

EXHIBIT 2

APPENDIX DOCUMENT 1

EXHIBIT B

CVMT-2011-000040

Tribal Operations
103.3 Sheep Ranch

Sacramento Area Office
P. O. Box 4775
Sacramento, California 95825

FEB 3 1966

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Mrs. Dora Mata

Dear Mrs. Mata:

This letter is written in response to your letter of January 27, 1966, protesting the name of Mabel Dixie as the person being eligible to vote on whether a plan should be made for the distribution of the assets of the Sheep Ranch Rancheria.

The Sheep Ranch Rancheria was purchased April 5, 1916 from William and May Cunningham by the United States Government for landless or homeless California Indians. The acquisition deed to this land is in the name of the United States of America and does not name any specific tribe, band or group of Indians. There have been no formal assignments or allotments made on the rancheria and it has always been considered to be an unorganized rancheria.

The Rancheria Act, Public Law 85-571, as amended August 11, 1964, provides for the distribution of the land and assets of certain Indian reservations and rancherias in California and for other purposes. Section 12 of this amended Act authorized the Secretary of the Interior to issue such rules and regulations as he deemed necessary to carry out the provisions of the Act. The regulations became effective August 13, 1965.

Section 242.3(a) and pertinent parts of 242.3(d) of the regulations are as follows.

*(a) Unorganized rancheria or reservation. Upon receipt of a written request from an adult Indian or Indians of an unorganized rancheria or reservation for the distribution of the assets of the rancheria or reservation, the (Area) Director shall prepare a list of Indians in the following categories:

(1) Those who have allotments on the rancheria or reservation;

INITIALING COPY

- (2) Those who hold formal assignments;
- (3) Those who reside on the rancharia or reservation pursuant to an informal assignment;
- (4) Those not in the above categories who have resided for a period of at least three consecutive years immediately preceding receipt of the request as provided for in the introductory text of this paragraph, on the rancharia or reservation not set aside for a designated group of Indians.
- (5) The dependent members of the immediate families of those Indians in subparagraphs (1), (2), (3) and (4) of this paragraph.

(d) When the (Area) Director is satisfied that the list is complete, he shall publish it once weekly for three successive weeks in a local newspaper. Within 15 days after the date of the last publication of the list, anyone may protest in writing the omission of a name from the list or the inclusion of any name thereon. His written protest together with arguments to sustain it shall be presented to the (Area) Director who will render his decision, which shall be final. After all protests have been heard and have been duly disposed of, the (Area) Director shall hold an election on whether the distribution of rancharia or reservation assets shall be made. * * *

A written request for the distribution of the assets of the Sheep Ranch Rancharia, an unorganized rancharia, was received from Mrs. Mabel Dixie who is presently residing on the rancharia. Mrs. Dixie meets the requirements in at least one of the above five categories. Consequently she has been determined eligible to vote on the issue of whether a distribution plan should be developed and her name has been published once weekly for three successive weeks in the Calaveras Prospect, San Andreas, California.

Your letter states "that land 'Sheepranch Rancharia' was allotted to our family in particular. Jeff Davis who was Chief at that time, his sisters Ina Hodges and family - Pinky and Johnny Tecuapach. * * * I do hope you will give this letter serious consideration especially in the view of the Indians it really and truly concerns. I am writing in hopes something can be done to save this land for my mother Lena Hodges Shelton and Tom Hodges."

A careful review of your protest has been made and it has been determined that none of the persons named in your letter meet the requirements in any of the five categories quoted above and therefore cannot qualify as a voter on the issue of preparing a distribution plan. Our records reveal that some of your relatives have resided on the rancharia in the past, but such former residence is not a determining factor in their eligibility to vote because no vested interest was acquired by anyone for merely occupying the rancharia.

This letter is your official notice that Lena Hodges Shelton and Tom Hodges have been determined to be ineligible to participate in the election to decide whether a distribution plan for the Sheep Ranch Rancharia shall be developed.

Sincerely yours,

(Signed) Leonard M. Hill

Area Director

cc: Mr. Grrin E. Airola, Attorney
San Andreas, Calif.

JITown/dyc 2-3-66

APPENDIX DOCUMENT 2

Wednesday August 5th 1998

As Spokesperson/Chairman of the Sheep Rancheria, I Yakima Dixie accept Silvia Fawn Burley as an enrolled Tribal Member of the Sheep Ranch Rancheria. Enrollment number 08829. The Sheep Ranch Rancheria is the only Federally Recognized Rancheria in Calaveras County, California. Also enrolled as Tribal Members of the Sheep Ranch Rancheria are Silvia Burley's daughters Rashel Kawehilani Reznor, Anjelica Josett Paulk, and Silvia Burley's Granddaughter Tristian Shawnee Wallace. Contacted Raymond Fry at B.I.A. He informed Silvia Burley to contact Yakima at Sheep Ranch. Contacted Yakima Dixie at his residence at the Sheep Ranch Rancheria on School St. in Sheep Ranch: 11178 School Street
Yakima Kenneth Dixie
(209) 728-8625

S H E E P R A N C H R A N C H E R I A

August 6, 1998

Silvia Fawn Burley
Post Office Box 238
Wilseyville, California 95257

Dear Silvia,

Your enrollment as a Federally Recognized Tribal Member of the Sheep Ranch Rancheria has been approved by the Sheep Ranch Rancheria Spokesperson/Chairman, Yakima K. Dixie.

Silvia F. Burley
Date of Birth: July 15, 1960
Roll # 08829

Yakima K. Dixie
Yakima K. Dixie
Sheep Ranch Rancheria

Date: 8-6-98

NOTICE: This document is your verification of Tribal Affiliation, please keep with other important papers.

Sheep Ranch Rancheria
11178 School Street
Sheep Ranch, California 95250

S H E E P R A N C H R A N C H E R I A

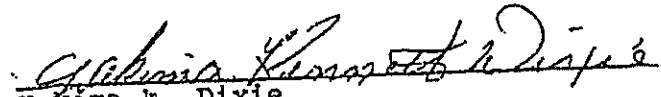
August 6, 1998

Anjelica Josett Paulk
Post Office Box 238
Wilseyville, California 95257

Dear Anjelica,

Your enrollment as a Federally Recognized Tribal Member of the Sheep Ranch Rancheria has been approved by the Sheep Ranch Rancheria Spokesperson/Chairman, Yakima K. Dixie.

Anjelica J. Paulk
Date of Birth: June 09, 1983
Daughter of Silvia Fawn Burley Roll # 08829


Yakima K. Dixie
Sheep Ranch Rancheria

Date 8-6-98

NOTICE: This document is your verification of Tribal Affiliation, please keep with other important papers.

Sheep Ranch Rancheria
11178 School Street
Sheep Ranch, California 95250

S H E E P R A N C H R A N C H E R I A

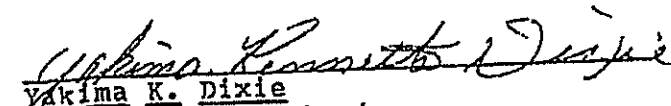
August 6, 1998

Rashel Kawehilani Reznor
Post Office Box 238
Wilseyville, California 95257

Dear Rashel,

Your enrollment as a Federally Recognized Tribal Member of the Sheep Ranch Rancheria has been approved by the Sheep Ranch Rancheria Spokesperson/Chairman, Yakima K. Dixie.

Rashel K. Reznor
Date of Birth: April 20, 1979
Daughter of Silvia Fawn Burley Roll # 08829


Yakima K. Dixie
Sheep Ranch Rancheria

Date: 8-6-98

NOTICE: This document is your verification of Tribal Affiliation, please keep with other important papers.

Sheep Ranch Rancheria
11178 School Street
Sheep Ranch, California 95250

S H E E P R A N C H R A N C H E R I A

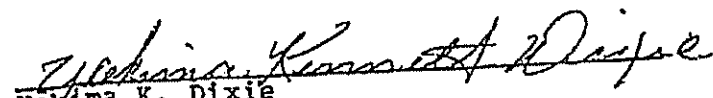
August 6, 1998

Tristian Shawnee Wallace
Post Office Box 238
Wilseyville, California 95257

Dear Tristian,

Your enrollment as a Federally Recognized Tribal Member of the Sheep Ranch Rancheria has been approved by the Sheep Ranch Rancheria Spokesperson/Chairman, Yakima K. Dixie.

Tristian S. Wallace
Date of Birth: February 27, 1996
Daughter of Rashel Kawehilani Reznor
Granddaughter of Silvia Burley Roll # 08829


Yakima K. Dixie
Sheep Rancheria Rancheria

Date 8-6-98

NOTICE: This document is your verification of Tribal Affiliation, please keep with other important papers.

Sheep Ranch Rancheria
11178 School Street
Sheep Ranch, California 95250

APPENDIX DOCUMENT 3

*Transcriptions of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

BEGIN TAPE

[conversation off-camera]

[off-camera]: Don't feel bad about that part.

Raymond Fry [RF]: Oh, this is a little better, huh? A little bit. A little more room.

Yakima Dixie [YD]: The bedroom [unintelligible].

RF: Last time, I think it was just kind of a [unintelligible].

[conversation off-camera]

RF: This is good for that, but where's my big house? If you could convince them of that, I think you'd be okay, huh?

YD: Yeah.

Silvia Burley [SB]: Well, we get kind of nervous about the big [power?/powwow?].

[laughter]

RF: Yeah, well, this is nice.

YD: You should see the big house.

RF: Yeah. The big house was [unintelligible]. Yeah. I'm sorry. This is Brian Golding.

Brian Golding [BG]: I think you're the one I talked to.

YD: Yeah.

RF: Probably a time or two, yeah. [unintelligible] tribe. Last time I was up here, it was me and Harold and Doug Wallace, I think.

YD: Yeah.

RF: Well, this was before all this was going on.

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

RF: About two years ago.

YD: You know what it looked like, huh?

BG: Yeah, it was in bad shape.

RF: Definitely, this is 100 percent better.

YD: Mm hmm.

RF: Yeah, I think this was all one room.

YD: Ohh. The bedroom used to be right in there. We kind of got tired of that and [unintelligible] that the bureau got to do something for me, for thirty years, you know.

RF: And it took them thirty to get to it, that's right.

YD: And so they done it.

BG: Well, they say it's better late than never.

RS: That's true, that's true.

BG: There's something true about that.

RF: Thirty years, that's a long time to wait.

YD: It's a long time to wait to take any kind of action.

BG: That's true.

RF: This is the old ranch right here, right? This is the old Rancheria.

YD: Yeah, this is the whole thing.

RF: Uh huh. How far does this go down, Yakima? I can't remember. I know you said that your aunt lived down the hill, or ...

YD: Yeah, she was living over there, that house right there.

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

RF: Right here? This would be your mom's sister?

YD: Uh huh.

RF: Okay. And then there's some other relatives or something that lived around.

YD: Yeah. My brother used to live right below there, Tom. This used to be a pretty good Rancheria. There used to be a four-bedroom house right here.
[unintelligible]

RF: Uh huh, uh huh.

YD: It burnt down.

RF: Ohh.

YD: [unintelligible]. Five or six houses in there.

RF: At one time.

YD: One time.

RF: A few years back. It's been years ago now.

YD: And the old house used to be right here. It was a small one-room cabin which was about, oh I don't know, as big as that kitchen, I guess.

RF: Ahh.

BG: This was way, way back, then.

YD: Mm hmm.

BG: All right. Well, very, very good. I like this. This is nice. This is ...

YD: It's nice and peaceful. It's nice and quiet.

BG: Quiet.

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Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

YD: That's what I like about it. I mean, I've been here, what, since 1950, so that's almost fifty years.

RF: Forty-eight years.

RF: That's right.

BG: More years than there's people in the town.

SB: Yeah, there's only thirty-two.

[unintelligible]

RF: And it's grown! I bet you it's grown up to thirty-two.

YD: Yeah.

RF: My granddaddy.

RF: I was surprised to see that.

BG: Thirty-two, geez!

RF: Well, all right, well, it sounds good.

SB: You want to show them that thing in the back?

YD: Later.

SB: Okay

YD: Yeah, there is something that I want you to—

RF: Okay.

YD: —look into, too.

RF: Okay.

YD: If you can, I've been on people behind it. I'm just getting a run-around on it.

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

BG: Oh, okay. Well, I sure could look at it for you, you bet. Whatever it is.

SB: Look at it.

RF: I've got to start somewhere.

BG: After we see it, then maybe we can see it develop.

BG: Yeah, that's true.

RF: But, yeah, we'd sure like to have the tribe work with you guys, and you know, working on who the membership is, and making it a government and maybe get you all organized and move forward and—if that's what you'd like to do. See, we kind of want to do what you want to do.

YD: Well, we can sit down and discuss this and see what we come up with.

RF, BG: Sure, sure.

RF: I know that over the years, other than this house, there just hasn't been very much contact.

YD: True.

RF: Over the years. And we've done an awful lot of research on the Rancheria, or I have, and conceivably, it could be a pretty good size tribe, depending on what you're comfortable with. You know, we don't want to say whether you should have these. It's going to be your call and what do you think. You know, if you're comfortable with saying they should be directly related to my grandparents or they should be related to my uncles or aunts or whoever, you know, who should be considered part of the tribe because they [unintelligible] before. Or they are people who had a relationship to say tribe before they left. Say they acquired houses at one time. Well, maybe those people and their children might be the ones who would want to, you know, to live here. I can understand that. So it's really kind of up to you. We want to give you options to think about or things to help you like that. We don't want to say, well, this is how it'll have to be. We're here to say that the tribe has a certain amount of funds available to do, like we say, an office or set up, constitute your government when you're going to form your government. Have elected officials if you so choose.

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Whatever you want. Land acquisition, possibly, in the future, for the tribe as a whole. You know, it just depends where you want to go with that. Whatever you're comfortable with.

YD: Actually, what you're saying is you're leaving it up to me and—

RF: Pretty much so. I don't—

YD: [unintelligible]

RF: Right. We don't want to dictate to you. As much organization as you want to do is up to you too. See, we're only comfortable if you [unintelligible] this year or I'd like the bureau to do this for me or work with me or not work with me. Or I want to hire people to do this or ... you know, I want to do this for the tribe.

YD: At this time, my whole concern is ... Silvia is my concern right now. All these problems have been going on. She's been trying to do this. She's been trying to do this, running here, running there. They're just giving her a run-around. They don't want to help her. For some uncalled reason, it shouldn't even be discussed.

RF: Right, right.

YD: For personal reasons, I imagine, but we could leave that part out. But anyway, I'd like to help her.

RF: Well, you take a big step by having her included as part of your tribe. And that's usually the biggest step, anyway, because then it opens other doors, other opportunities. I think that's where it's going to go. I mean, that's where that can go. So that's not certainly out of the question. Depending on what you'd like to do for her. I think there are certain Bureau programs. There are certain services and certain areas that you can explore that's going to help her with education. Or maybe there's some housing issues that can be worked out [unintelligible]. Services and other programs that she might be interested in. Or you might be interested in. At this time.

YD: Yeah, I know, I mean—

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RF: Well, it's like you said, it's thirty years, and you've lived here forty-eight years or more. It's depending on what your thoughts are.

YD: What's the possibility of maybe—I hope that it can be soon—helping her out and her family—maybe putting up a house for her on this [unintelligible] here to start with. I understand that very soon that the [unintelligible].

RF: Uh huh, uh huh.

YD: They're going to have to leave.

RF: Well, I think there's—

YD: Let's not do it right now.

RF Well, right. The reason there may be some time delay on that is because it's in a probate status. Legally, it hasn't been resolved as to the heirs, the ownership of the land. So when that's resolved, I think then the divided interest is there. This is your land or it's my brother's land or it's whoever's land.

YD Well, I think the deed that was for the [unintelligible] that went to my mother. And then she passed away and he never did go nowhere.

BG But she received the deed and then the government came back a month later and said, No, we made a mistake, so sign this quitclaim deed back to the government. And she did. And then she passed away, before the federal government could give another deed back to her. So it was that transaction, that action, signing that quitclaim deed, that put the land back on the government. So then the probate that was done after your mom passed away included the property as one of her—as her property. And that's when you had Merle and your brothers and yourself listed as having an undivided interest in the land. Where we're at today is, let's say you wanted to do a home site lease, which you would need to have in place before, say, a HIP house could be built. Before the bureau can approve that lease, we would have to go through that probate period, or process, since some of your brothers have passed away and Merle has passed away.

YD: Everybody passed away except for, I got one more brother that's living in Sacramento, I think.

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BG: Uh huh. So, we would need to get a probate going on those three other people who have passed away. And the result of the probate would be that you and your brother would have each a one-half undivided interest in the land. And it would be at that point, then, that the home site lease could be approved.

YD: How long could that take?

BG: Well, years. Yeah, in some case it's been years. I think your mom's probate took over a year to complete.

RF: That's a normal time. Because of the probate judge. What they do is they schedule these hearings and they have to go through all the fact finding, determine who the heirs are and how much—

YD: I don't remember ... I don't recall ... Were you at that meeting when they called me over to Sacramento from Phoenix, when they had this land up for sale?

RF: Oh, no, uh uh.

BG: That was back in the seventies.

YD: No, eighties. Because I was working over here in [Murphy's?] and my boss took me. And I took the letter and everything, but I was the only one that held back. I did not sign the [piece whole?]. And they wanted me to sign it so they could get their land back and I refused. Now they [unintelligible]. Another twenty-five more years. I stayed, so I could stay another twenty-five more years or until I die, whatever. So how did that go? Do you remember that?

RF: No, I don't think I was at that meeting. We'd have to research that part.

YD: Oh. Well, you heard about that meeting, though, I imagine.

RF: I've heard about but I wasn't a party to it, of course, and there hasn't been a lot of discussion about that. Otherwise, it would be a part of our record.

YD: I don't know if you got any kind of papers [unintelligible].

RF: Right.

YD: Nothing at all.

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RF: See, normally, the bureau is the caretaker or the holder of your title to your land. So they can certainly give out twenty-five-year land use permits and that type of thing.

YD: Well, that's what it was.

RF: But they couldn't exceed twenty-five years. Every twenty-five, they'd have to renew it or they'd have to do something. But, see, the probate would definitely be the way to go if it hasn't been completed, because that gives you time [unintelligible]. See, right now, the government's still holding the title in trust for yourself or the heirs, and still, you're on a land use permit. So you'd have to get the title cleared up. And that would do it. That would totally [unintelligible]. You'll identify yourself or your brother, whomever the heir is. And [unintelligible]. But until that happens, I guess—I guess what we're trying to say is until that happens, it's kind of hard for you to lease out a portion of the land because you don't have title to it yet. I mean, through the probate. So that's what would hold up any construction or leasing or anything like that. At this point in time. I think in the future, though, it's going to happen. It can't happen today for that reason.

YD: So I guess ... so it's out of the question right now as ... Do you think that possibly ... you mean, a house put up for her ... that's out of the question at this time, then?

RF: Well, I tell you what. I'm not going to say yes because there's other ways of doing it, other than yourself giving a lease. I think—I'd have to talk to a housing person about that. But I can get back to you with that. What would have to happen first is a tribal member would get a house adjacent to you—maybe have one built—

[tape breaks here, then restarts]

[voice, no picture]: So let us take a look at that real hard.

[tape breaks again, restarts]

BG: Yeah, I think the probate is something you're going to want to get started with. And in any event, I think any other research we're going to be doing or any other answers we might get from other people at the bureau are all going to

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[unintelligible] that probate be completed. So in order to do that, we're going to need copies of the death certificates for the people. And I'm not sure about how we could assist you in doing that.

