

**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

**PROPOSED INTERVENOR-DEFENDANT'S OPPOSITION TO JOINT MOTION FOR
BRIEFING SCHEDULE FOR CROSS MOTIONS FOR SUMMARY JUDGMENT**

Proposed Intervenor-Defendant, the California Valley Miwok Tribe ("Tribe"), respectfully submits its opposition to the Joint Motion for Briefing Schedule for Cross Motions for Summary Judgment, filed on December 28, 2011 ("Joint Motion"). The Tribe opposes the Joint Motion for the reason that it blatantly disregards the fact that this Court has had a motion for intervention pending before it since March 17, 2011 (Dkt. No. 11), to which an amended request was filed on December 13, 2011 (Dkt. No. 35). Because this Court's order on the Joint Motion as well as any future briefing schedules related thereto are contingent upon its ruling on the Tribe's Amended Motion for Leave to Intervene as Defendant ("Amended Motion"), the Joint Motion filed by Plaintiffs and Federal Defendants was procedurally premature and this Court should refrain from entering the proposed order submitted therewith, unless and until this Court rules upon the Tribe's Amended Motion. Plaintiffs have improperly cited to the filing of

the Joint Motion as evidence as to why the Tribe should not be permitted to intervene in this matter and “seize control of this litigation.” *See* Plaintiffs’ Opposition to Amended Motion to Intervene, p.4 (Dkt. No. 40). Such tactics should not be entertained by this Court. In requesting that this Court issue a timely ruling on the pending Amended Motion, and subsequently on the Tribe’s proposed motion to dismiss, the Tribe is merely seeking that this action proceed in a procedurally appropriate manner and, in so doing, is acting in furtherance of the most expeditious resolution of this case. Despite Plaintiffs’ contentions, the filing of the Joint Motion does nothing to demonstrate otherwise. Indeed, it is the Tribe and the Tribe alone that has the most at stake in this litigation, as its government-to-government relationship with the United States has been unfoundedly halted; therefore, it has the greatest interest in this action’s expeditious disposal. Issuing a ruling on the Tribe’s pending Amended Motion for intervention and proposed motion to dismiss prior to ruling on the anticipated cross-motions for summary judgment will allow this Court to refrain from presiding over a procedurally defective Amended Complaint and rendering a ruling on the merits in an action over which it lacks jurisdiction.

Accordingly, the Tribe respectfully requests that this Court deny the Joint Motion submitted by the existing parties to take into account the Amended Motion pending before it. Should this Court permit the Tribe’s intervention in the instant action, the Tribe respectfully requests that briefing on its proposed motion to dismiss (Dkt No. 35, Exs. 3-7) take place prior to any briefing on the cross-motions for summary judgment that Plaintiffs and Federal Defendants intend to file.

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Respectfully submitted this 17th day of January, 2012.

By: /s/ Robert A. Rosette
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CERTIFICATE OF SERVICE

I certify that on January 17, 2012, I caused a true and correct copy of the foregoing Proposed Intervenor-Defendant's Opposition To Joint Motion For Briefing Schedule For Cross Motions For Summary Judgment to be served on the following counsel via electronic filing:

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