

**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' OPPOSITION TO THE BURLEY FACTION'S MOTION  
TO EXPEDITE CONSIDERATION OF ITS AMENDED  
MOTION FOR LEAVE TO INTERVENE**

Plaintiffs respectfully submit that the Court should deny the motion of the prospective intervenor to expedite consideration of its pending "Amended Motion for Leave to Intervene as Defendant" ("Amended Intervention Motion"). The proposed intervenor – a group called the “Burley Faction” that illegitimately claims control of the California Valley Miwok Tribe (the "Tribe") – has failed to demonstrate the requisite "good cause" for the relief it seeks because it provides no legitimate justification for shortening the time period for the Court to consider the Amended Intervention Motion.

On December 13, 2011, the Burley Faction filed its Amended Intervention Motion. Plaintiffs are concurrently and timely responding to that Motion. In their response to the Amended Intervention Motion, Plaintiffs object to intervention by the Burley Faction because it is unnecessary to protect the purported interests of the Burley Faction and would only serve to prolong and complicate the litigation. The Burley Faction contends that it needs expedited consideration to protect its interests as the duly authorized leaders of the Tribe. However, this entire argument *assumes* that a core issue has already been decided by the Court: namely, whether the Tribe was lawfully organized and is now properly dominated by the Burley Faction

– which consists solely of Silvia Burley and her immediate family members. Notably, the last time this Court addressed this issue it rejected the Burley Faction's argument that the Tribe was lawfully organized and dominated by the Burley Faction. *California Valley Miwok Tribe v. USA*, 424 F. Supp. 2d 197 (D.D.C. 2006), *aff'd*, 515 F.3d 1262 (D.C. Cir. 2008). The Burley Faction's claim that it needs expedited consideration of its continuing efforts to overturn that 2006 decision (affirmed in 2008) is meritless.

Expedition is not needed since the Assistant Secretary's decision which Plaintiffs are challenging is stayed pending resolution of the proceeding. As a result, the status quo will be maintained until this matter is resolved. The Assistant Secretary stayed his decision to allow the case to proceed in an orderly manner. Plaintiffs and Defendants are cooperating in that regard. On December 28, 2011, Plaintiffs and the Department jointly submitted to the Court a proposed schedule for the briefing on those motions. (Doc. No. 38.) The issues raised by the Burley Faction can be considered, if at all, in that briefing process.

The fundamental issue of whether the Tribe was lawfully organized and is now properly dominated by the Burley Faction needs to be resolved (yet again) by this Court and will be addressed fully in the cross motions for summary judgment that Plaintiffs and the Department of Interior ("Department") intend to file based on the administrative record. Finally, we note that the Burley Faction inappropriately used the Motion to Expedite to present extensive arguments on the merits of the case. We believe that the Burley Faction's arguments are without merit. However, we do not see any reason to address the merits in response to the Motion to Expedite.

Accordingly, the motion for expedited consideration of the Burley Faction's Amended Intervention Motion should be denied.

Dated: December 29, 2011

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that on December 29, 2011, I caused the foregoing opposition brief 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/ Roy Goldberg  
Roy Goldberg