YD: That's going to be a hard one because I think my young brother, Tommy, he was cremated. I do believe my oldest brother, who died over in West Point—Richard—I do believe that he was cremated also.

BG: So, did they pass away here, in Calaveras County?

YD: One was in Stockton, one was in West Point. My dad passed away here. My mom passed away in Sonora.

BG: Well, we've already got your mom. And so we would just need to know—if we know what county that they passed away in—

RF: We might be able to get that.

BG: Yeah, we could write a letter and—

YD: I got the dates for most—well, not the time, but I've got the dates when they passed away, though. It was all I got.

RF: Well, no, that's very important. That'll help a lot. Because they'll be able to give us the records [unintelligible] and when it happened. And who it is exactly, when and where and who.

YD: Now, would you like me to forward that to you? Or do you want to get it down right now on a piece of paper?

BG: Yeah, if you have it handy, let's write that down now.

YD: Yeah, okay.

RF: Let me go get my briefcase. I've got a tablet and such in there. I could do that.

BG: Why don't you grab mine, too?

SB: Think they're out there. [laughs]

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BG: Yeah, there's usually a cop associated with reproducing those documents, so I think that's something we can pick up for the tribe. They're like seven bucks apiece, or something like that. Thank you.

RF: Yeah. Here we go.

[opening briefcases, taking out paper]

SB: Which one of you guys [unintelligible] [for Sandra?/Cassandra?].

[unintelligible]

BG: I used to do a lot of road construction.

SB: Yeah.

YD: Okay. My mother, Mabel Rubens Dixie, died July 11, 1971, Sonora, California. My young brother, Tommy Edward Dixie, August 21, 1983.

BG: In Stockton, California? That was August 21?

YD: Mm hmm. I forgot when Richard was—ninety-something.

RF: Richard Dixie.

YD: It was either '92 or '93 when he passed away over here—West Point.

SB: Laverne's cemetery [unintelligible]?

YD: Yeah, mm hmm. I think it was '92. I'm not too sure now. But anyway, right here in Calaveras County. West Point.

BG: It was Richard Dixie?

YD: Yeah.

BG: Does he have a middle initial?

YD: Who, my brother? Yeah, Gil. Oh, boy, what is my old brother's name? I think Gil. Just like my dad, [unintelligible] Gil, but he's Richard Gil.

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BG: Okay. That was in about '92 or '93.

YD: Yeah. Some of them I forgot. I don't have that one. I didn't write that one down. My dad died right here and that was ...

RF: Okay, what was his name?

YD: Roman.

RF: Roman?

YD: Mm hmm.

RF: Dixie.

YD: It was in '85. I don't remember the exact date.

BG: It was right here in Sheep Ranch.

YD: Right here, yeah, in the old house.

RF: And Merle Butler? Do you know?

YD: Someone said '85 and I understood—I heard somebody else say that he was dead, so I'm not too sure.

B Earl Butler Dixon?

YD: No, that's just Merle Butler.

RF: Oh, okay. Any survivors? Did he have a brother, uncle?

YD: No, neither one.

RF: More like a stepfather?

YD: Well, yeah, I guess you could say that. He was staying with my mom for a while.

RF: Kind of a stepdad or something. Okay, but he was an heir, right? Or he was some—

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YD: Well, they got him down here.

RF: Common law or something.

YD: Yeah, that's [unintelligible].

BG: Now, he had a one-third undivided interest.

YD: Mm hmm.

BG: And then, the remaining two-thirds were divided four ways, one each between your brothers.

YD: Mm hmm. So everybody's dead except for—you can put my brother down there, Melvin. He's alive.

RF: Oh, he's alive? Still living.

YD: Yeah, he's living in Sacramento somewhere.

RF: Melvin Dixon?

YD: Yeah.

RF: Okay, he's one of the heirs also.

YD: Although, he was one of the ones that wanted to sign it off, too. Do you recall when [unintelligible]? I was the only one that held out. I guess you know that, huh?

RF: Yeah. I'm just trying to figure—that's when they tried to sell the land, right?

YD: Mm hmm.

RF: So we'll have to give everybody else permission to do that. Okay. I think that probably it's going to be a really interesting little show. Now, how many acres was this, Yakima? Do you remember? It started out bigger, I'm sure.

YD: Nine point something.

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RF: In the beginning?

YD: Yeah, is that even—

BG: Point nine-two.

RF: Point nine-two. Okay. So it's almost one acre, but it's kind of shaped kind of—

YD: It's triangle-like.

RF: Yeah. Kind of longer this way than this way.

YD: Well, it goes like that, you know, back there like this. And it comes up and it comes up this way and [unintelligible]. And then like that.

RF: Mm hmm. That's pretty good, one acre, but it's all right here, so ... What'll probably happen, or I would think would happen, is probably someone's going to come up and do a survey. You know, I think they'll look at the legal description and make sure that it's ... Because it may be you have more land than you think. Or maybe less, I don't know. I don't know that. But the boundaries, I'm sure, have been established.

YD: Yeah. The boundaries have been established. Like you said, it might be even a little bit bigger.

RF: It might be a little bit bigger, that's right. One acre's a pretty good piece, a pretty good chunk. Do you know what his middle name was, Yakima?

YD: Gil.

RF: Oh, Roman Gil, okay. Just like Richard.

YD: Mm hmm.

RF: Okay. And he passed in '85.

YD: Mm hmm.

RF: And Richard it's '92 or '93.

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

YD: Somewhere in that area. I'm not too sure.

RF: I think this is a lot to go on. It's more than we had before. I think we could probably pursue this as far as getting death certificates and that type of thing. I'm not sure without checking with realty where they're at on this probate, if it's anywhere.

BG: Well, you have to initiate the process. And so what we can do is help you by tracking down the death certificates. But you'll need to send us a letter, basically saying these people passed away, I understand a probate needs to be completed and per our visit, you guys agreed to help me out with the death certificates. And so I'm requesting at this point it be done. And from that letter, we'll work on getting the death certificates. And then, we would forward all that to realty. And then the realty branch then would work up the probate to have those records ready. So when that judge comes around, probably some time next year, they'll be able to act on it.

YD: So, do you want that letter written up real soon, or it don't have to be that soon?

BG: Whatever, I guess. You don't have to stop and do it right now.

YD: Okay.

BG: But you know, the next couple of days, maybe, or a week.

YD: Okay.

RF: Yeah, it just takes time, that's all. Once the process starts, it just takes a certain amount of time, regardless of when it starts.

BG: It's going to be at least a year

RF: It seems like that's the normal time. Even when everything is in place, it takes about that long.

SB: So if, say, the stuff with Merle—do you think that if he is deceased, there might be some heir anywhere? Or do you have any idea [unintelligible]? [unintelligible].

Page 18

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

YD: Well, I understood he was down in Jamestown [unintelligible] somewhere. That's what I understood. That's the last thing that I knew or heard about it, that he was alive and it's just that he went to some kind of convalescent hospital or something like that. It might be Sonora.

SB: Because Dick had the idea that [unintelligible].

[unintelligible]

YD: I think he's got a sister living in Sonora—Elsie?

SB: [unintelligible]

YD: Yeah, mm hmm.

YD: I don't know if you remember that Chuckie that lived over by Murphy?

SB: I heard that name a long time ago.

YD: He passed away too in an old folks' [unintelligible].

BG: So, to your recollection, Merle was [unintelligible], huh?

YD: Yeah.

BG: From around these parts?

YD: Yeah. Most of his relations were in Murphy.

BG: Well, later this week, I'll make some calls and probably write some letters to these counties to see if we can come up with some info. And we'll get that ball rolling on finding the death certificates. And as for your brother Melvin, have you talked to him recently?

YD: I haven't seen him for thirty-five years, or maybe thirty-seven years.

BG: Wow.

YD: He don't write, he don't do nothing. He knows where I live. I gave him my post office box number, 41. I had that box, I don't know, a year, a couple of

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

years and it hasn't changed. But I don't even know if he's alive. Although
Velma—

SB: White Bear?

YD: Yeah. She was over here greeting me one day, and she brought another
lady over with her. And she said, Yeah, Melvin's in Sacramento. You guys might
know Velma, huh?

SB: She's from [unintelligible].

BG: I've heard the name.

YD: Now, if you get in touch with her, she might know his address and what's
going on with where he's living.

BG: Okay. Velma White Bear?

SB: Mm hmm.

YD: Mm hmm.

RF: [unintelligible]

[1]

RF: Everybody know. Everybody knows, but somebody don't know. Well,
that part sounds pretty good. So far so good. Just on that probate matter, right?
It's just something that has to be done. It's just, until that happens, I guess, things
are going to be kind of tied up relative to the land, anyway. It's kind of
important. I'd kind of like to survey Silvia as a tribal member some time on
certain things as [unintelligible]. I was going to question one of those. But like I
said, until they find out a little bit more from our housing person, you know,
what would she have to do to be eligible for a HIP house. If not on this land, then
other land. Yeah, then that's where we would go from there. You know, to me,
that would be the only option.

YD: Yeah, okay.

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

Page 20

RF: There may be other options too, so ... But we can sure check on that. I would think there's also education, some possible education benefits.

YD: I think that's what she's got a brain for.

RF: Scholarships, things of that nature. And I think there's some of that available. Some options like that. Higher education [unintelligible]. The only thing probably not would be that assistance program because you have to live on—

BG: Oh, general assistance.

RF: Yeah, yeah. I think it's only entitled [unintelligible]. Which is kind of a ... well, you have to almost be disqualified from anything else to be eligible for that. That's kind of a program of last resorts. [unintelligible].

BG: Yeah. It's a new program of the last four years or fifteen years.

RF: It just came to California.

BG: Right.

YD: Oh, okay.

RF: But it's just something, I think, that's just getting the word out, you'll probably find there's some definition as to be eligible, you have to live on and you have to be in a designated service area and the tribe's got to have land to have a service area. So they're working out the kinks a little bit so ...

BG: But certainly the bureau operates a scholarships or higher education program, and I believe the requirements there are—maybe [unintelligible]. And/or a quarter degree Indian blood. And so there is some funds, you know, [unintelligible] Sheep Ranch for that program. So if you were seeking funding assistance through that program, it could be done. You would need to obtain an application from I think it's Abby over at the area office.

SB: Yeah. She's [unintelligible].

BG: Okay.

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

SB: Another thing we were talking about CIMC because now I'm unemployed. So I'll be [unintelligible] training or I can come over here and kind of get used to what's going on at the Rancheria here and get documentation form and say to the form that she was willing to agree to be my boss and write up what she would want me to do. That would probably be an option. That [unintelligible]. At least for a few months.

BG: Would they need your membership as a tribe in the consortium? Have they talked about that?

SB: I don't know. They sent you a paper to sign. It's just like on-the-job training. And I told them that we were going to be trying to get organized, but right now, I was wondering if they had time to work with him and find out where the [unintelligible], and stuff like that. But I said that I would probably be working with him.

BG: Uh huh. Okay.

YD: There's one right in Angel's Camp. I don't think anybody ever—I wouldn't mind having a stamp put on there that all my rela—my dad, my mom—mostly my dad—all his relations are buried in an Indian burial ground over there.

BG: Oh, in Angel's Camp?

YD: In Angel's Camp. I wouldn't mind having a seal put there so nobody can ever touch that ground. It's a small—it's about, oh, I don't know, about half as big as the sign there. The fence is all caved in. That's one my dad just put over there. He's buried there.

BG: How many grave sites are there?

YD: Oh, boys, you got me a good one there..

BG: More than a half a dozen or so?

YD: Oh, yeah.

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

RF: Because I think under that Heritage Commission, there are certain—
reparation, or there's some protection for grave sites, that you can't
[unintelligible] living within them.

YD: There is more than half a dozen.

BG: Right. And I think, I thought half a dozen was the number, though I may
be a little off on that.

RF: Is that on private property? Or is it within a larger cemetery? Or ... is it
kind of off to the side out in somebody's pasture?

YD: Yeah. It belongs to Bob [Rollo?], Bobby.

BG: Bob [unintelligible]?

YD: Mm hmm.

BG: Is he related?

YD: No.

SB: Related to Judge Rollo, huh?

YD: Yeah, he's a German. That's where all of us kids were born. We were born
on that ranch, every one of us. Except for—one of them was born in Crescent
Hill. I've got it down here in this book. [unintelligible] These are exactly where I
was born, what time it was, my dad's [unintelligible]—when he was born and
my mom, when they were born. I've got everything all written down here.

RF: Sort of like a family Bible, you could say. Usually it's in the living room.
Everyone's baptismal records, everything's in there.

YD: See, I don't even have a birth certificate. I was born natural.

RF: A lot of them don't.

YD: I had a problem on that. I went down there to the DMV to apply for my
driver's license [unintelligible] I missed one out of all them questions. I paid it

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

and everything and they said, Do you have a birth certificate? And I said no.
They said, ID card? No.

RF: Got to have those.

BG: That's right.

YD: I got slapped in the face. So I walked out. I got an ID card now. But it took
me years and years to get it. [unintelligible] it's in a book.

RF: It's got all the facts.

YD: All that's written down there. My dad had written all that down there. It's
not my handwriting, it's my dad's handwriting. And he held it as—what do you
call that?—

RF: Heirloom?

BG: Family history.

YD: Yeah. Well, what do you call that? There's a book for that. That you write
all your secrets down and this and that. That's what—

RF: Oh, like a diary.

SB: Like a diary.

BG: Oh.

YD: And he checked it and checked it and checked it. When he died, I kept it
because it had all the records in it. All your enrollment number, my mom's
enrollment number is there. We had an old enrollment number. Everything's in
that book.

BG: Well, that would be helpful too, just in the process of reorganizing or
organizing the tribe. You [unintelligible].

YD: Well, I can go way back. I know who was living up there, how many
people. How many houses were up here. I go way back.

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

RF: I guess on that end, it kind of depends on how far back you want to go. You know who, basically, the families were that were here back in the beginning. I guess [unintelligible]. Maybe you want to limit it to just those families. That information [unintelligible]. That's always the question that probably takes the most time to determine. It's one of the hardest things to work out, too. Because it could be so many, if you wanted it to be. Or it could be so few. It can be very restricted. It might be just people that you want—

YD: I would like to keep it restricted, you know, just to a few, not, you know—

RF: Hundreds and hundreds.

YD: No.

RF: Well, I think that's your call, again. If you want it to be just off of your grandparents or your great-grandparents or your mom or your dad or whomever—your uncles, your aunts and their kids. It's up to you.

YD: Is that going to make it I cannot bring ... Does that mean ... If I open it up ... By me saying "open it up," let's say that we—not we, we don't even use that word; that's just something that was put up there as headquarters for the Miwok Indians.

BG: Could you say community building, maybe, or something like that?

RF: Center.

YD: Does that open it up for everyone to try to grab a piece of that pie?

RF: No, not really. I think what you can do, Yakima, that is, once you've determined what criteria you want them to meet—like they have to be directly descendent to your aunt, whoever, or uncle—and then you can pretty much determine the criteria for membership. You can draft a constitution if you'd like. You can have tribal elections if you want. You can have a tribal government or people who represent the tribe. And I think you can control things like that through tribal laws. Things like that. Let's say you're Miwok, you put your community center here. Well, that's for the benefit of the tribe. And you've already defined who that is. See, that's what I'm saying. Nobody else can come in and say, Well, we're Miwoks from Iola or we're Miwoks from Jackson and

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

Page 25

then Tuolomnie and Buena Vista. You know, we want use that and take that.
Well, no, they can't do that. It's not theirs. It's your tribe. It's your band.

YD: That's why I asked you that one question.

RF: You can control that.

YD: If I open up or if I did something like that, would it open it up? And you
said no, it's up to you.

RF: That's up to you, that's right.

YD: You can tell—

RF: How wide you want it or how narrow you want it or do you want it to
just ... I think the thing you're looking at is, to be the fairest, you know, really,
who would have a right to membership today? Would it be just your children
and your brothers and your ... Again, your aunts and uncles [unintelligible]. So
that's probably the biggest question. How many [unintelligible]. What you have
to look at is, well, if we go with my uncles and aunts and all of my cousins, as an
example, and their children—let's say that's 100 people. Well, it could be a
hundred. Or it could be maybe more than that. What you can control there is,
you could have open enrollment seasons. You could have closed enrollment. You
could have them go through an enrollment approval process. People have to
apply. You might have people—elders, maybe—say, Well, okay, we know that
they're members and they meet these requirements so can be members. You vote
on their membership. And so it isn't an automatic process. It takes something to
be a member of the tribe. Just like it would be if you wanted somebody off of the
membership role. Let's say that it's a member of another tribe. Well, you'd have a
law in place that would deal with that. Just like you would for bringing them in,
there's a rule for taking them out. That's just something to think about. There's
just so much to think about because there's so many different things that are part
of this.

YD: Well, if I got somebody to help me in that part, such as maybe Silvia can
help me and we could work together on this thing.

RF: Mm hmm.

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

YD: She's well educated—a whole lot better than I am. [unintelligible] There's some things that I am smart [unintelligible] and we can share it together and bring everything up to date.

SB: Would you have to wait a long time for the probate [unintelligible] to get an office? Because all I've got is a typewriter to try to type things up for him, and it's so much easier to put things on computer and ... Because he has no office and, like his phone, he doesn't have a recorder. You know, if something comes up to leave a message for him.

RF: Well, actually, what you could do is, if you go down here downtown [unintelligible].

[laughter]

RF: Down here. This is downtown. And they had an office space down there for rent. You could rent that. You could make that your tribal office. You don't have to be here. It can be off the Rancheria. Because a lot of tribes do that. They don't have their—at least to start with. See, start it out—

YD: [unintelligible]

RF: Uh huh.

YD: The funding, now. Where does the funding come from? The government?

RF: Mm hmm.

YD: [unintelligible].

[laughter]

RF: Well, see, that's a very ... Well, let's see, how would I explain it? Every tribe—every federally recognized tribe—and Sheep Ranch is—we have fifty-two of the ledgers [unintelligible]. There's a pot of money that comes down every year. And what they have done is each tribe is given a share of that money. Okay, now your share would enable you to do an office, hire staff, hire consultants.

YD: Why can't we ... how come it cannot be placed up here?

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

RF: What's that?

YD: A building. An office.

RF: Well, it's the land [unintelligible]. Well, if that's resolved, it's like your house. Or your community center or ... And the tribe, too, in time—

YD: Yeah, there used to be buildings down here but it's a big building.

RF: It's not a little office space.

YD: No. It's a large building. I would say approximately, maybe four times as big as this.

RF: That's a pretty good size.

SB: No, because they don't [find?] many stores. Like he said, they just have just a post office.

YD: No, we've got [unintelligible]—

RF: No, that's the general store and that's everything rolled into one, I think.

YD: We don't have no rest room connected there.

SB: No, it's [unintelligible], you have to go out of town.

YD: You've got to go over there to [Mountain Ranch?] or to Murphy's or to Avery.

RF: Yeah, that's a trip. That's right. It's not a ...

SB: So there really isn't going to be much office space. I mean, anything that's open is just going to be what they have right there. I mean, like these people's homes.

RF: Well, that's an option, too. We've had them do that, use their homes for their offices. But I'm thinking ... You know, if that were the only space available, you could use that for that.

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

YD: When I look at it, though, it's big.

RF: It's too big.

YD: It's too big.

SB: You wouldn't be able to have another thing added on? So that he could have [unintelligible] but he could have, like, another business site for office.

RF: I'm not sure he can because of certain requirements.

SB: Oh.

RF: If you use the program more, it's for certain things. You can't use it for those same things again for like five years or something like that. There's some restrictions on it, but there are different things you can do.

BG: Well, I don't think we would be doing it under HIP. It would be more like they would make a kind of endowment.

