization. (RAR Decl, Ex. Q thereto) Implementation of the August 2011 Decision, however, cannot occur until resolution and disposition of the instant action. (*Id.* at Ex. Q, p. 8)

II. ARGUMENT

This Court should expedite time for briefing and ruling on the Tribe’s Amended MTI because it is well within its discretion upon the Tribe’s showing of good cause and because if the Tribe is permitted to intervene through the expeditious resolution of its Amended MTI, this Court may promptly consider the Tribe’s Proposed Intervenor-Defendant’s Motion To Dismiss Complaint Pursuant To Fed. R. Civ. P. 12(b)(1), 12(b)(6), and 19 (“Proposed Motion to Dismiss”), submitted concurrently herewith, in the interests of judicial economy and to prevent the Tribe from suffering further hardships.

A. The Court Has Broad Discretion to Grant the Tribe’s Motion for Good Cause Shown.

The federal judiciary vests the district courts with the authority to manage their own dockets and calendars. *See Link v. Wabash Railroad Co.*, 370 U.S. 626, 630-31 (1962) (federal courts have the necessary inherent powers to “manage their own affairs so as to achieve the orderly and expeditious disposition of cases”); *Landis v. N. American Co.*, 299 U.S. 248, 254-55 (1936) (these inherent powers include controlling “the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.”). Pursuant to 28 U.S.C.

Motion For Leave To Intervene as Defendant and Motion To Expedite Consideration of The Amended Motion For Leave To Intervene as Defendant (“RAR Decl.”), ¶¶ 22-24.

§ 1657, this authority includes the right to shorten time for briefing (and hearing if required) “if good cause therefor is shown.”

B. Good Cause Exists to Hear the Amended MTI on an Expedited Basis.

The Tribe is not yet a party to the above-captioned action, and will not be until this Court makes a determination, pursuant to Fed. R. Civ. P. 24(a) or (b), as to whether the Tribe is entitled to intervene as a matter of right or, alternatively, is entitled to permissive intervention. The August 2011 Decision cannot be implemented — and the Tribe cannot resume its government to government relationship with the United States and have the sovereign authority of its government fully and finally recognized — until and unless this case is fully and finally resolved.

It is the Tribe’s position that, based upon the clear and express language of the August 2011 Decision, (1) the Plaintiffs’ are *not the real-parties-in-interest*, (2) the Plaintiffs lack the requisite Article III standing to bring this lawsuit, and (3) this Court lacks subject matter jurisdiction to adjudicate Plaintiffs’ claims. If the Tribe is permitted to intervene, it intends to file its Proposed Motion to Dismiss asserting these very arguments. If successful, this would bring a swift resolution to an internal tribal dispute that, as set forth above, has been pending for nearly twelve years. An expeditious hearing on the Amended MTI, therefore, would not only protect the interests of the current parties by eliminating any further unnecessary delay, but would also promote judicial economy for both the Court and its staff.

III. CONCLUSION

For all of the foregoing reasons, good cause exists for this Court to exercise its discretion to manage its docket and achieve the orderly and expeditious disposition of this case. As such, the California Valley Miwok Tribe respectfully asks that the Court exercise its discretion and

issue an order shortening time, setting the Amended MTI for disposition as soon as the Court's calendar and schedule permit.

Respectfully submitted this 13th day of December, 2011.

By: /s/ Robert A. Rosette
Robert A. Rosette
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Attorney for Proposed Intervenors,
The California Valley Miwok Tribe

CERTIFICATE OF SERVICE

I certify that on December 13, 2011, I caused a true and correct copy of the foregoing Motion To Expedite Consideration of The Proposed Intervenor-Defendant's Amended Motion For Leave To Intervene As Defendant, the Supporting Statement of Points and Authorities, Declaration of Robert A Rosette, and a proposed Order to be served on the following counsel via electronic filing:

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/s/ Robert A. Rosette