RF: Possibly, possibly.

YD: This isn't a question, okay. [unintelligible] You've seen the house now—

RF: Right, right. I think the bed was right here, if I remember.

YD: Okay. If you recall what was said, that I could add on to this building. But it only has to be a 12 x 12 [unintelligible]? That's all I can add on to it, a 12 x 12. And I can do that on my own.

RF: Mm hmm.

BG: Yeah, I don't know.

RF: I don't know. What I would look at here, because I'm not sure it's restricted to just that any more. They've changed the rules a little bit since then. They've got some new regulations out. But I'm thinking that—see all you had before was a renovation, I think.

YD: Mm hmm.

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

RF: You know, they came in and they added a room where they renovated your existing house. There may be an option there as well.

YD: Well, the only reason I had this thing, and it took me that long to have [unintelligible] and have this whole building rejuvenated, you know, done over—

RF: It needed it.

YD: —is, you know, I thought it was—you know, hey, if I get some company here, how will it be laying right in bed, I'm trying to sleep—

[laughter]

YD: ... they're out here talking. They want to look at the TV or they want to listen to the radio or whatever they're doing.

RF: It's better. It's a lot better.

YD: But since I got that and it took me that long, I enjoy it.

[laughter]

RF: Very much.

YD: I enjoy that. [unintelligible] I can go in there and go to sleep.

RF: That's right. I understand.

YD: Anyway, getting back to that one part, you think there was regulations on that about tacking on?

RF: Well, there's some new regulations on HIP. But as far as using it to cover government, which is a different program—it's all one pot of money [unintelligible]. Let's say that then for that particular thing, we'd be looking to using those moneys to construct, to build a ring of a double-wide trailer or something for an office building.

BG: Or a small office, like office trailers that they use from construction sites, or something like that.

*Transcriptions of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

YD: Mm hmm.

BG: The small, one-room—

RF: Kind of like [unintelligible]—

BG: [unintelligible]

RF: Or something.

YD: Is it a possibility? What's the—

RF: Oh, we've seen it before. We've seen a tribe use it for that before. Usually it's a little bigger, but now they can do that. I don't know why they could not. See, right here is the restriction. There is no other option.

YD: Mm hmm.

RF: Either do your home or you do this or you have nothing. And so then they have to argue.

YD: Right.

RF: But it's a strong argument [unintelligible]. If we're going to organize, we need to have an office, and we've got to have staff and someplace for them to work. You could have people researching that. You could be doing other things for the tribe instead of [unintelligible] about the house. So I guess what we'd have to ask before, Would you like to complete anything if such a thing happens? I mean, on the side of the house—I mean, [unintelligible]. They'd have to do some site preparation and stuff. They'd have to do some leveling and they'd have to—I mean, depending on how big a one you wanted to put up.

YD: Well, I don't think it would have to be that big. Maybe a 12 x 12 or 12 x 24 or ...

RF: Oh, you'll probably want a—you'll want it a little bigger than the sink because you don't want to have to come back and say, Gee, this is too small now.

BG: Think big.

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley.*

RF: You want to be able to grow into it. So you want to start out with it a little bigger. Maybe a 14 x 60 or something. I don't know. But it depends on what you want. How many people do you think would be working in there? Do you need separate septic systems? Separate power source? Seem all that could be paid for by a grant, of course. So there wouldn't be much cost to you through the fund. It would cost your account. So—

BG: You know, Ray's been talking about possibly using the Aid to Tribal Government Program to pay for that cost. That's the same program that would pay if you were going to rent the building or if you were going to hire a staff person to do some work on your constitution or on your enrollment or ... that kind of stuff.

YD: Okay, now. Okay, we're going in the right direction. I can see that so far. We're not going off in a different direction. We're staying right to the facts. Let's say that this does come and happen. Do I have to write my own bylaws up, or what?

RF: Well, that's a good question. I'm thinking—and this is just our thoughts, of course. We talked about this, oh, two or three times when we were talking about it.

BG: What? [unintelligible]

RF: Well, Sheep Ranch. Just here at the very beginning, we were thinking—now, this is just something for you to think about—because of the amount of money that you're going to have available, which is pretty substantial ... Ten years ago, tribes had \$15,000.

BG: Maybe.

RF: Maybe \$15,000. Now they've got \$160, \$180, \$200,000 a year available to them to organize and run—provide services and programs to their members and that type of thing. And I've tried at this point extending that for you, believe it or not. I couldn't believe it myself. Sheep Ranch has got probably one of your better [unintelligible] versus any other tribe. And so because of that, what we're thinking is if you wanted the bureau to provide you with technical assistance to help you with your constitution and help you with your tribal laws and help you with the ownership, we could recommend that you hired somebody if you have

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

money to do that. In the bureau. And it'd only work with you. It wouldn't work with any other tribe. It would only work with you guys, or whoever else you'd want to hire. You wouldn't be limited to just one. It would be limited to whatever your budget would allow. But normally, that's what we had thought because they would bring the expertise to the table. And that was just a thought that we had. You might want to consider that.

BG: Well, then, along the lines of the bylaws, we were talking about the idea that you can conceive of the tribe right now as basically being yourself and your brother, Silvia, her daughters, and the one granddaughter. And of those people, those who are probably over eighteen are you and your brother, Silvia, and one of your daughters. So you've basically got four people who are golden members, if you want. Now, we don't know where Melvin is, so that basically leaves us with three people. And when we organize tribes, most of the time, we're reorganizing tribes. Most of the time, the tribe was terminated and then through litigation, re-recognized. So you can go from a certain class of people—that tells us what the membership of the tribe is—and you work forward from there. In this case, the facts are a little bit different. And so usually what we'll do is we'll call that group of people a general council. They're the body. They're the tribe. They're the body that has the authority to take actions on behalf of the tribe. So in this case, we'd be looking at, possibly, three people. And we talked about the idea of ... In one previous case, a tribe submitted a constitution, wrote up a constitution and bylaws and basically, they voted on it and they said, This is our law. And they didn't complete this other process that had to be completed. But for our purposes, we recognized them. And that set forth the other enrollment criteria, what kind of powers that group had. In this case, certainly you could go that direction. You've got the constitution and bylaws from the get-go. But we also talked about this idea of maybe a resolution, which would certainly be simpler.

YD: Mm hmn.

BG: You wouldn't ... it wouldn't maybe be more than two pages instead of ten or fifteen. And they would really only speak to the issue of the general council is the governing body and it has all those powers that come along with being a sovereign [unintelligible] tribe. And in exercising those powers, we're going to authorize one person or two people or all three people to do certain things. And one of those things could be work on the enrollment. Another thing could be

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

working on organizing the tribe. Maybe obtaining legal assistance to help with the constitution and help with the enrollment.

YD: The resolution is the better one, I think. Better than going through all of that paperwork and have this much paper [unintelligible].

RF: Well, it's a little simpler, and you can define things a little better, I think, yeah, yeah. It's a limiting document sometimes in that it's specific on what things you're going to carry out. [unintelligible] power [unintelligible]. But see, as the general council—usually the general council has all the authority. All you're doing is putting [unintelligible]. And it's in effect until the tribe, the general council or the majority of the general council decides that they need something different or better, which would be your constitution. So as an initial document to get started from, it's a pretty good idea. It's not bad.

BG: Yes. Really, it's your stepping stone to the bylaws.

RF: Right. To the big constitution.

BG: Well, this will come in time.

RF: And I think everything's going to take a little bit of time because it'll take time to identify your members. It'll take time to get a secretarial election to have the tribe vote on the constitution. And it'll take time to draft that constitution. And things like that. So, yeah, things progress. That document, that resolution will provide you a mechanism to deal with issues that tribes would normally face, you know, and protect the tribe also. It'll also define some functions for the [tribals?] and the [foreigners?] [unintelligible]. That's very important.

BG: Right, one of the things that you would probably include in that resolution, or you may even have a separate resolution, and that would be obtaining a grant from the Bureau of Indian Affairs to start getting some of the funding necessary to do some of this work.

RF: They'll bring in the [unintelligible] to identify that. To me, that's probably, besides your membership, a place to do business out of—get your phones, get your answering machines, get your address, get everything, you know, and hook that up. Your computers, your [unintelligible], whatever. Telefax machine. That's a tribe, you know what I mean. [unintelligible] for you. Now, that's very

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

important because you've got to have a place of operation. Everything else will grow out of that, I think, in time. Whoever does it—well, it's a little bit tough once you do it. But I think that having a place of operations is important. Whether that's a 14 x 35 or a 14 x 50 building, or 14 whatever—whatever the tribe decides to do—

YD: Well, you figure—

RF: Or 60, or whatever happens to [unintelligible]. How big a space do you think you would want, I guess, is how much space you had available.

YD: You guys [unintelligible] going to have to have where to put the records, all the stuff that you're going through. [unintelligible] you're going to put this there, you're going to put that over there or whatever.

RF: You're going to need some storage spaces. You're going to need some working spaces. You're going to need some computer spaces.

YD: Some gas, where the gas company's [set on?]. What else [unintelligible]?

[overlapping conversation]

YD: What even I thought about.

RF: Well, it takes a little bit of space sometimes.

BG: I was just thinking, you know, I suggested one of those little job-site trailers, you know, and I think they're usually about this big, basically. And that might be something to work from to start, but, you know, if in a year or two years, you're up and running and you've got business going on—not just with the bureau. I mean, there's other agencies out there too. Potentially, you would need, you know, probably [two?/three?] times as much space.

RF: Maybe you *will* need them down there.

[overlapping conversation]

RF: You know, yeah, that's true.

BG: Really put Sheep Ranch on the map.

*Transcripts of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

[laughter]

SB: Love that.

RF: There's all kinds of areas of that the tribe [advertises?]. I'm sure if you were into land acquisition, you could buy more land, possibly.

YD: I already thought about that, you know.

RF: You could try. You might try.

YD: Like this big area right here. Beside the expressway there, the big [unintelligible] right there. That's been up for sale on [unintelligible] and nobody wants it. I don't know if that's government [copy?] or not.

RF: I'd be surprised if it is. Normally, it's all—well, I don't know that. But you know, that's interesting. You know, the tribe is fortunate that it's able to find land that's adjacent to existing land because it's just so hard to find.

SB: Right close to the road, too.

RF: Well, that's true, that's true. You'd want to have at least the right of way. You need to have a right of way to [unintelligible]. You don't want to be a landlocked tribe. We've been there with tribes and it's a very uncomfortable feeling when somebody can dictate to you how much traffic you can have and they could close that road any time they feel like it.

BG: And drive [unintelligible].

RF: That's right. You want to have at least a right of way from the road, the county road, to this Rancheria. If not own it, at least get a permanent right of way [unintelligible].

YD: Mm hmm. Yeah, you're right there. I mean, they can close that road right here if they wanted to.

RF: Well, that's right. So we don't want to see that happen because I don't think that that's—we've seen it happen before. We don't want to see that happen again. So that land's for sale or that land's part of the issue about right of way. Well, maybe that's something that has to be addressed, too. But it's going to be

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

Page 36

something that you ... You want to secure the right of way, at least that. If not the right of way for that, then the ownership of that road. Something like that. Because what if somebody bought that land and said, Well, we're closing this off.

BG: We're going to build our house right there.

RF: That's right. Well, that could happen. That's the sad thing, is that anything can happen.

YD: Like, they did come up here and somebody was trying to buy that property right there one time. But they wouldn't let the [unintelligible] septic test. They did that right there.

RF: Yeah, so that's something for you to think about, too. With this organization, that'll be part of the reality. We're going to organize a government, we're going to hopefully have a constitution, a work force, maybe a tribal government in place. Or maybe always the general council. But you're also going to secure the right of way, you're securing the [land?] for houses, for more houses. Which is not a bad ... a lot of tribes are going there because they're really looking after the benefit of their membership. And to do that, they're finding they need more land, so [unintelligible]. So they're really going there, and that's a very good thing to do. Like putting up community centers and things like that. But normally you go through HUD for that.

BG: HUD—Department of Housing and Urban Development.

RF: Right. They usually have funds for those types of things. Land acquisition, for putting up homes, and ...

BG: Yeah, they're—it's called the Indian Community Development Block Grants Program. And actually, their deadline was just last week, I think.

RF: Right.

BG: For this year. But they come every year.

YD: I think [unintelligible] one of those papers that I get. [unintelligible] ramp is cut off.

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

BG: Yeah, they do them every year. And a tribe of your size is eligible to apply for up to \$350,000. Whether you use that much or not, that's up—you know, if you try it at that time and then propose the project or propose [unintelligible]. You know, in this case, \$350,000 is probably going to be a little too much for that piece of property.

[laughter]

YD: Right.

RF: It's paved with gold if you get that road through there.

BG: But certainly you could probably make a good argument in a grant application to HUD for whatever it's going to cost—\$40,000—\$100,000 to buy that property.

RF: Well, see, you might say, I want to buy that property, but I also want to put a community center on it as soon as I get a pretty good price. [unintelligible] take that as a case base [unintelligible] there. But to put up a community building there, that would have been for whatever, site preparation stuff. But that's all part of the consideration for that. That's some things you can do with that. And that's pretty good. Actually, they've got that [unintelligible].

BG: Yeah, it's all another—

RF: Yeah, that's all the other [unintelligible]. But these are all good things. Because these mean good things for tribes. I mean, their processes, [unintelligible], that's another part of [unintelligible]. It used to be through Indian House Services. That's for tribal development. But it's setting up the constitution and tribal law [unintelligible]. That's another part of my [unintelligible]. But I mean, that's what I mean. There's just so much out there for tribes. [unintelligible]

YD: See, here's the two things that I didn't know that you were just explaining here a few minutes ago about this and about that. What this will eventually have gotten, you know. Moneywise, if he gets for that one right there; this one is for [unintelligible]. How do you know that?

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

RF: Mm hnm. We're in a process, you betcha. And I think as time goes on, as more programs are identified for tribes and ... you know, it's always a learning process. Because it's new to everybody. It isn't just yourself. It's new to everybody else, too. And I think it's good for tribes because it just means more opportunities for the tribes. That's what it spells out. And so it's important that when you —let's say you hire a staff, ultimately a permanent staff, that they be good at grant writing, that they be good at applying for other federal programs, they have a good understanding of what that is. How to operate under contracts, the parameters of contracts and things. If you hire a good staff that can do that and run programs and services, then you're a step ahead. You're really ahead of yourself. You're a good [bet?] and I can see that.

YD: What do you think about that? Do you have knowledge of that?

SB: Well, it's the beginning right now. Because I hear what you've got going. And some of the things that he might have just kind of [unintelligible] that, but you don't really need it at the time anyway because he was by himself. Now we can start looking over those and seeing what would benefit [unintelligible]. And right now, there's nobody really wanting that land, even if it's a year from now. Because that would be good because you don't want to try to get that when everybody wants it. Then it goes boom.

RF: Well, soon as they hear Indians want it, it goes boom.

SB: Yeah, especially here because—

RF: Oh, they'll put the casino on there, they'll put a casino up.

YD: Of course, who knows? You know, they might.

RF: That's right. It may be the last thing that enters your mind, but it's definitely the first thing that enters theirs. That's a thing that the tribe, I think, you know, as a tribe, that they all deal with that.

BG: And the other thing is, a lot of these programs we're talking about, these are programs that are available to tribal governments to go after, to apply for, and to administer. But, you know, the individuals, they can't use them. So it's like what Silvia was saying, that till you have a government established— whether it's a general council comprised of the adult members of the tribe, or a

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

representative governing body, like a tribal council, where a general council elects three, five, seven people to represent the rest of them. But that's all up to you, but the tribe, once they establish that, that's the body that can go after all these other programs we're talking about. And it certainly is a learning process. There's so much out there. And it's worked with tribes before and I'm just amazed at how much is out there if you have the resources and time and people who are knowledgeable to go after it.

RF: I think the thing, too, is that the bureau will be there too. We're not just going to say, Here's a million, and leave you alone. We'll be there to provide you with our technical assistance. We're not going to just throw you out there and say, Okay, it's sink or swim. We're [unintelligible] that. But we're also there to help you, answer your questions, provide the technical assistance. You know, so it isn't going to be, Well, gee, I hope I hire somebody good or else I'm done. It is, in fact, cut-throatish. We would try to help the tribe [unintelligible].

YD: Sure, I haven't understood that part at all.

RF: And it won't take thirty years, I'm pretty sure.

YD: I hope not.

[overlapping conversation]

RF: We'll be with you [unintelligible].

YD: Now, don't let it be [unintelligible].

[laughter]

YD: It took me that long [unintelligible].

RF: I know. It took an awful, awful long time. But you know, this next step that you're taking is going to be one period that's going to last a long, long time. This organizing and identifying your membership—

YD: I'm willing to do that, by all means.

RF: It could be good. It could be good for yourself and the people. It isn't just your generation, it's the next generation. And their next generation. So we're

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

building in the future. And I think it's real important that you do that, a good base, you know. Identify your strong. If you're strong here, you're going to be strong there. That's what you have to look at, too.

YD: Now, getting back to a different subject—not to distract you of it. These people that come over from different countries, like Vietnamese, you name it. Let's just say, for instance, Vietnamese, right? Came over here to Sacramento. They set them up.

RF: [unintelligible]

YD: Here.

RF: Store, you got a store. You're writing a store. That's how you do that.

YD: They set them up real good. What's the possibility of maybe buying an old piece of land and putting a store up in Chico?

RF: Well, it's economic development. There's programs for that.

YD: Oh, you can't do it.

RF: Oh, yeah, yeah, I think you can. But it's a different program. As an example, you could participate in our ... the Indian Finance Act programs. [unintelligible] some loan programs, that type of—or, in that area. Or you can maybe use existing funding. I'm not sure what the restrictions are for economic development, monies that you have, other than [unintelligible] the Finance Act. We could check on that, though.

BG: Some tribes, you know, they use like that HUD block grant. They go and buy some land. And maybe buy twenty acres and maybe they'll build houses on ten acres and the other ten acres are used for economic development. You can build a store. And the next year, they go back to HUD and say, you know, We're going to build a store; it's going to cost us \$500,000 to do the whole thing. We want \$250,000 from you to do the construction of the building. And then they might go after other money from, say, ANA, the Administration of Native Americans, get another grant to pay for capital improvements, for [unintelligible] cases and shelving and all the cabinets you'd use and soda pop machines. Then maybe you'd get another grant from a foundation or a third party, sort of like a

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

private foundation, to pay for some of your overhead, in terms of utility costs and payroll and... So, that's where it gets to be creative, you know. You've got a goal—build a store and hope you'll get some money. And you know what your cost would be and the trick is finding those pieces. And a good portion of it, depending on the cost of your project, can be funded by federal grants that you won't have to pay back. And that helps your bottom line. You pay off your investment that much faster. [unintelligible]

Plus there's groups out there that provide technical [unintelligible] to tribal governments who are interested—and individuals—who are interested in setting up their business. National Center for American Indian Enterprise Development, based in El Monte, down in southern California. They'll do that. They get funded through part of [unintelligible] the Small Business Administration. They provide [unintelligible]. The tribe will just call them up and say, This is what we're thinking. And they'll send somebody out to help write up a business plan and work up the duty free zone study. They'll determine if there's enough traffic around here to support a store. Whatever that you're thinking about doing.

YD: Yeah. Well, that was just a thought. I mean, I just threw it up on you to see how you guys thought about it. Get all the feedback that I want.

RF: That's a good thought because it's part of the building and growing and organizing part of it. It's a really good question to think about.

YD: And say they want to go about putting up a center.

BG: Yeah, a tribal community center. A Miwok community center.

YD: That sounds pretty interesting.

RF: Let's say you did get that land as part of your plan. You can do that. They probably—the biggest and most time consuming process that has to take place is this membership identifying. Paramount to everything, I think. You'll identify not only who's going to be allowed to be a member of the tribe and participate in your tribal government, but also be the recipient of services and programs and maybe be hired by the everybody in the tribe to work for the tribe. So it's real crucial, I think, to understand who you're going to govern, who's going to be part of your whole structure. So that part is probably one of the most important parts. It's about the most important to start out with. Because even tribes who

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

Page 42

aren't—let's say they're not recognized. Part of their recognition process is that they have to identify who they think their members are. And it has to be a formal packet that goes forward with the application for recognition. And so everybody understands just how critical that part is in the whole tribal process. And it's no less important here. And again, if you wanted our help, we'd do what we can to help you get to that point, depending on how you want to work it out.

YD: I'd rather go into the resolution than the bylaws, myself.

RF: Yeah, that's a good idea. It's not a bad idea at all.

[overlapping voices]

SB: Yeah, that sounds better because we really don't know. We're so small anyway, we're just starting out. So that sounds pretty good.

RF: Mm hmm, it is. We can help you with that if you want. We've done a number of them for tribes, organizing. And we've pretty much seen what works and what doesn't work and [unintelligible]. So—

YD: Well, we don't want it not to work; we want it to work.

RF: Well, we're not going to fuck anything that does work.

[laughter]

RF: No, we wouldn't do that. But it just shows we know what to put in there and problems with that stuff.

BG: What I can do is I can work one up, a draft, and mail it up to you. And take a look at it and—

YD: See what I think about it and read it over.

BG: Right. What I'll do is, I won't just mail the draft resolution, but also a letter that sort of describes what each element is trying to do, what the intent is, so that—sometimes when you read those resolutions, especially the ones I've read—they can be pretty convoluted, the language. Eh, advisors like to write like that. No. So sometimes words have different meanings, two different meanings, and you need to be clear on what meaning you really want to have. So I'll put

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

that in there so you can see where you might want to have something different. You know, you might want to change a word or a phrase because where I was coming from when I wrote it doesn't really reflect where you're coming from. So I'll try to point out those places where variability—where you can make changes. You know, some of the language is going to be stock language that you're not going to want to change because everybody can agree what the word "and" means, you know. But when we talk about do you want to call the person a chairperson or a spokesperson, you know, those are things you can change. So I'll do that as well as send up a draft resolution.

YD: Okay.

BG: And take a look at it and mark it up or write on it, whatever you need to do. And if you could send it back, maybe we could have a phone conversation about it. I could finalize it for you, send it up, and you've guys can just read it and we'll take an action on it, approve it. Then we'll have that part done.

YD: Okay.

BG: And I can probably get that to you by the end of the week.

YD: All right. Okay, and that's the way [unintelligible] the road this time. But I have a problem here. I went here and I went there, and I'm getting just like she got slapped in the face every time I've been around here. About my sewer system here. The sewer system has been here for about thirty years, or maybe more than that. Since this old house has been put in here. It's never been cleaned and I've been trying to get—I tried to look into something so somebody could come out here and do it for me.

RF: Is it a septic?

YD: Yeah.

RF: Or do you have a sewage line?

YD: Septic.

RF: Septic system that needs to be properly cleaned.

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

YD: Yeah.

RF: They do every few years, that's true. Septic.

YD: Who would I see about that, then? Is there anybody that I can turn to?

RF: An in-house service. Did you ever talk to [unintelligible]?

YD: I already went through that.

RF: What did they say?

YD: You've got to get in contact with HUD. That's the person that built the house. I go to the guy that was up here, the time that he was up here writing all that stuff down, the people who did this house.

RF: HUD built this house, didn't it?

YD: Fresno.

RF: Oh, okay.

YD: And went back on to Fresno and I called this guy. He told me let that go down. He didn't help.

RF: Well, [unintelligible] might have put the system in.

YD: Actually, I don't know who put that system in.

RF: See, but normally that's one of their roles. They do the water and septic system, usually, for the tribes. But if HUD's been involved, maybe they subbed that out. Thirty years ago—maybe HUD just didn't do it thirty years ago. Or whenever that happened. Maybe HUD just had a contractor come in and put it in.

YD: I'm not too sure how it went. I wasn't here at the time when [unintelligible].

RF: It would be hard to track it, too. You're sure HUD built the house?

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

YD: Yeah.

RF: Way back when? Whenever—thirty years ago?

YD: More than that. I mean—but anyway, yeah.

RF: Okay, HUD constructed it initially.

BG: I thought the bureau built the house.

YD: I'm not too sure which one did it. Do you remember when they went to—

RF: Fifties or sixties—right around [determination?/termination] time—they'd build a house—

YD: In fact, this was the first house. They started right here on my mom's house. Then they went from here over to West Point. From West Point, they went over to [Cloudy?].

BG: That doesn't sound like HUD to me.

RF: Let's check on that.

BG: I don't think we have any more records, but we'll check on it.

RF: Well, let's check and see. You think it was about 30–40 years ago?

YD: Oh, yeah.

BG: But the other thing, too, is say we were building a new HIP house today. And the bureau would come in and build the house and IHS would put you on a list and come in to do the septic tank. So once they do the septic tank and sign off on it and the unit is working, at that point it's your responsibility to maintain it. Unless something really screws up, like you can show that the [unintelligible] line's installed incorrectly. It's installed going uphill instead of down.

YD: No, it's been going down. One day I went out and I dug the whole thing up. There was a reason I had to do that. And I put new leads line in myself. I walked to the [unintelligible] over here and I bought all them pipes with the holes and stuff. I had to put them back in the ground. I couldn't pack them back,

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

so I appealed to the guys with a pickup truck. I threw them in the back and brought them over here and dumped them off right here and packed them off and did it myself. Because the other one was all messed up. I did the whole thing from outside there to the [unintelligible] all the way down to the pipe. [unintelligible] Now—after a long [unintelligible] April, when I came [unintelligible], the bathroom, the toilet—it was almost overflowing with black water. The sink. You went in there and tried to wash a dish or something—black water was just bubbling and backing up. I went and cut that pipe loose down all the way to 90 degrees. I cleaned it all out. It's working now, but I'm kind of afraid maybe this winter we might have a lot of water. When they have a lot of rain, seeps down in, pull it up, and we might have the same problem backing up this way again. I'm not too sure. That's why I wanted to know if it was possible, any possible way I can get it cleaned out. And like you said, it's my responsibility.

RF: Well, that's generally how they look at it. They installed the system brand new.

YD: I do believe—there was one person talking to me about the septic system. I do believe as long as we get [unintelligible], I do believe that go out and do it with a big truck. And that's—that little Rancheria over there [unintelligible].

RF: It's Margaret's. Margaret Bell.

YD: Yeah.

BG: Well, I don't know if that's done through IHS, or maybe through the health clinics. The tribe might be—the tribes have the—tribal governments have that authority to contract from the federal government the operation of certain programs. IHS, like the BIA, they were created by the federal government to go out and provide services to the Indians. And you know what kind of mess that is and how successful they are in doing that. So they passed the Self-Determination Act in the seventies, and what that provided for was tribes could say, Well, wait a minute. We're tired of the bureau coming out and saying they're doing this work for us and keeping that money, you know, to pay for people like [unintelligible] to do it. We want that money and we're going to run it locally and we're going to decide what we're going to do, within reason. Well, sometimes they'll contract IHS money. They'll set up a clinic out there, dental

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

clinic, whatever. One of the things that they can do along with that is maybe set up something [unintelligible]. Pay some third party, an operator in town, to come on out every couple of years and clean out the septic tank. There's another example of that that I know applies to you is [Judah?] health clinic. They'll pay for large trash bins to be placed out on the res every year, every two years. That way, people who have all that stuff that [unintelligible] gives them an opportunity to throw it away. Keep the place clean. Or another example is they come out with a portable car crusher and they crush old cars and [unintelligible]. So those are examples of how a tribe used some of that money to take care of some of the issues that—the IHS would never have done that. If they were running the program, they would have said no, no [unintelligible]. But when the tribe took the money and ran it locally, [unintelligible]. That's really something that needs to be done because people—a septic tank is the last thing you want [unintelligible]. So maybe that's how they do it.

YD: But anyway, that's what I understood. Over there in Jackson, they go and do it from the, I guess, right out of that casino, I guess, or whatever, they're paying for it. They just go and do it. [unintelligible]

RF: Well, I'm sure they did it for the tribe. They probably contracted.

YD: I got a hold of that woman in [unintelligible]. What's her name?

RF: Margaret?

YD: Yeah. She got a hold of the guy that I know that comes over here and she called him. He goes down here, but she wouldn't call me. She knows my number but she won't call me. Anyway, that's okay, I understand that part. He came over here and told me about that—the thing, the sewage. [unintelligible] party's the one that built that house. I'm not too sure whether they built that house or not. But then you're the person that [unintelligible] it, I don't know.

RF: I'll check with Tuolomne and ask them who built their houses thirty or forty years ago. I'm sure they'd tell us who it was. Who came in to start the [unintelligible].

YD: Would it be on record?

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

RF: Somebody has a record of it, I'm sure. Find out who did it—I'm not sure the bureau did it.

YD: How about down there [unintelligible]?

RF: The county record thing?

YD: Yeah.

RF: Boy, I'm not really sure. I'm sure—if it were Rancheria, I'm not even sure they have to abide by county codes, the county and state codes. Probably not. You know, I'd get the building permit and all that type of stuff. I'm not sure if it's on Rancheria. [unintelligible]

YD: I don't know. Wouldn't that take care of it? I don't know if they went down and got that. There wasn't a permit or anything.

RF: I would be surprised.

YD: I don't think so.

RF: No, I don't think so either because I think that that—

YD: Because nobody would help me [unintelligible]. Five people up there working on this house and they were all Indian.

RF: I'd be real surprised. I would doubt it, only because tribes don't have to [unintelligible].

YD: We had an electrician, carpenter, and—and he put that big—what is it, 220, I think it is? [unintelligible] water heater, the stand that goes in for the heater set up in there [unintelligible] heater in there. Plus all of the wiring that he did in there.

BG: You know, I'm pretty sure I saw something that said that house was built by the [fifty-five zero?].

RF: I want to check that, though.

BG: They're part of the termination process. But, I'll [unintelligible].

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

YD: Yeah, if you guys find out anything on that, is there a possibility where that tank could be drained?

RF: Well, I tell you what, if it's that old, it probably needs to be replaced. I'm thinking your lifespan isn't that—it's twenty or thirty years, something like that. I was thinking they have to just put a whole new system in. I would offer that because you might drain it now and then a month from now or two months, all of a sudden it starts getting old and it starts [unintelligible] water out. They're not built to last forever, so I would think that if it's forty years old, that you're looking to just replace that.

BG: Well, the other thing, too, is that if we were to find that it was built by the Bureau of Indian Affairs, you could call [unintelligible] and say, Wait a minute, it wasn't built by HUD, it was built by BIA, and see where that takes you. I think you were saying they thought it was built by HUD, so they sent you off [unintelligible].

YD: They said it was built by HUD. There was no [doubt?]. They said it was built by HUD. I don't know. I wasn't around then.

RF: We can check that.

RF: And even if it was built by HUD, we can check the options there. It's still the government. Whether that means you're responsible whether it means [unintelligible].

YD: I went down to San Andreas, where they build these big, old tanks and I talked [unintelligible] about coming up here and maybe draining it or something. And he told me it's going to cost you at least \$400 to come up here from Jackson to drain that.

RF: Wow!

YD: So I almost fell down, you know.

[laughter]

YD: [unintelligible] But he told me you've got a little plant that sticks out of the ground like this. You take that off. And I told him what was wrong with it. I

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

mean, about that black water in the bathroom and the [unintelligible]. Water comes back up in my sink when I'm trying to wash dishes: [unintelligible] give you their money, though. I shouldn't be telling you this. Anyway, I take that thing loose, take the garden hose, stick it in there and turn it on full blast. So I did that. Nothing but black water came back under that hose. So that's why I had to end up digging the whole thing out right here next to the house. Yeah, there was all kind of mess in there and everything else. But that tank is full.

RF: Oh, the septic tank is full?

YD: It's full.

RF: Well, that's a problem.

YD: That was my whole concern. [unintelligible] we're going to have this big rain probably coming up—

RF: Well, that will definitely create a—

YD: I'm coming right back up here with the same deal again.

RF: [unintelligible] outhouse back [unintelligible].

YD: Yeah. I'm going to have to make another one.

[laughter]

RF: And they don't want to go there. I understand that. Let's check on some of this stuff for you.

YD: Okay.

RF: We can try to get some answers for you on that.

YD: There was one—I thought that maybe I had her phone number. I don't what it's—was it Gonzalez? Anyway, [unintelligible] one of them programs concerning something like that—about the septic tank. Well, where aside from there [unintelligible]?

BG: Cynthia Gonzales?

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

YD: Yeah! That girl.

BG: She works for the state, Department of Housing and Community Development.

YD: Yeah, yeah, that one. Okay. A friend of mine called her up and she referred us back to Indian Health.

RF: That's normally who does it. Or does it now, I should say. Have for a number of years, but I'm not so sure [unintelligible]. That's a little different. That's almost fifty years ago. Forty or fifty years ago, so—

BG: Oh, right, IHS didn't really even have a presence in California until the sixties or seventies.

RF: So if we find out who built it, maybe we can track it back from there. .
[unintelligible]

YD: Appreciate anything that you can do [unintelligible] on that part, anyway.
[unintelligible]

BG: That's an important part. You can't have that black water coming back
[unintelligible].

YD: [unintelligible]

[laughter]

RF: It makes some [unintelligible] coffee, all righty.

[laughter]

SB: Strong coffee.

YD: Did the [unintelligible] came up there and see that? You might set it down. I mean, it's unlivable. Is there anything that you guys can help? You know, that one [unintelligible] we appreciate it there.

RF: I'll see what we can find out, see what we can do.

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

[screech outside]

[unintelligible]

BG: There's a guy in a white truck going up the hill there.

RF: It's pretty hard to do that. There's no light.

BG: If he hit the stoplight ...

YD: Well, did you get all that down?

RF: I've got it all [unintelligible] some of it, you betcha.

BG: We talked about the money and there was ... Here's an example of the kind of money we're talking about. The bottom line is [unintelligible]. This is this year's money. That's kind of a little lesson on how the bureau spends their money. Money comes down to us each year and the bureau has to obligate this money by the end of the year. And we operate on a fiscal year, which ends at the end of this month. And in previous years, this money had a one-year life. So if the bureau didn't obligate this money by the end of September, then that money went back to the U.S. Treasury and they did whatever they wanted to do with it. Or maybe another area of the Bureau of Indian Affairs would take it [unintelligible]. But in the last year, well, last two years, Congress has changed that money to have a two-year life. So what that sheet represents is Fiscal Year '98 money. We don't have to have it obligated by the end of this month. It will still be available, probably, until September 30, 1999. But this is going to be the first year where we're going to see if the money that's not obligated is actually left on the table, left alone. We're kind of worried that possibly, we are worried that possibly somebody could take that money somewhere else in the bureau and spend it on a different slot issue. Not even on California. I mean, maybe they're giving Navajos more money. So with that in mind—now, when she breaks this money thing down, it came down like that. And he's got these programs. And you see there's fellowships.

YD: Did you read them programs?

SB: Mm hmm.

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

BG: And [unintelligible] and whatnot. Now, if the bureau's providing services to your tribe—let's say there was an eligible person for scholarships—this is the amount of money that would be coming out. You know, we've looked at it and said, Okay, we're going to pay you \$5,000. Well, \$5,000 will come out of this \$7,400. Likewise for some of these other programs. Now, some of these programs—real estate, 300 bucks. You might get to talk to Jimmy Bradford for 20 minutes for \$300. But what we're here today to recommend is to try and consider reappropriating this money into basically two of these programs and getting rid of some of these programs. And that's going to do a couple of things. First, the reprogramming. This money came available this year and will be available next year—two-year life. But your opportunity to reprogram it is only in that first year. [unintelligible] So if you want the money to be available to you next year, you want to have it in one of the programs that you may be wishing to operate next year. Or you might want it in one of those programs that you want the bureau to operate on your behalf until the tribe is organized and is ready to contract. So in this case, what I'm proposing—here's a letter I drafted up on your behalf to sort of give you an idea of what I'm talking about.

RF: Fine document. Well, I think that this thing, if you look at it, [unintelligible] programming.

BG: Right.

RF: So you, you've got [unintelligible].

BG: Right. We have a deadline at the [Geary?] office too. If reprogramming is something that you want to consider, well we need to have something at the Geary office tomorrow. That's the deadline. Okay. So, with this letter, we want to reprogram the money in the following manner. So take the money from adult education, forestry, and real estate services, and you now have \$2,600. We're going to add that to the scholarships program. The resulting total would be \$10,000. The idea there is, as you were talking about earlier, Yakima, you know, for Sylvia ... You know, now that Sylvia's a member of the Sheep Ranch tribe, a federally recognized tribe, she conceivably is eligible for scholarship assistance. So the bureau could be operating this program today with this \$10,000 if she could make the application and they'll determine if she's eligible and they'll cut the check and all that stuff. So this would increase that amount to \$10,000. And then, to reprogram some of these other programs here, other [unintelligible]

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

tribal government. That's renting a building, hiring a staff, getting a copier, fax machine. That's that money. Law enforcement, team fire protection, housing improvement—there's that HIP program—and agriculture. Move those funds into this program called consolidated tribal government. That program is really a catch-all program, or consider it like an umbrella. Under that umbrella, you can run all of these programs that you're reprogramming money from. So that's how [unintelligible].

YD: [unintelligible]

[laughter]

SB: He's just taking it all and putting a different name on it.

BG: Exactly. You're taking all this money and putting a different name on it, a name which allows you to run those other programs in whatever amounts you decide to do at the time you want to get into a contract. Let's say today, we take an action. Next year, you're going to have \$800 in this law enforcement thing. You're not going to be able to access—you're not going to be able to reprogram it into the [unintelligible] government, which is where your need is, to have it develop [in price?]. So that money's just going to sit there. [unintelligible] But if you reprogram to consolidate a tribal government, then the \$800 will be available to you under aid to tribal governments, for your staff or your fax machine ...

YD: Mm hmm.

BG: Or, let's say you decide, Yeah, we're going to need a law enforcement component. We want to have a security guard patrolling it.

[laughter]

BG: Let's just throw that out there. Well, you could do that. You could do that under that consolidated type of thing. Under that umbrella, you could have a law enforcement program. The difference is, by not doing the reprogramming, you're stuck in a position where you either have to run the program to get the money or lose the money entirely. Whereas if you reprogram the money, you have greater flexibility. You can use that money for a different purpose entirely. Or, you could go ahead and run that law enforcement program for that \$800 or

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

for \$25,000. You see? So it gives you greater flexibility. Is that pretty clear? Do you have any questions on that?

YD: No, I don't. I understood it pretty well, except for that one—

BG: Yeah, that takes a little—

[laughter]

BG: That takes a little time to get a handle on that.

[unintelligible]

BG: Really, I guess another way of explaining the consolidated tribal government program is: when tribes contract programs from the Bureau of Indian Affairs, they also have to submit budgets for each program. So let's say you're contracting [other aid?], law enforcement, community fire, housing, and agriculture—that last group for the program. You would submit to us those five separate budgets totaling up to those five separate amounts of money—if you hadn't reprogrammed. But if you had reprogrammed; then all that money would be in one line item. You would submit to us one budget and that budget would break out the amounts of money you wanted for each program you wanted to run, whether it was all those programs or just one program or fifteen more programs. And it's the tribe's right to define how much money they want to put in each one of [those programs?]. Whereas without that reprogramming, you're pretty much stuck like this.

YD: Mm hmm.

BG: So that's another attempt [unintelligible]. I know people, it takes them a long time to get the hang of it. So really, what this letter's all about is taking the money that you have in—one, two, three, four, five, six, seven, eight—nine programs and reprogramming it into two distinct programs: scholarships and consolidated tribal government, with the idea that the scholarship money would be run by the Bureau of Indian Affairs [unintelligible]; and the consolidated tribal government program, the rest of the money would go into that if the idea that the tribe's moving along the lines that we organize—we're organizing—we know that you'll need an office and all that. So, we'll make a grant to the tribe for a portion of that money. Say \$50,000, whatever. Whatever we can agree sounds

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

like a good amount based on what your needs are going to be. That'll be a grant. And we'll try—you know, we can work through that process—and we're talking maybe five months, four months, six months down the road, depending on how fast you want it used. And then also depending on how fast we can [unintelligible]. We can be slow. Thirty years, right?

YD: What's going on with them?

BG: So let's say it was \$50,000. So that's \$50,000 out of this \$180,000. That still would give you \$130,000 [unintelligible]. Let's say the tribe gets organized and when you get to the end of that year, there's going to be another amount of this money—plus the \$130,000, that we could be moving to the tribe. You know, a bigger grant to do more work or in a contract where the tribe actually contracts the responsibility of providing services to do things. That might be a couple of years down the road. You know, before the tribe's really there. Instead of the bureau running the scholarships program, cutting the checks, determining the eligibility, you know, who's eligible, contacting the school and all that. Instead of them doing it, you guys could do it mostly. But you probably want to be in a position where you're used to just running this government before you take on that responsibility.

Now, with that \$130,000, it's possible—this is where we kind of get back to where Ray talked about—the idea that perhaps the tribe could authorize the bureau to spend some of that money on its behalf. Maybe hire a clerk, an enrollment clerk or an enrollment specialist who would work only with your tribe in doing some of that enrollment work. That's going to depend on how broad you want the tribe to be. For instance, if we went back, say, to your great, great grandparents and lineal descendants from them are eligible. That's conceivably two or three hundred people. So you might want to have somebody on our staff who has access right there in the office to the records necessary to do the research and show the ties and come up with that enrollment for your tribe. That could come out of that \$130,000. Something like that, a full-time position like that, is what, \$50,000, something like that.

RF: [unintelligible] It depends on how much of an expert you need. Then too, if they're going to be limited to just doing research and things, you're not going to need a big professional. But if you're going to have this person help you work out an enrollment ordinance, kind of a law to determine enrollment, or he's

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

going to work on, maybe, a constitution with the tribe—somebody of a higher order of function—well, that's worth 50 or 60 or whatever it happens to be—for a whole year. And the thing is that person would be doing too is that you will tell them, Well, I want—when you do your membership—I want to see a family tree done for each person. I want to see a [unintelligible], their blood [unintelligible]. You want to make sure they're Miwok Indians. I want to see all the work. I want you to put a file together for each person.

BG: That would become the tribe's property.

RF: That would become the tribe's property for you to file in your office so that you will have all the enrollment records for your own tribe. But that person will put together [unintelligible] for you. [unintelligible] So you will define those things, what you want them to do for you. And that will determine what level of [unintelligible] you may need.

BG: And the other side of that, of course, is [unintelligible] hire a person yourselves and have them work out of that office, out of their office and [unintelligible]. That's really up to you—

RF: [unintelligible] You're not limited to one or two. You could hire whatever you feel you need to meet the needs. It's up to you. We might want one on board and one on the [unintelligible] that person to work with. You know, and answer the phone and do administrative work and help set up the filing system and maybe your administrative system. The work within [unintelligible] in tribal [unintelligible]. And it would be a tribal employee as well. They'd be working through the bureau and helping on that end. But again, it's up to you. You'll have more than enough resources. I guess that was the—

BG: Right. This reprogramming action that I'm talking about, this just insures the money stays on the table for you in the most flexible way for you in the future, for the next calendar year or fiscal year. And then we can make decision, the tribe can make decisions the next three months what they want to do with it, whether they want to add that to a subsequent grant, say, about this time next year, after they've spent the first grant getting things organized. Or whether they want to—while they're working on their grant, maybe authorize the bureau to hire somebody in-house to work on the enrollment and [unintelligible] their constitution. Or, to increase the amount of the grant to hire more staff here.

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

Those are all options that we could explore later. But if we don't do the reprogramming, that's going to lower by a little bit the amount of money that's available. It's not a terribly significant amount of money. We're talking about-- well, when you throw HIP in there, you're talking about \$22,000. So this way, you insure that \$22,000 is available for you next year.

RF: You see, the thing too is come the end of December, where your grant is going to end in December, then you get new money for the next period. Anything that's left over this year, you can roll forward into that. They just add that to your [unintelligible] amount next year. So if it's \$50,000 or \$30,000, whatever, you're not going to lose it. You're just going to add—it gives you more resources for [unintelligible].

BG: Right. [unintelligible] serve the similar numbers that I was throwing out there before. You've got, say, \$180,000 right now. Let's say you had a first grant of \$50,000 to get you started. That would leave us 130. And let's say the tribe wanted to have that specialist at the bureau working [unintelligible] on stuff. Let's say that's another \$60,000.

RF: It would only be for three months, from now to the end of December for this here grant cycle. The grant cycle only goes through December so that they kind of get on to a calendar year.

BG: It's highly unlikely that it'll even be awarded before the end of December.

RF: Oh, that's true. [unintelligible]

[unintelligible]

RF: Maybe three months.

BG: Know your friends [in 638?].

RF: Okay, so let's say you're right, okay. So let's say that that's true.

BG: Okay, so we had 130. Let's say that the tribe says, Yeah, let's have somebody at the bureau working for us. So let's say that's another \$60,000. So 130-60 is 70. You'd still have 70 left. And that could be ... that could be added to the \$180,000 that's going to be sitting here for fiscal year '99. We're talking about

Page 59

*Transcription of videotape: September 8, 1998 meeting between
Yakima K. Dixie, Raymond Fry, Brian Golding, Silvia Burley*

this being [unintelligible]. Fiscal year '99, there's going to be another amount of money like this. So if it's 180, well, add 70 to that, you've got \$250,000.

SB: He could get all this and he can't afford 400 for the—you can come to the office and [laughs].

RF: That's right. Now you're up to a quarter of a million, see. You started at \$400. That's pretty good.

BG: You could even pump out the old septic tank.

RF: That's right. But see, there's all kinds of other things you can do as a tribe. Once you get organized and go through [GSA?] and get a tribal vehicle—

TAPE ENDS

APPENDIX DOCUMENT 4

03/02/2005 13:15

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THOMPSON

PAGE 18



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Central California Agency
1824 Tribute Road, Suite J
Sacramento, CA 95815-4308

IN REPLY REFER TO:

SEP 24 1998

Yakima K. Dibe, Spokesperson
Sheep Ranch Rancheria
11178 School Street
Sheep Ranch, California 95250

Dear Mr. Dibe:

The purpose of this correspondence is to summarize the issues discussed during a meeting held with you and Silvia Burley on September 8, 1998, at your residence on the Sheep Ranch Rancheria in Sheep Ranch, California. The purpose of the meeting was to discuss the process of formally organizing the Tribe. In attendance at this meeting from my staff was Mr. Raymond Fry, Tribal Operations Officer, and Mr. Brian Golding, Sr., Tribal Operations Specialist.

Status of the Tribe

The Sheep Ranch Rancheria is a federally recognized Tribe, as it was not lawfully terminated pursuant to the provisions of the California Rancheria Act. The California Rancheria Act provided for the termination of specific Tribes by distributing the assets of the Tribes to those persons determined eligible, and in exchange, the recipients of the assets would no longer be eligible to receive services and benefits available to Indian people. The Plan of Distribution of the Assets of the Sheep Ranch Rancheria, approved by the Associate Commissioner of Indian Affairs on October 12, 1986, identified your mother, Mabel (Hodge) Dibe as the sole distributee entitled to participate in the distribution of the assets of the Sheep Ranch Rancheria. The Distribution Plan has not been revoked.

Membership

In those situations where an "unterminated" Tribe is pursuing reorganization, the persons possessing the right to reorganize the Tribe is usually specified by the decision of the court, as the majority of "unterminated" Tribes regain federal recognition through litigation. Usually, the court decision will state that the persons possessing the right to reorganize the Tribe are those persons still living who are listed as distributees or dependent members on the federally approved Distribution Plan. In some cases the courts have extended this right of participation to the lineal descendants of distributees or dependent members, whether living or deceased.

3

03/02/2005 13:15

3015995385

THOMPSON

PAGE 11

In this case, the usual manner of determining who may reorganize the Tribe does not apply here as there is no such court decision. However, with the passing of Mabel (Hodge) Dixie, a probate was ordered, and the Administrative Law Judge issued an Order of Determination of Heirs on October 1, 1971, as reaffirmed by subsequent Order issued on April 14, 1993. The Order listed the land comprising the Sheep Ranch Rancheria as part of the estate of Mabel (Hodge) Dixie. The Order then listed the following persons as possessing a certain undivided interest in the Sheep Ranch Rancheria:

Merle Butler, husband	Undivided 1/3 interest	Deceased
Richard Dixie, son	Undivided 1/6 interest	Deceased
Yakima Dixie, son	Undivided 1/6 interest	
Melvin Dixie, son	Undivided 1/6 interest	
Tommy Dixie, son	Undivided 1/6 interest	Deceased

During our meeting, you explained to us that three of the heirs were deceased, and that the whereabouts of your brother, Melvin Dixie, were presently unknown.

We believe that for the purposes of determining the initial membership of the Tribe, we are held to the Order of the Administrative Law Judge. Based upon your statement that three of the heirs were deceased, the two remaining heirs are those persons possessing the right to initially organize the Tribe.

On August 5, 1998, as the Spokesperson of the Tribe, you accepted Silvia Burley, Rashel Roznor, Anjelica Paulk, and Tristan Wallace as enrolled members of the Tribe. Therefore, these persons as well, provided that they are at least eighteen years of age, possess the right to participate in the initial organization of the Tribe.

At the conclusion of our meeting, you were going to consider what enrollment criteria should be applied to future prospective members. Our understanding is that such criteria will be used to identify other persons eligible to participate in the initial organization of the Tribe. Eventually, such criteria would be included in the Tribe's Constitution.

Governance

Tribes that are in the process of initially organizing usually consider how they will govern themselves until such time as the Tribe adopts a Constitution through a Secretarial Election, and Secretarial approval is obtained. Agency staff explained two options for the consideration of the General Membership:

- 1) the members could operate as a General Council, retaining all powers and authorities, and delegating specific limited powers to a Chairperson, and

03/02/2005 13:15

3015995385

THOMPSON

PAGE 12

- 2) the members could form an Interim Tribal Council, and delegate from the General Council various general powers and authorities to the Interim Tribal Council.

In this case, given the small size of the Tribe, we recommend that the Tribe operate as a General Council, as described in the first option above. Enclosed for your consideration, is a draft General Council resolution (Resolution #GC-98-01) specifying general powers of the General Council and rules for governing the Tribe.

A number of the provisions of the draft resolution may be changed by the Tribe to reflect the manner in which it desires to conduct business. For instance, the first "Resolved" clause on the second page lists seven (7) specific powers to be exercised by the General Council. For the most part, this list involves those powers that the General Council would exercise in order to accomplish the initial organization process. There is no mention of other powers, such as the power to purchase land, since such a power most likely would not be used during the organization process. Rather, such a power would be used after the Tribe organizes, and would be included in the Tribe's Constitution.

Another example of a change to consider is the fourth "Resolved" clause on the second page. This clause states that regular meetings of the General Council will be held on the second Saturday of each month. The Tribe may wish to change this to a day of the week that will best meet the Tribe's needs.

Once the General Council adopted such a resolution, the General Council would then proceed to elect or appoint a Chairperson. The General Council would then be able to proceed with the conduct of business, in a manner consistent with the authorizing resolution. Additional powers can be specified by the General Council through either an amendment to the authorizing resolution, or adoption of another authorizing resolution.

Grant Funding

We discussed the fact that the Bureau of Indian Affairs makes grants, under the provisions of the Indian Self-Determination and Education Assistance Act, as amended, to Tribes for the purpose of strengthening or improving Tribal government and developing Tribal capacity to enter into future contracts. Such grants can be used to cover costs incurred by the Tribe in establishing a Tribal office, equipment and furniture, supplies, and legal assistance. In this case, we advised the Tribe that the first grant would be made in the amount of \$50,000.

In order to apply for and receive funding from the Bureau, the Self-Determination Act requires that a Tribe indicate by resolution its desire to receive grant funding. Enclosed is a draft General Council resolution (Resolution #GC-98-02) which fulfills this requirement.

03/02/2005 13:15

3815995385

THOMPSON

PAGE 13

We discussed the nature of congressional appropriations regarding the funding that Tribes receive. We recommended that the Tribe consider reprogramming funds from various programs into the Consolidated Tribal Government program. Such reprogramming would then provide the Tribe with the greatest flexibility in using the funds in the upcoming year. As a result of our discussion, you provided the Agency staff present with a letter proscribing your reprogramming preferences. A copy of this letter is enclosed for your records.

Bureau Costs Associated with Organizing

We discussed the Bureau's role in providing technical assistance to Tribes in the process of organizing the Tribe. The Bureau receives some funding from each of the Tribes in our jurisdiction as a means of providing a minimum amount of technical assistance. But in those cases where a Tribe is pursuing formal organization, such funds are insufficient to cover all costs.

We request that the Tribe consider the adoption of the enclosed draft General Council resolution (Resolution #GC-98-03). The purpose of this resolution is to authorize the Bureau to charge expenses related to the organization of the Tribe to the Tribe's FY 1998 Tribal Priority Allocation funding. One example of a cost supporting the organization process is the purchase of death certificates for the three deceased heirs. The death certificates are necessary for the initiation of the probate process. Another example of such costs is the hiring of a new Bureau employee, or the temporary assignment of an existing Bureau employee, to work directly with the Tribe in the organization process. Such work may focus on the enrollment process, development of administrative management systems, or on issues related to governance.

Other Issues

Probates: We discussed the status of the land, and the need for additional probates to be completed to determine the status of the estates of deceased heirs. We agreed to obtain copies of the death certificates of the deceased heirs. A request for death certificates was prepared, and we expect the processing of the request by the State Office of Vital Records within the next month. Once received, we will then proceed with preparing the probates.

The fact that there are probate actions remaining to be taken directly impacts your ability to enter into a homesite lease. This is relevant to the question you asked regarding Silvia's eligibility for assistance under the Housing Improvement Program (HIP). An applicant under the HIP must demonstrate ownership or control over land, either through an assignment or a homesite lease. In this case, as the land is considered as individually-owned trust land, you and the other heirs would have to enter into a homesite lease with Ms. Burley. Other eligibility criteria exists for the HIP that are beyond the purview of this letter. We have requested that the HIP send an application to Ms. Burley for her review.

03/02/2005 13:15

3815995385

THOMPSON

PAGE 14

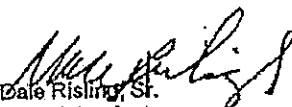
Septic Tank: With regard to the septic tank issue you brought to our attention, we researched our files and found that the house you are currently occupying was constructed under the HIP in 1967. The issue is addressed in a memorandum from the Agency Realty Officer to the Area Realty Officer, dated August 12, 1971, which states, "The 20' x 24' house was constructed in 1967 at a cost of \$8,500.00 and the septic tank, installed by Phoenix Health Service, would cost about \$1,500.00." We contacted the Indian Health Service, California Area Office, here in Sacramento, and inquired whether they will be able to provide maintenance services to you. We obtained their commitment to perform the work within the next couple of months. We will work with you to ensure that the work is completed in an appropriate manner.

Access to Rancheria: We discussed the notion that the driveway leading up to the Sheep Ranch Rancheria was not within the Rancheria. We agreed to look into the ownership of the driveway. Please find enclosed an Assessor's Parcel Map of a portion of the Sheep Ranch Townsite. This map shows a number of "paper" roads that do not exist today. We are currently researching the ownership of the paper roads to determine what rights the Tribe may have to assert a use right to the driveway.

Next Meeting: We agreed that another meeting was necessary to discuss the draft resolutions and additional details of the organization process. We propose that we meet on Friday, October 2, 1998, at 11:00 a.m., to be held at your residence in Sheep Ranch, California.

I thank you for your concern and positive participation in the organization process. I am certain that if we continue to work together, the organization process will be completed without undue delay. Toward this end, I extend the assistance of my staff, upon your written request.

Sincerely,


Dale Risling, Sr.
Superintendent

APPENDIX DOCUMENT 5

RESOLUTION #GC-98-01

ESTABLISHING A GENERAL COUNCIL TO SERVE AS THE GOVERNING BODY OF
THE SHEEP RANCH BAND OF ME-WUK INDIANS

WHEREAS, The Sheep Ranch Band of Me-Wuk Indians of the Sheep Ranch Rancheria of California ("the Tribe") was not terminated pursuant to the provisions of the Act of August 18, 1958, P.L. 85-671, 72 Stat. 619, as amended by the Act of August 11, 1964, P.L. 88-419, 78 Stat/ 390 ("the Rancheria Act"), and is a federally recognized Indian Tribe as confirmed by the inclusion of the Tribe in the list of Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs, as published in the Federal Register on October 23, 1997.

WHEREAS, The plan of Distribution of the Assets of the Sheep Ranch Rancheria, approved by the Associate Commissioner of Indian Affairs on October 12, 1966, identified Mabel (Hodge) Dixie as the sole distributee entitled to participate in the distribution of the assets of the Sheep Ranch Rancheria;

WHEREAS, The Bureau of Indian Affairs did not completely implement the steps necessary to effect the termination of the Tribe prior to the passing of Mabel (Hodge) Dixie;

WHEREAS, The estate of Mabel (Hodge) Dixie was probated and Order of Determination of Heirs was issued on October 1, 1971, listing the following persons as possessing a certain undivided interest in the Sheep Ranch Rancheria:

Merle Butler, husband	Undivided 1/3 interest
Richard Dixie, son	Undivided 1/6 interest
Yakima Dixie, son	Undivided 1/6 interest
Melvin Dixie, son	Undivided 1/6 interest
Tommy Dixie, son	Undivided 1/6 interest

and this Order was reaffirmed by another Order issued on April 14, 1993;

WHEREAS, The surviving heirs are believed to be Yakima and Melvin Dixie, as the other heirs are or are believed to be deceased, and their heirs are in the process of requesting the estates of the deceased heirs be probated, and it is believed that the deceased heirs had no issue;

WHEREAS, The whereabouts of Melvin Dixie are unknown;

WHEREAS, The membership of the Tribe currently consists of at least the following individuals; Yakima Dixie, Silvia Fawn Burley, Rashel Kawehilani Reznor, Anjelica Josett Paulk, and Tristian Shawnee Wallace; this membership may change in the future consistent with the Tribe's ratified constitution and any duly

enacted Tribal membership statutes.

WHEREAS, The Tribe, on June 12, 1935, voted to accept the terms of the Indian Reorganization Act (P.L. 73-383; 48 Stat. 984) but never formally organized pursuant to federal statute, and now desires to pursue the formal organization of the Tribe; now, therefore, be it

RESOLVED, That Yakima Dixie, Silvia Fawn Burley, and Rashel Kawehilani Reznor, as a majority of the adult members of the Tribe, hereby establishes a General Council to serve as the governing body of the Tribe;

RESOLVED, That the General Council shall consist of all members of the Tribe who are at least eighteen years of age, and each member shall have one vote;

RESOLVED, That the General Council shall have the following specific powers to exercise in the best interest of the Tribe and its members:

- (a) To consult, negotiate, contract, or conclude agreements with the Bureau of Indian Affairs, for the purpose of furthering the development and adoption of a Constitution;
- (b) To administer assets received from such agreements specified in (a) above, including the power to establish bank accounts and designate signers thereupon;
- (c) To administer the day-to-day affairs related to such agreements specified in (a) above;
- (d) To develop and adopt policies and procedures regarding personnel, financial management, procurement and property management, and other such policies and procedures necessary to comply with all laws, regulations, rules, and policies related to funding received from such agreements specified in (a) above;
- (e) To employ legal counsel for the purpose of assisting in the development of the Constitution and the policies and procedures specified in (d) above, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior or his authorized representative;
- (f) To receive advice from and make recommendations to the Secretary of the Interior with regard to all appropriation estimates or federal projects for the benefit of the Tribe prior to the submission of such estimates to the Office of Management and Budget and to Congress;
- (g) To faithfully advise the General Council of all activities provided for in this resolution at each regularly scheduled meeting of the General Council;
- (h) To purchase real property and put such real property into trust with the United States government for the benefit of the Tribe;

RESOLVED, That all other inherent rights and powers not specifically listed herein shall vest in the General Council, provided that the General Council may specifically list such other rights and powers through subsequent resolution of the General Council;

RESOLVED, That the General Council shall appoint from among its members a Chairperson, who shall preside over all meetings of the General Council and rights and powers through

subsequent resolutions of the General Council, provided that in the absence of the Chairperson, a Chairperson Pro Tem shall be appointed from members convening the meeting;

RESOLVED, That the Chairperson shall notice and convene regular meetings of the General Council on the second Saturday of each month following the adoption of this resolution, provided that special meetings of the General Council may be called by the Chairperson upon providing a least fifteen (15) days notice stating the purpose of the meeting;

RESOLVED, That the Chairperson shall call a special meeting of the General Council, within thirty (30) days of receipt of a petition stating the purpose of the meeting, signed by at least fifty-one percent (51%) of the General Council, and the Chairperson shall provide at least fifteen (15) days notice stating the purpose of the meeting, provided that at such meeting, it shall be the first duty of the General Council to determine the validity of the petition;

RESOLVED, That the General Council shall elect from among its members a Secretary/Treasurer, who shall record the minutes of all General Council meetings, maintain the official records of the Tribe, certify the enactment of all resolutions, and disburse all funds as ordered by the General Council;

RESOLVED, That the quorum requirement for meetings of the General Council shall be conducted pursuant to Robert's Rules of Order;

RESOLVED, That the General Council shall exist until a Constitution is formally adopted by the Tribe and approved by the Secretary of the Interior or his authorized representative, unless this resolution is rescinded through subsequent resolution of the General Council.

CERTIFICATION

We, the undersigned as a majority of the adult members of the General Council of the Sheep Ranch Band of Me-Wuk Indians of the Sheep Ranch Rancheria of California ("the Tribe"), do hereby certify that at a duly noticed, called, and convened special meeting of the General Council held on Thursday, in Sheep Ranch, California, where a quorum was present, this resolution was adopted by a vote of 2 in favor, 0 opposed, and 0 abstaining. We further certify that this resolution has not been rescinded, amended, or modified in any way.

Dated this 5 day of November, 1998:

Yakima Dixie
Yakima Dixie

Silvia Burley
Silvia Burley

Rashel Reznor

APPENDIX DOCUMENT 6

ATTACHMENT 4



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Central California Agency
1824 Tribute Road, Suite J
Sacramento, CA 95815-4308



IN REPLY REFER TO:

FEB - 4 2000

Silvia Burley, Chairperson
Sheep Ranch Rancheria
1055 Winter Court
Tracy, California 95376

Dear Ms. Burley:

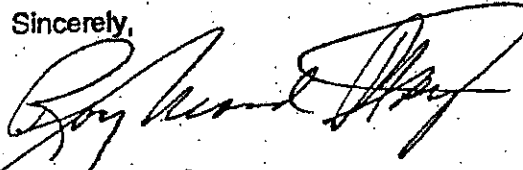
The purpose of this correspondence is to provide you with a copy of our letter to Yakima K. Dixie, Vice-Chairperson, Sheep Ranch Rancheria, regarding allegations of fraud or misconduct relative to the change in Tribal leadership during April and May 1999. Mr. Dixie raised these allegations at a meeting on December 28, 1999, held at the Central California Agency (Agency).

This correspondence also serves as notice to you of a meeting requested by Mr. Dixie, to be held on Tuesday, February 15, 2000, at 11:30 a.m., in the Agency's Conference Room. The purpose of this meeting is to discuss the issues raised in the enclosed letter, as well as steps the Tribe may take to resolve this matter internally.

Mr. Dixie requested that only members of the General Council and one non-attorney representative for each side participate in this meeting. Please contact Brian Golding, Sr., Tribal Operations Specialist, at (916) 566-7124, by the close of business on Wednesday, February 9, 2000, and provide him with the names of those persons who will accompany you to this meeting.

Should you have any questions with regard to this matter, please contact Mr. Raymond Fry, Tribal Operations Officer, at (916) 566-7124.

Sincerely,


FOR Dale Risling, Sr.
Superintendent

Enclosure



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Central California Agency
1824 Tribute Road, Suite J
Sacramento, CA 95815-4308



IN REPLY REFER TO:

FEB - 4 2000

Yakima K. Dixie, Vice-Chairperson
Sheep Ranch Rancheria
P.O. Box 41
Sheep Ranch, California 95250

Dear Mr. Dixie:

This correspondence serves three purposes. First, we respond to concerns raised by you and other persons purporting to be members of the Sheep Ranch Rancheria, during a meeting held at the Central California Agency (Agency) on December 28, 1999. Second, we respond to your delivery during the aforementioned meeting of the "Constitution of the (Sheep (Ranch Rancheria) Miwok Indian Tribe of California," purportedly adopted on December 11, 1999. Third, we give you notice of the meeting to be held on Tuesday, February 15, 2000, for the purpose of discussing further these issues among the members of the Tribe.

Allegations of Fraud Raised at our Meeting of December 28, 1999

The concerns raised at our meeting with you and other persons purported to be members of the Sheep Ranch Rancheria (Tribe) center around allegations of fraud or misconduct relative to the change in Tribal leadership during April and May 1999. You provided us with copies of two documents as support for your claims. The first document appears to be a resolution of the General Council, where at a special meeting held on April 20, 1999, the General Council accepted your resignation from the office of Chairperson. The second document contains two letters from you to Silvia Burley wherein you assert that you "cannot and will not (resign) as Chairman" but "do give (Ms. Burley)...the right to act as a delegate to represent the Sheep Ranch Indian Rancheria." During our meeting, you also stated that within two weeks you would submit to the Agency additional documents and statements supporting your claims. However, we did not receive anything from you as of the date of this letter.

At the conclusion of our meeting, we agreed to review our records and provide you with a response regarding your allegations. We also agreed that as a matter of protocol our response would be shared with the person presently recognized by the Agency as the Chairperson of the Tribe, Silvia Burley. We further agreed that our response would be among the subjects of discussion at a future meeting with the Tribe.

Background

Prior to August 1998, the Agency recognized you as the Spokesperson of the Tribe. This recognition was based upon the fact that you are a lineal descendant of the sole distributee (your mother, Mabel Hodge Dixie) identified in the Plan for the Distribution of the Assets of the Sheep Ranch Rancheria, as approved by the Associate Commissioner of Indian Affairs on October 12, 1966. You are also one of the two remaining heirs identified in the Order of Determination of Heirs issued on November 1, 1971, as reaffirmed by subsequent Order issued on April 14, 1993. At that time, the whereabouts of the other remaining heir (your brother Melvin Dixie) were unknown.

On August 5, 1998, as Spokesperson of the Tribe, you accepted as enrolled members of the Tribe four persons: (1) Silvia Burley, (2) her daughter Rashel Reznor, (3) her daughter Anjelica Paulk, and (4) her granddaughter Tristian Wallace. The documents evidencing your action do not state any restrictions upon the rights of these persons as members of the Tribe. As such, we view these persons as members of the Tribe, enjoying all benefits, privileges, rights, and responsibilities of Tribal membership. This includes the right to participate in the initial organization of the Tribe, provided that those persons are eighteen years or older.

On September 8, 1998, and again on October 16, 1998, Agency staff met with you, Ms. Burley, Ms. Reznor, and other interested parties (including representatives from California Indian Legal Services) to discuss the group's interest in formally organizing the Tribe. The group expressed an interest in proceeding and we agreed to provide technical assistance to the group.

Generally, the initial issue to be addressed in the process of organizing an "unterminated" Tribe is that of specifying those persons entitled to participate. The position of the Agency on this subject is that, at a minimum, those persons entitled to organize the Tribe are those persons now living and listed on either (1) the Distribution Plan or (2) the Order of Determination of Heirs, and the lineal descendants of those persons. As stated above, your August 5, 1998, enrollment action is viewed by the Agency as extending to Ms. Burley and Ms. Reznor the right of participation. Thus, as of that date, you, Ms. Burley, and Ms. Reznor formed the group of persons entitled to participate in the organization of the Tribe.

We also recommended that the group consider eliciting the participation of descendants of those persons listed on the Census of Sheep Ranch-Indians, as attached to the letter by the Special Indian Agent, dated August 13, 1915, recommending the purchase of land that would later become the Sheep Ranch Rancheria. At this time, we do not know whether the group has formally considered this recommendation.

Another recommendation we made involved the initial form of government to be adopted by the group, and was based upon the General Council concept. To this end, we prepared a draft resolution that would establish a General Council as the governing body of the Tribe and empowered that body to act with regard to various aspects of the organization process. On November 5, 1998, the majority of the adult members of the Tribe, adopted Resolution #GC-98-01, thus establishing a General Council to serve as the governing body of the Tribe.

Resolution #GC-98-01 provided for the appointment of a Chairperson and the election of a Secretary/Treasurer. We do not have any record of the appointment of a Chairperson or the election of a Secretary/Treasurer. We do have two letters, both from Ms. Burley, the first dated April 2, 1999, wherein she asserts that she is the elected Secretary/Treasurer of the Tribe, and the second dated April 13, 1999, which states Ms. Burley's title as Secretary/Treasurer. The second letter also indicates a courtesy copy was sent to Yakima Dixie, Chairman.

The first of the two documents you provided us during our meeting on December 28, 1999, indicate that, at a special meeting held on April 20, 1999, the General Council accepted your resignation from the office of Chairperson. The second document contains two letters from you to Ms. Burley, dated April 21, 1999, wherein you assert that you "cannot and will not (resign) as Chairman" but "do give you...the right to act as a delegate to represent the Sheep Ranch Indian Rancheria." Prior to our meeting, we did not have copies of these documents in our records.

The next correspondence regarding the Tribe contained in our records is dated May 14, 1999, from Mary T. Wynne, Attorney at Law, which purported to transmit to the Agency several documents, including a constitution, an attorney contract, and a certification of election. However, a copy of the certification of election was not received by the Agency until May 27, 1999. The certificate states that an election occurred on May 8, 1999, pursuant to Article XIV of the constitution ratified the same day. As a result of the election, Ms. Burley became Chairperson, you became Vice-Chairperson, and Ms. Reznor became Secretary/Treasurer. Also contained in our records is a copy of the May 8, 1999, General Council Meeting Notice upon which your signature appears.

As for the attorney contract that was enclosed with the May 14, 1999, correspondence, the Agency by letter addressed to you and dated May 27, 1999, returned the proposed contract to the Tribe without action for a number of reasons, including the fact that the "Agency has not received any documentation from the tribe which would clarify how, when and where the leadership of the tribe changed from having Mr. Yakima Dixie be the Chairperson to Ms. Silvia Burley assuming that elected position." The Agency did not receive a written response from the Tribe addressing the lack of documentation. As stated above, the Agency did receive on May 27, 1999, copies of the Certificate of Election and the May 8, 1999, General Council Meeting Notice.

Analysis

You alleged that the events during April and May 1999 leading to the change in Tribal leadership resulted from fraud and your lack of awareness of what was happening during that period of time. You also requested that the Agency take action to clear up this matter. We cannot at this time fulfill your request that the Agency act to clear up this matter.

The general position of the Agency is that the appointment of Tribal leadership and the conduct of Tribal elections are internal matters. Tribal members reasonably believing such actions to be invalid have the right to appeal as a matter of due process. Appeals are to be made within a reasonable time after the election and in an appropriate manner as defined by Tribal law. Appeals are to be made directly to and resolved within the appropriate Tribal forum designated and empowered under Tribal law to process and decide such appeals.

When the appointment of Tribal leadership or the conduct of a Tribal election is the subject of an appeal, the Agency as a matter of policy continues to recognize the Tribal government as constituted prior to the appointment or election. Such recognition continues until either (1) the Agency is assured that the appeal is resolved, or (2) the Agency determines that resolution of the appeal within a reasonable time appears unlikely. In the first instance, the Tribe's assurance of resolution of the appeal is the basis for Agency acknowledgement of the newly appointed or elected officials of the Tribal government.

However, in the second instance, often the appointment of Tribal leadership or the conduct of a Tribal election becomes the center of a larger dispute, such that appeals are unlikely to be handled in a manner affording due process. The factions then will approach the Agency and request our recognition of each faction's actions. As a matter of policy, the Agency informs the Tribal government as constituted prior to the appointment or election that a continuing dispute regarding the composition of the governing body of the Tribe raises concerns that a duly constituted government is lacking. The Agency then advises the Tribe to resolve the dispute internally within a reasonable period of time, and that failure to do so may result in sanctions taken against the Tribe, up to and including the suspension of the government-to-government relationship between the Tribe and the United States. Such suspensions are rare, but they do occur.

With respect to your allegations regarding the transition in leadership of the Tribe, we view such allegations as the basis of an appeal regarding the appointment of Tribal leadership and the conduct of the May 8, 1999, Tribal election. Such an appeal should have been pursued within a reasonable time after the election was conducted, and made to the appropriate body empowered to decide such an appeal. Whether your letter of April 21, 1999, to Silvia Burley, wherein you expressed your inability to resign

from the office of Chairperson, was such an appeal is a question to be decided by the Tribe. As regards the May 8, 1999, Tribal election, you provided no evidence to us that you pursued or attempted to pursue those remedies available to you within the Tribe. If you possess such evidence, you should present it to the appropriate body empowered to process and decide an appeal. Thus, consistent with Agency policy, we cannot at this time fulfill your request that the Agency act to clear up this matter as this issue is an internal matter to be resolved by the Tribe.

Constitution of December 11, 1999

During our meeting on December 26, 1999, you provided us with a document entitled, "Constitution of Sheep (Ranch (Rancheria) Miwok Indian Tribe of California" (Constitution). The last page of the Constitution indicates that it was adopted on December 11, 1999.

Please find enclosed the Constitution. We return it to you, without action, as a formal request for review did not accompany the Constitution. Further, the body that acted on December 11, 1999, upon the document does not appear to be the proper body to so act.

Proposed Meeting of February 15, 2000

During our meeting on December 26, 1999, you requested that another meeting be held after we responded to your concerns. For this reason, and in light of the present dispute within the Tribe, we scheduled the requested meeting for Tuesday, February 15, 2000, at 11:30 a.m., to be held in the Conference Room of the Central California Agency. The purpose of this meeting will be to discuss the issues raised in light of the discussion above, as well as steps the Tribe may take to resolve this matter internally.

You also requested that only members of the General Council and one non-attorney representative for each side participate in this meeting. We understand that Rebecca Cuthill and your brother, Melvin Dixie, will be accompanying you to this meeting. Ms. Cuthill was present at our meeting on December 28, 1999. We briefly met with Melvin Dixie at the Agency on January 13, 2000, and informed him of the efforts made to formally organize the Tribe. At that time, he expressed an interest in being involved in that process. Since Melvin Dixie is the only remaining heir, other than you, identified in the Order of Determination of Heirs, he is entitled to participate in the organization of the Tribe.

A copy of this letter is being sent under separate cover letter to Ms. Burley so as to apprise her of your concerns and our position. The separate cover letter will provide Ms. Burley with notice of the February 15, 2000, meeting, as described in this letter.

6

Should you have any questions with regard to this matter, please contact Mr. Raymond Fry, Tribal Operations Officer, at (916) 566-7124.

Sincerely,


Dale Rising, Sr.
Superintendent

Enclosure

cc: Rebecca Cuthill (without enclosure)

APPENDIX DOCUMENT 7

ATTACHMENT 3



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Central California Agency
1824 Tribute Road, Suite J
Sacramento, CA 95815-4308



IN REPLY REFER TO:

FEB - 4 2000

Yakima K. Dixie, Vice-Chairperson
Sheep Ranch Rancheria
P.O. Box 41
Sheep Ranch, California 95250

Dear Mr. Dixie:

This correspondence serves three purposes. First, we respond to concerns raised by you and other persons purporting to be members of the Sheep Ranch Rancheria, during a meeting held at the Central California Agency (Agency) on December 28, 1999. Second, we respond to your delivery during the aforementioned meeting of the "Constitution of the (Sheep (Ranch Rancheria) Miwok Indian Tribe of California," purportedly adopted on December 11, 1999. Third, we give you notice of the meeting to be held on Tuesday, February 15, 2000, for the purpose of discussing further these issues among the members of the Tribe.

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At the conclusion of our meeting, we agreed to review our records and provide you with a response regarding your allegations. We also agreed that as a matter of protocol our response would be shared with the person presently recognized by the Agency as the Chairperson of the Tribe, Silvia Burley. We further agreed that our response would be among the subjects of discussion at a future meeting with the Tribe.

Background

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When the appointment of Tribal leadership or the conduct of a Tribal election is the subject of an appeal, the Agency as a matter of policy continues to recognize the Tribal government as constituted prior to the appointment or election. Such recognition continues until either (1) the Agency is assured that the appeal is resolved, or (2) the Agency determines that resolution of the appeal within a reasonable time appears unlikely. In the first instance, the Tribe's assurance of resolution of the appeal is the basis for Agency acknowledgement of the newly appointed or elected officials of the Tribal government.

However, in the second instance, often the appointment of Tribal leadership or the conduct of a Tribal election becomes the center of a larger dispute, such that appeals are unlikely to be handled in a manner affording due process. The factions then will approach the Agency and request our recognition of each faction's actions. As a matter of policy, the Agency informs the Tribal government as constituted prior to the appointment or election that a continuing dispute regarding the composition of the governing body of the Tribe raises concerns that a duly constituted government is lacking. The Agency then advises the Tribe to resolve the dispute internally within a reasonable period of time, and that failure to do so may result in sanctions taken against the Tribe, up to and including the suspension of the government-to-government relationship between the Tribe and the United States. Such suspensions are rare, but they do occur.

With respect to your allegations regarding the transition in leadership of the Tribe, we view such allegations as the basis of an appeal regarding the appointment of Tribal leadership and the conduct of the May 8, 1999, Tribal election. Such an appeal should have been pursued within a reasonable time after the election was conducted, and made to the appropriate body empowered to decide such an appeal. Whether your letter of April 21, 1999, to Silvia Burley, wherein you expressed your inability to resign

from the office of Chairperson, was such an appeal is a question to be decided by the Tribe. As regards the May 8, 1999, Tribal election, you provided no evidence to us that you pursued or attempted to pursue those remedies available to you within the Tribe. If you possess such evidence, you should present it to the appropriate body empowered to process and decide an appeal. Thus, consistent with Agency policy, we cannot at this time fulfill your request that the Agency act to clear up this matter as this issue is an internal matter to be resolved by the Tribe.

Constitution of December 11, 1999

During our meeting on December 26, 1999, you provided us with a document entitled, "Constitution of Sheep (Ranch (Rancheria) Miwok Indian Tribe of California" (Constitution). The last page of the Constitution indicates that it was adopted on December 11, 1999.

Please find enclosed the Constitution. We return it to you, without action, as a formal request for review did not accompany the Constitution. Further, the body that acted on December 11, 1999, upon the document does not appear to be the proper body to so act.

Proposed Meeting of February 15, 2000

During our meeting on December 26, 1999, you requested that another meeting be held after we responded to your concerns. For this reason, and in light of the present dispute within the Tribe, we scheduled the requested meeting for Tuesday, February 15, 2000, at 11:30 a.m., to be held in the Conference Room of the Central California Agency. The purpose of this meeting will be to discuss the issues raised in light of the discussion above, as well as steps the Tribe may take to resolve this matter internally.

You also requested that only members of the General Council and one non-attorney representative for each side participate in this meeting. We understand that Rebecca Cuthill and your brother, Melvin Dixie, will be accompanying you to this meeting. Ms. Cuthill was present at our meeting on December 28, 1999. We briefly met with Melvin Dixie at the Agency on January 13, 2000, and informed him of the efforts made to formally organize the Tribe. At that time, he expressed an interest in being involved in that process. Since Melvin Dixie is the only remaining heir, other than you, identified in the Order of Determination of Heirs, he is entitled to participate in the organization of the Tribe.

A copy of this letter is being sent under separate cover letter to Ms. Burley so as to apprise her of your concerns and our position. The separate cover letter will provide Ms. Burley with notice of the February 15, 2000, meeting, as described in this letter.

Should you have any questions with regard to this matter, please contact Mr. Raymond Fry, Tribal Operations Officer, at (916) 566-7124.

Sincerely,


Dale Risling, Sr.
Superintendent

Enclosure

cc: Rebecca Cuthill.(without enclosure)

APPENDIX DOCUMENT 8

MAR - 7 2000

Silvia Burley, Chairperson
Sheep Ranch Rancheria
1055 Winter Court
Tracy, California 95376

Dear Ms. Burley:

The purpose of this correspondence is to provide you with a summary of the discussion that occurred during a meeting on February 15, 2000, held at the Central California Agency (Agency), with Yakima Dixie, Vice-Chairperson of the Sheep Ranch Rancheria (Tribe), his brother Melvin Dixie, and other interested parties. The summary responds to the concerns you expressed in your letter dated February 15, 2000. We also respond to your requests expressed in your letter dated February 24, 2000.

The Meeting of February 15, 2000

At the request of Yakima Dixie, Vice-Chairperson, which he made during a meeting at the Agency with him and other interested parties on December 28, 1999, we scheduled a meeting to be held at the Agency on February 15, 2000. As explained in our February 4, 2000, letters to you and to Mr. Dixie, the purpose of that meeting was to discuss the issues raised in those letters, as well as steps the Tribe may take to resolve this matter internally. Mr. Dixie also requested that only members of the General Council and one non-attorney representative for each side participate in that meeting. We understood Mr. Dixie's request as a desire to ensure a free exchange of ideas among those persons comprising the body possessing authority to decide the issues.

By letters dated February 9, 2000, you informed the Agency that the Tribe concluded that the February 15, 2000, meeting was inconsistent with Tribal management of its own affairs. On that basis, you and Rashel Reznor declined to participate in that meeting.

On February 15, 2000, we informed Yakima Dixie, his brother Melvin Dixie, and other interested parties, of the decision of Rashel Reznor and you not to participate in the scheduled meeting. However, Yakima Dixie requested a brief meeting with us to address general questions arising from our February 4, 2000, letter to him. We agreed to meet for that limited purpose. The following is a summary of the ensuing discussion.

At the outset of the meeting, we reiterated to the parties present the Agency's position that the issues raised in our letter of February 4, 2000, are internal matters. As such, the parties present needed to seek redress within the appropriate Tribal forum empowered to process and decide such issues. We also reiterated our view, notwithstanding a Tribal decision to the contrary, that the appropriate Tribal forum is the General Council. At present, we view, again notwithstanding

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a Tribal decision to the contrary, the General Council as comprised of Yakima Dixie, Rashel Reznor, and you. The rights of Melvin Dixie, Rocky McKay, and other interested parties, to participate in the governance of the Tribe are to be determined by the appropriate Tribal forum, and are further discussed below.

Your Membership Status

The discussion then turned to the assertion by Yakima Dixie that his act of August 5, 1998, to accept Rashel Reznor, Anjelica Paulk, Tristian Wallace, and you, as enrolled members of the Tribe was a limited enrollment. He explained that he intended only to grant to the four of you such membership rights necessary to qualify the four of you for services offered by the Bureau of Indian Affairs to members of federally recognized tribes. Yakima Dixie stated that his intent was consistent with the context in which you originally approached him, seeking a means of obtaining additional assistance after such assistance previously provided to you by the Jackson Rancheria was discontinued. As evidence of his position, Yakima Dixie produced videotape of a meeting held at Yakima Dixie's residence on or about October 16, 1998, at which representatives from the Agency and the California Indian Legal Services were present. We viewed a portion of the videotape documenting a discussion of your potential eligibility as a member of the Tribe to receive scholarship, housing, and other assistance. Afterward, we expressed our view that it was unlikely that the Tribe would find such a limitation on your enrollment expressed in the videotape. Further, we pointed out the fact, as stated in our letter of February 4, 2000, that the documents signed by Yakima Dixie to effect your enrollment expressed no such limitation. Moreover, we explained that Yakima Dixie's subsequent actions tended to establish the contrary view that you possess full rights of membership, since Mr. Dixie only objected to your participation in the deliberations of the decision-making body of the Tribe many months after the transition in leadership.

Allegations of Fraud or Misconduct

The discussion then turned to the allegations of fraud or misconduct relative to the change in Tribal leadership during April and May 1999. Yakima Dixie asked what action we were going to take. We explained that there was no action for the Agency to take, consistent with our position as expressed in our letter of February 4, 2000, that the allegations are issues properly decided within the appropriate Tribal forum. Thus, we explained, in light of federal law and policy, there was no basis for Agency involvement, since this situation is a dispute of an internal nature.

Your Decision Not to Participate in the Meeting

Yakima Dixie then asked why you and Rashel Reznor did not attend the meeting, and whether we were going to do something about your lack of participation. We explained that attendance at the meeting was not mandatory. Our reasons for fulfilling Mr. Dixie's request were threefold. First, we believed fulfilling the request was appropriate to provide a safe neutral location for the meeting. Second, by hosting a meeting at the Agency, we would assure our availability to answer general questions regarding steps the Tribe may take to resolve this matter internally. Third, we believed the meeting would assure a free exchange of ideas among the persons comprising the body possessing authority to decide the issues. However, we believed that requiring the mandatory participation of the parties would likely be viewed as an intrusion into an internal matter of the Tribe.

We also discussed your letter to Yakima Dixie, dated February 9, 2000, wherein you informed Mr. Dixie of the Tribe's decision to extend to him a thirty-day period within which to raise his concerns and present his issues to the Tribe. We reiterated to Mr. Dixie of our position that, where issues are internal in nature, their resolution must be sought within the appropriate Tribal forum. In light of your letter and consistent with our position, we suggested that Mr. Dixie send to the Tribe a letter stating his claims and requesting a hearing. Moreover, we recommended Mr. Dixie provide the Tribe with notice of that address where he expected delivery of notices of Tribal meetings and other correspondence to occur. We also suggested that Mr. Dixie inform the Tribe of any circumstances which may limit his ability to participate in Tribal affairs, such as a lack of access to transportation or an inability to pay out-of-pocket costs of transportation. If Mr. Dixie believes such circumstances exist, he should request financial assistance from the Tribe or suggest alternatives he believes may reduce or eliminate potential barriers to his participation in Tribal affairs. We also suggested that Mr. Dixie provide the Agency with a courtesy copy of such a notice. To date, no such courtesy copy has been received at the Agency.

Ability of Rocky McKay to Participate

During the meeting, Rocky McKay presented us with an original affidavit from his mother, Wanda Lewis, wherein she states that Yakima Dixie is the true father of Mr. McKay. We briefly reviewed the document. We then expressed our view that Mr. McKay may be entitled to participate in the organization of the Tribe, if he can establish that he is a lineal descendant of Yakima Dixie, one of the heirs now living listed in the Order of Determination of Heirs issued on November 1, 1971, as reaffirmed by subsequent Order issued on April 14, 1993. Further, we informed Mr. McKay that the subject of what evidence is acceptable for establishing his lineal descendancy is an internal matter to be determined by the Tribe. Thus, Mr. McKay's ability to participate in the organization of the Tribe also depends upon whether he can provide that type of evidence determined by the Tribe to be acceptable for purposes of establishing lineal descendancy.

We then recommended that Rocky McKay provide to the Tribe a written request to be enrolled as a member of the Tribe. We also recommended that Mr. McKay enclose with his request any documents and other evidence he believed to be acceptable for establishing his lineal descendancy.

By way of a letter dated February 25, 2000, we informed Rocky McKay that the Tribe would likely view the affidavit from Wanda Lewis as insufficient evidence of Yakima Dixie's paternity. In general, where the Bureau of Indian Affairs is performing enrollment functions, a valid affidavit from the purported father is acceptable evidence of paternity. However, as stated previously, the subject of what evidence is acceptable for establishing paternity is an internal matter to be determined by the Tribe. Thus, we recommended that Mr. McKay obtain from Yakima Dixie a notarized affidavit asserting his paternity. We also recommended that Mr. McKay seek an amendment to his birth certificate, since Yakima Dixie is not named therein as the father. We further recommended that Mr. McKay request financial and technical assistance from the Tribe in obtaining an affidavit or any other evidence the Tribe may determine to be necessary to establish his eligibility for enrollment and membership in the Tribe.

In our February 25, 2000, letter to Rocky McKay, we expressed the view that the letter accompanying his correspondence dated November 22, 1999, from Yakima Dixie declaring his adoption of Mr. McKay as a member of the Tribe would likely be viewed by the Tribe as ineffective. Copies of these documents were faxed by the Agency to you on December 7, 1999. We also informed Mr. McKay that in general, only the Tribe, acting at a duly noticed, called, and convened meeting at which a quorum is present, is the proper body to consider and effect his enrollment in the Tribe.

Ability of Melvin Dixie to Participate

Also during the February 15, 2000, meeting, we discussed the right of Melvin Dixie to participate in the organization of the Tribe. We advised Melvin Dixie that he is entitled to participate in the organization of the Tribe because he is one of the heirs now living listed in the Order of Determination of Heirs issued on November 1, 1971, as reaffirmed by subsequent Order issued on April 14, 1993. We then recommended Mr. Dixie provide to the Tribe written notice of his present address and telephone number, as the present leadership and administration of the Tribe must have such information in order to deliver proper and timely notice of Tribal meetings. We further advised Mr. Dixie to inform the Tribe of any circumstances which may limit his ability to participate in Tribal affairs, such as a lack of access to transportation or an inability to pay out-of-pocket costs of transportation. If Mr. Dixie believes such circumstances exist, he should request financial assistance from the Tribe or suggest alternatives he believes may reduce or eliminate potential barriers to his participation in Tribal affairs.

In connection with Melvin Dixie's right to participate in the organization of the Tribe, we expressed the view that he would likely be requested to provide to the Tribe proof of his identity. We explained that the subject of what evidence is acceptable for establishing identity is an internal matter to be determined by the Tribe. Therefore, we suggested that Mr. Dixie provide written notice to the Tribe of his assertion of entitlement to participate in the organization of the Tribe, and to enclose documents and other evidence he believed to be acceptable for establishing his identity.

In a subsequent letter dated February 25, 2000, we further recommended that Melvin Dixie request financial and technical assistance from the Tribe in obtaining any other evidence the Tribe might determine to be necessary.

In the aforementioned letter, we also discussed our views related to an affidavit by Melvin Dixie. The affidavit was received at the Agency on February 1, 2000. In the affidavit, among other assertions, Melvin Dixie stated that he is the father of a son. In our letter, we recommended that Melvin Dixie provide to the Tribe a written request that his son be enrolled as a member of the Tribe. We suggested Mr. Dixie enclose with his request a photocopy of the birth certificate or provide other evidence establishing that he is the father of his son. We further suggested that Mr. Dixie obtain, if not already in his possession, a certified copy of the birth certificate naming Mr. Dixie as the father of his son. Moreover, we recommended that Melvin Dixie, should he not be named in the birth certificate, complete an affidavit asserting his paternity of his son, and have the affidavit notarized. We also suggested that Melvin Dixie seek an amendment to the birth certificate if he is not named as the father in the birth certificate. We then recommended that Melvin Dixie request assistance from the Tribe in obtaining a certified birth certificate, an affidavit, or any other evidence the Tribe might determine to be necessary to establish his son's eligibility for enrollment and membership in the Tribe.

Your Letter of February 15, 2000

As for your concern expressed in your letter of February 15, 2000, that the meeting of the same day with Yakima and Melvin Dixie and other interested parties was improper, we assure you that the meeting was completely proper. First and foremost, we agreed to meet, at the request of an officer of the Tribe's governing body, for the limited purpose of addressing general questions arising from our letter of February 4, 2000. Moreover, we reiterated to the parties present our position as expressed in our letter of February 4, 2000, that these issues are internal matters to be considered and acted upon by the appropriate Tribal forum. Thus, we believe that our actions were consistent with our responsibility to provide technical assistance, and with established policies of non-interference, deference to Tribal decision-making, and respect for Tribal self-determination and sovereignty.

Your Letter of February 24, 2000

In your letter of February 24, 2000, you requested copies of the "sworn affidavits" submitted to the Agency by Yakima Dixie "alleging fraud on the part of the Tribal Council and that Rocky McKay is his son." Unfortunately, we cannot fulfill your request, as no such documents by Mr. Dixie are maintained within the records of the Agency.

As to your statement that the Agency "refused" to provide the Tribe with information as to the address and location of Melvin Dixie, we have no record of a Tribal request for such information. Further, such information is contained in a system of records covered by the Privacy Act (5 USC § 552a). As such, we are unable to release this information to you without the express consent of Melvin Dixie. As stated above, we also suggested in our letter of February 25, 2000, that Mr. Dixie provide this information to the Tribe.

Your Letter Postmarked February 2, 2000

As for your undated letter, postmarked February 2, 2000, requesting that we forward a letter to Yakima Dixie regarding the Regular Tribal Meeting scheduled for February 7, 2000, we were unable to fulfill your request. The letter was received at the Agency on Thursday afternoon, February 3, 2000. Even if the Agency, within a twenty-four hour period, had processed and forwarded the letter via overnight mail, the meeting day of Monday, February 7, 2000, would likely be the earliest Yakima Dixie would have received the letter. Thus, we return to you the enclosed sealed envelope addressed to Yakima Dixie.

Conclusion

The issues surrounding the present leadership and membership of the Tribe are internal matters to be resolved within the appropriate Tribal forum. As a matter of policy, the Agency will not interfere in the internal matters of the Tribe. However, if in time a dispute regarding the composition of the governing body of the Tribe continues without resolution, the government-to-government relationship between the Tribe and the United States may be compromised. In such situations, the Agency will advise the Tribe to resolve the dispute internally within a reasonable period of time. The Agency will also inform the Tribe that its failure to do so may result in sanctions against the Tribe, up to and including the suspension of the government-to-government.

The Tribe, in the letter dated February 9, 2000, granted a thirty-day period of time to Yakima Dixie within which to raise his concerns and present his issues to the Tribe. This fact demonstrates that the Tribe is attempting to resolve this internal matter. We respectfully request that the Tribe inform us in writing of the action taken by the appropriate Tribal forum to resolve the dispute. We further request the Tribe's written response clearly explain what action was taken to resolve the dispute, the legal authority in Tribal law for the action, and the rationale for the action.

As always, Agency staff is available to the extent resources permit to provide the Tribe with technical assistance, upon your written request.

Should you have any questions with regard to this matter, please contact Mr. Raymond Fry, Tribal Operations Officer, at (916) 566-7124.

Sincerely,

Sgd. Dale Risling, Sr.

Dale Risling, Sr.
Superintendent

Enclosure

cc: 3703-P3 Sheep Ranch Rancheria FY 00
Tribal Operations Chron
Superintendent Chron
Blind Copy (Brian)

BGolding, Sr.:03/06/2000

APPENDIX DOCUMENT 9



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Central California Agency
650 Capitol Mall, Suite 8-500
Sacramento, CA 95814

IN REPLY REFER TO

MAR 26 2004

Certified Mail No. 7003 1680 0002 3896 9127
Return Receipt Requested

Ms. Sylvia Burley, Chairperson
California Valley Miwok Tribe
10601 Escondido Pl.
Stockton, California 95121

Dear Ms. Buxley:

This letter acknowledges our February 11, 2004, receipt of a document represented to be the tribal constitution for the California Valley Miwok Tribe. It is our understanding that the Tribe has shared this tribal constitution with the Bureau of Indian Affairs (BIA) in an attempt to demonstrate that it is an "organized" tribe. Regretfully, we must disagree that such a demonstration is made.

Although the Tribe has not requested any assistance or comments from this office in response to your document, we provide the following observations for your consideration. As you know, the BIA's Central California Agency (CCA) has a responsibility to develop and maintain a government-to-government relationship with each of the 54 federally recognized tribes situated within CCA's jurisdiction. This relationship, includes among other things, the responsibility of working with the person or persons from each tribe who either are rightfully elected to a position of authority within the tribe or who otherwise occupy a position of authority within an unorganized tribe. To that end, the BIA has recognized you, as a person of authority within the California Valley Miwok Tribe. However, the BIA does not yet view your tribe to be an "organized" Indian Tribe and this view is borne out not only by the document that you have presented as the tribe's constitution but additionally, by our relations over the last several decades with members of the tribal community in and around Sheep Ranch Rancheria. (Let me emphasize that being an organized vis-à-vis unorganized tribe ordinarily will not impact either your tribe's day-to-day operations but could impact your tribe's continued eligibility for certain grants and services from the United States).

Where a tribe that has not previously organized seeks to do so, BIA also has a responsibility to determine that the organizational efforts reflect the involvement of the whole tribal community. We have not seen evidence that such general involvement was

attempted or has occurred with the purported organization of your tribe. For example, we have not been made aware of any efforts to reach out to the Indian communities in and around the Sheep Ranch Rancheria, or to persons who have maintained any cultural contact with Sheep Ranch. To our knowledge, the only persons of Indian descent involved in the tribe's organization efforts, were you and your two daughters. We are unaware of any efforts to involve Yakima Dixie or Mr. Dixie's brother Melvin Dixie or any offspring of Merle Butler, Tillie Jeff or Lenny Jeff, all persons who are known to have resided at Sheep Ranch Rancheria at various times in the past 75 years and persons who have inherited an interest in the Rancheria. We are also not aware of any efforts to involve Indians(such as Lena Shelton) and their descendants who once lived adjacent to Sheep Ranch Rancheria or to investigate the possibility of involving a neighboring group. We are aware that the Indians of Sheep Ranch Rancheria were in fact, part of a larger group of Indians residing less then 20 miles away at West Point. Indeed, at your February 23, 2004 deposition, you yourself testified you were at one time of the West Point Indian Community; we understand as well, that you had siblings residing there for many years. The BIA remains available, upon your request, to assist you in identifying the members of the local Indian community, to assist in disseminating both individual and public notices, facilitating meetings, and otherwise providing logistical support.

It is only after the greater tribal community is initially identified that governing documents should be drafted and the Tribe's base and membership criteria identified. The participation of the greater tribal community is essential to this effort. We are very concerned about the designated "base roll" for the tribe as identified in the submitted tribal constitution; this "base roll" contains only the names of five living members all but one whom were born between 1960 and 1996, and therefore would imply that there was never any tribal community in and around Sheep Ranch Rancheria until you met with Yakima Dixie, asking for his assistance to admit you as a member. The base roll, thus, suggests that this tribe did not exist until the 1990's, with the exception of Yakima Dixie. However, BIA's records indicate with the exception not withstanding, otherwise.

Base membership rolls are used to establish a tribe's cohesiveness and community at a point in time in history. They would normally contain the names of individuals listed on historical documents which confirm Native American tribal relationships in a specific geographical region. Since tribes and bands themselves did not usually possess such historical documents, therefore, tribal base rolls have included persons listed on old census rolls, Indian Agency rolls, voters rolls, etc. Our experience with your sister Miwok tribes (e.g., Shingle Springs Rancheria, Tuolumne Rancheria, Ione Band, etcetera) leads us to believe that Miwok tradition favors base rolls identifying persons found in Miwok tribes stretching from Amador County in the North to Calaveras and Mariposa Counties in the South. The Base and Enrollment criteria for these tribes vary; for example, Amador County tribes use the 1915 Miwok Indian Census of Amador County, El Dorado County tribes utilize the 1916 Indian Census Roll, tribe(s) in Tuolumne County utilize a 1934 IRA voters' list. The base roll typically constitutes the

cornerstone of tribal membership and based upon our experience, has been the basic starting point and foundation for each of the Miwok tribes in our jurisdiction, i.e., the Ione Band of Miwok Indians, Shingle Springs Rancheria and Tuolumne Rancheria.

We must continue to emphasize the importance of the participation of a greater tribal community in determining membership criteria. We reiterate our continued availability and willingness to assist you in this process and that via PL 93-638 contracts intended to facilitate the organization or reorganization of the tribal community, we have already extended assistance. We urge you to continue the work that you have begun towards formal organization of the California Valley Miwok Tribe.

If we can assist your efforts in any way, please contact Raymond Fry, Manager, Tribal Services, at (916) 930-3794.

Should you wish to appeal any portion of this letter, you are advised that you may do so by complying with the following:

This decision may be appealed to the Regional Director, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825. In accordance with the regulations in 25 CFR Part 2 (copy enclosed). Your notice of appeal must be filed in this office within 30 days of the date you receive this decision. The date of filing or notice is the date it is post marked or the date it is personally delivered to this office. Your notice of appeal must include your name, address and telephone number. It should clearly identify the decision to be appealed. If possible attach a copy of the decision. The notice of and the envelope which it is mailed, should be clearly labeled "NOTICE OF APPEAL." The notice of appeal must list the names and addresses of the interested parties known to you and certify that you have sent them copies of the notice.

You must also send a copy of your notice to the Regional Director, at the address given above.

If you are not represented by an attorney, you may request assistance from this office in the preparation of your appeal.

If no timely appeal is filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

Dr. ————— Sr.

Dele Rising, Sr.
Superintendent

CC: Pacific Regional Director
Debora Luther, Assistant US Attorney
Myra Spicker, Deputy Solicitor
Yakima Dixie Tribal Member

APPENDIX DOCUMENT 10

ATTACHMENT 7



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

FEB 11 2005

Mr. Yakima K. Dixie
Sheep Ranch Rancheria of MiWok Indians of California
11178 Sheep Ranch Rd.
P.O. Box 41
Sheep Ranch, California 95250

Dear Mr. Dixie:

I am writing in response to your appeal filed with the office of the Assistant Secretary – Indian Affairs on October 30, 2003. In deciding this appeal, I am exercising authority delegated to me from the Assistant Secretary – Indian Affairs pursuant to 209 DM 8.3 and 110 DM 8.2. In that appeal, you challenged the Bureau of Indian Affairs' ("BIA") recognition of Sylvia Burley as tribal Chairman and sought to "nullify" her admission, and the admission of her daughter and granddaughters into your Tribe. Although your appeal raises many difficult issues, I must dismiss it on procedural grounds.

Your appeal of the BIA's recognition of Ms. Burley as tribal Chairman has been rendered moot by the BIA's decision of March 26, 2004, a copy of which is enclosed, rejecting the Tribe's proposed constitution. In that letter, the BIA made clear that the Federal government did not recognize Ms. Burley as the tribal Chairman. Rather, the BIA would recognize her as "a person of authority within California Valley Miwok Tribe." Until such time as the Tribe has organized, the Federal government can recognize no one, including yourself, as the tribal Chairman. I encourage you, either in conjunction with Ms. Burley, other tribal members, or potential tribal members, to continue your efforts to organize the Tribe along the lines outlined in the March 26, 2004, letter so that the Tribe can become organized and enjoy the full benefits of Federal recognition. The first step in organizing the Tribe is identifying putative tribal members. If you need guidance or assistance, Ray Fry, (916) 930-3794, of the Central California Agency of the BIA can advise you how to go about doing this.

In addition, your appeal to my office was procedurally defective because it raised issues that had not been raised at lower levels of the administrative appeal process. In May 2003, you contacted the BIA to request assistance in preparing an appeal of the BIA's recognition of Ms. Burley as tribal Chairman. You specifically stated that you were not filing a formal Notice of Appeal. In June 2003, you filed an "Appeal of inaction of official," pursuant to 25 C.F.R. §2.8, with the Central California Agency Superintendent challenging the BIA's failure to respond to your request for assistance. In August 2003, you filed another "Appeal of inaction of official"

2

with the Acting Regional Director challenging the failure of the Superintendent to respond to your appeal of the BIA's inaction. Your appeal with my office, however, was not an "Appeal of inaction of official." Rather, your "Notice of Appeal" challenged the BIA's recognition of Ms. Burley as tribal Chairman and sought to nullify the Tribe's adoption of her and her family members. Those issues were not raised below. They are not, therefore, properly before me.

In addition, your appeal appears to be untimely. In 1999, you first challenged the BIA's recognition of Ms. Burley as Chairman of the Tribe. In February 2000, the BIA informed you that it defers to tribal resolution of such issues. On July 18, 2001, you filed a lawsuit against Ms. Burley in the United States District Court for the Eastern District of California challenging her purported leadership of the Tribe. On January 24, 2002, the district court dismissed your lawsuit without prejudice and with leave to amend, because you had not exhausted your administrative remedies by appealing the BIA's February 2000 decision. After the court's January 24, 2002, order, you should have pursued your administrative remedies with the BIA. Instead, you waited almost a year and a half, until June 2003, before raising your claim with the Bureau. As a result of your delay in pursuing your administrative appeal after the court's January 24, 2002, order, your appeal before me is time barred.

In light of the BIA's letter of March 26, 2004, that the Tribe is not an organized tribe, however, the BIA does not recognize any tribal government, and therefore, cannot defer to any tribal dispute resolution process at this time. I understand that a Mr. Troy M. Woodward has held himself out as an Administrative Hearing Officer for the Tribe and purported to conduct a hearing to resolve your complaint against Ms. Burley. Please be advised that the BIA does not recognize Mr. Woodward as a tribal official or his hearing process as a legitimate tribal forum. Should other issues arise with respect to tribal leadership or membership in the future, therefore, your appeal would properly lie exclusively with the BIA.

Sincerely,



Michael D. Olsen
Principal Deputy
Acting Assistant Secretary - Indian Affairs

Enclosure

cc: Sylvia Burley
Troy M. Woodward, Esq.
Thomas W. Wolfrum, Esq.
Chadd Everone

APPENDIX DOCUMENT 11

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

**CALIFORNIA VALLEY MIWOK
TRIBE, formerly SHEEP RANCH OF
ME-WUK INDIANS OF CALIFORNIA**

Plaintiff,

vs.

**UNITED STATES OF AMERICA
GALE A. NORTON, Secretary of the
Interior,**

and

**MICHAEL D. OLSEN, Acting Assistant
Secretary – Indian Affairs**

Defendants.

No. 1:05CV00739

Judge James Robertson

DEFENDANTS' MOTION TO DISMISS

Defendants hereby move to dismiss this suit for lack of subject matter jurisdiction pursuant to FRCP 12 (b)(1), or, in the alternative, for failure to state a claim upon which relief may be granted pursuant to FRCP 12(b)(6).

A Memorandum in Support of this motion is attached.

Dated this 5th day of August, 2005.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CALIFORNIA VALLEY MIWOK
TRIBE, formerly SHEEP RANCH OF
ME-WUK INDIANS OF CALIFORNIA

Plaintiff,

vs.

UNITED STATES OF AMERICA
GALE A. NORTON, Secretary of the
Interior,

and

MICHAEL D. OLSEN, Acting Assistant
Secretary – Indian Affairs

Defendants.

No. 1:05CV00739
Judge James Robertson

MEMORANDUM IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS

KELLY A. JOHNSON
Acting Assistant Attorney General

JAMES M. UPTON
Trial Attorney
General Litigation Section
Environmental & Natural Resources Division
U.S. Department of Justice
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ATTORNEYS FOR DEFENDANTS

TABLE OF CONTENTS

INTRODUCTION	1
SUMMARY OF ARGUMENT	5
FACTUAL BACKGROUND	5
ARGUMENT	9
I. THIS COURT LACKS SUBJECT MATTER JURISDICTION.	9
A. Rule 12(b)(1) Motions	9
B. The Court Lacks Jurisdiction to Adjudicate an Internal Tribal Dispute.	9
C. The Government Has Not Waived its Sovereign Immunity	11
II. ALL OF PLAINTIFF’S CLAIMS SHOULD BE DISMISSED FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES.	12
A. Rule 12(b)(6) Motions.	12
B. The Failure to Exhaust Administrative Remedies is Properly Pled Under a 12(b)(6) Motion.	13
C. Exhaustion of Administrative Remedies in General.	14
D. The Circuit Standards for Ruling Upon a “Non-Jurisdictional” Failure to Exhaust Administrative Remedies	15
1. The Exhaustion of Remedies Includes Two Distinct Legal Concepts.	15
2. Required Two-Part Analysis	16
3. Part I of the Avocado Plus Analysis: Whether Requiring Exhaustion of Remedies Here Would Serve the Purposes of the Exhaustion Doctrine.	17
a. The Plaintiff has Ignored the Department’s Administrative Process	17

b. The Doctrine of Exhaustion Protects the Agency’s Autonomy	18
c. Requiring Exhaustion Would Aid Judicial Review.	18
d. Requiring Exhaustion Would Promote Judicial Economy. . .	19
e. The Plaintiff Failed to Exhaust Its Administrative Remedies.	19
4. Part II of the Advocado Plus Analysis: Whether Balancing the Interests of the Plaintiff and the Institutional Interests of the U.S. Department of the Interior Weighs in Favor of Requiring Exhaustion of Remedies, Here.	20
III. PLAINTIFF’S CLAIMS FOR FAILURE TO RECOGNIZE THE TRIBE’S CONSTITUTION AND TO RECOGNIZE THE TRIBE’S FORUM ARE NOT CLAIMS UPON WHICH RELIEF MAY BE GRANTED AND SHOULD BE DISMISSED.	21
A. Section 476(h) of the IRA Does Not Contain an Unequivocal Waiver of Sovereign Immunity.	23
B. Section 476(h) of the IRA Does Not Require the Department To Recognize a Tribe As “Organized,” Absent Adoption of the Governing Documents By a Majority of the Members of the Greater Tribal Community.	24
C. The Federal-Tribal Relationship.	26
D. Defendants’ Position Is Consistent With the Canons of Statutory Construction	28
E. Plaintiff Fails to State a Claim Because It Fails To Allege That A Majority Adopted Its Constitution or the Tribal Resolution Establishing a Forum. . . .	30
CONCLUSION	32

TABLE OF ATTACHMENTS

ATTACHMENT A	Plaintiff's Opposition to Defendant's Motion to Transfer Venue and to Suspend Obligation to Answer in the District of Columbia (July 8, 2005), pp. 1-3, <u>California Valley Miwok Tribe v. United States</u> , No. 05-CV-00739 (JR) (D.D.C.).
ATTACHMENT B	Complaint for Injunctive and Declaratory Relief (April 29, 2002), <u>California Valley Miwok Tribe v. United States</u> , No. CIV. S-02-0912-FCD GGH (E.D. Cal.).
ATTACHMENT C	Memorandum and Order (July 1, 2004), <u>California Valley Miwok Tribe v. United States</u> , No. CIV. S-02-0912 FCD GGH (E.D. Cal.).
ATTACHMENT D	Declaration of Fred Doka, Jr. in Support of Defendant's Motion to Transfer (November 10, 2004), <u>California Valley Miwok Tribe v. United States</u> , No. CIV. 1:04CV1794 RWR (D.D.C.).
ATTACHMENT E	Supplemental Declaration of Fred Doka, Jr. (July 29, 2005), <u>California Valley Miwok Tribe v. United States</u> , No. 05-CV-00739 (JR) (D.D.C.)
ATTACHMENT F	Letter dated June 10, 2003, to Honorable Ben Nighthorse Campbell, Chairman, Committee on Indian Affairs from David L. Bernhardt, Director of Congressional and Legislative Affairs and Counselor to the Secretary, Department of Interior and letter dated October 23, 2003, to Honorable Richard Pombo, Chairman, Committee on Resources, from David L. Bernhardt, Director of Congressional and Legislative Affairs and Counselor to the Secretary, Department of Interior
ATTACHMENT G	Order (August 28, 2003), <u>Williams v. United States</u> , No. CIV. S-01-2040 WBS JFM (E.D. Cal.).

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CALIFORNIA VALLEY MIWOK
TRIBE, formerly SHEEP RANCH OF
ME-WUK INDIANS OF CALIFORNIA

Plaintiff,

vs.

UNITED STATES OF AMERICA
GALE A. NORTON, Secretary of the
Interior,

and

MICHAEL D. OLSEN, Acting Assistant
Secretary – Indian Affairs^{1/}

Defendants.

No. 1:05CV00739

Judge James Robertson

MEMORANDUM IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS

INTRODUCTION

Plaintiff California Valley Miwok Tribe^{2/} challenges the government's "decision" (allegedly contained in the February 11, 2005 letter from Michael Olsen, Acting Principal Deputy Assistant Secretary - Indian Affairs to Mr. Yakima Dixie,^{3/}) not to recognize: (1) the Tribe's

^{1/} This is not Mr. Olsen's correct title.

^{2/} At the present time, the California Valley Miwok Tribe (hereafter, "Tribe") lacks "a governing body duly recognized by the Secretary of the Interior" as required by 28 U.S.C. § 1362. As explained *infra* while the Tribe seeks to appeal the Secretary's decision that the Tribe does not have a recognized governing body, that decision became final over a year ago.

^{3/} See Paragraph No. 6 of Prayer for Relief and Plaintiff's Opposition to Defendants' Motion to Transfer Venue and Suspend Obligation to Answer in District of Columbia, filed on

constitution adopted by the Tribe in September, 2001 as a legitimate governing document, Comp. at ¶¶ 21, 30, 32, 42, 43, and 45; (2) Ms. Sylvia Burley as the Tribal Chairperson, *id.* at ¶¶ 14, 15, 19, 22, 23, 27, 28, 29, 36, 37, 40, 41, and 45; and (3) the tribal forum created by Tribal Council Resolution No. R-1-02-04-2004, *id.* at ¶¶ 38, 45, and 46. In short, Plaintiff seeks to have this Court settle an internal tribal dispute by declaring that Plaintiff's constitution, leader and tribal forum are legitimate, even though they are not supported by the will of the tribal membership⁴ - - that is, not supported by a majority if the "whole tribal community." See Exhibit No. 3 attached to the Complaint (Letter of March 26, 2004 from the Superintendent of the BIA's Central California Agency to Sylvia Burley⁵).

Plaintiff has asserted that the February 11, 2005 Olsen letter to Mr. Yakima Dixie is the

July 11, 2005. Plaintiff's Opposition states that this action was filed "... seeking declaratory relief from the February 11, 2005 letter of Michael D. Olsen in view of 25 U.S.C. [sec] 476(h)." Pl. Opp. at 2). Plaintiff adds that the Olsen letter is "[t]he only event giving rise to the instant case ..." [Emphasis supplied] (Pl. Opp. at 3). (Excerpt of Pl. Opp attached as Attachment A).

⁴ Plaintiff's Complaint asks this Court to declare the following: 1) that the Plaintiff retains "inherent sovereign power to adopt governing documents under procedures other than those specified in 25 U.S.C. § 476 (a-g);" 2) that the constitution adopted by the Tribe in 2001 is a valid governing document for the Tribe; 3) that Tribal Council Resolution R-2-3-16-2000 adopted by the Tribe on March 16, 2000 which resolved that Yakima Dixie waived his right to contest his resignation is a valid governing document; 4) that Tribal Council Resolution R-1-02-04-2004 adopted by the Tribe on February, 2004 to provide a tribal forum for Yakima Dixie's appeal is a valid governing document; 5) that the Tribe "has lawfully organized pursuant to 25 U.S.C. § 476;" and 6) that the February 11, 2005 letter from Defendant Michael D. Olsen in his capacity as Acting Assistant Secretary – Indian Affairs to Yakima Dixie is invalid. Plaintiff has brought two previous cases alleging similar facts. The first was dismissed for lack of jurisdiction and is currently pending before the Court of Appeals for the Ninth Circuit. C.A. No. 04-16676. The second was voluntarily dismissed before this court. CIV. 1:04CV1794 RWR.

⁵ In this letter, BIA concluded that the Plaintiff tribe was not "organized" and therefore, BIA could neither recognize the Tribe's constitution as a valid document nor recognize Sylvia Burley as the Tribal Chairperson. The letter specifically informed Ms. Burley that she could file an administrative appeal from this decision under 25 C.F.R. Part 2 (2004).

“only event giving rise to the instant case...” (Pl. Opposition to Defendants’ Motion to Transfer Venue and Suspend Obligation to Answer in the District of Columbia, filed July 11, 2003 at 3). This assertion is consistent with Paragraph 6 of the Prayer for Relief requesting that the Olsen letter be declared “invalid,” but not requesting that the March 26, 2004 letter be declared invalid.

Mr. Olsen, however, did not render the particular decisions plaintiff attempts to challenge in this action.⁹⁷ More notably, the Olsen letter refers to the March 26, 2004 letter as “BIA’s decision” and discusses the contents of the March 26th letter.

All three of Plaintiff’s claims arise from the BIA’s March 26, 2004 decision letter. If there is only one event giving rise to this lawsuit, then it is the issuance of this decision letter from which all claims flow. This conclusion is based upon the March 26, 2004 decision that the finding that the Plaintiff tribe is not “organized”. Based upon this finding, the BIA refused to recognize the tribal constitution and to recognize Ms. Burley as Tribal Chairperson. The BIA’s refusal to recognize the tribal forum created by Tribal Resolution R-1-02-04-2004 also necessarily flows from its March 26, 2004 decision that the Tribe is not “organized” and, therefore, can adopt no governing documents until it becomes “organized.” It also flows from Defendants alleged failure to recognize the tribal constitution because, as Plaintiff alleges in its

⁹⁷ Mr. Olsen rendered other decisions in his letter: He determined that: (1) an appeal submitted by Yakima Dixie was moot; (2) that Mr. Dixie raised new issues that had not been previously raised at a lower level of his administrative appeal; and (3) that Mr. Dixie’s appeal was untimely. None of these decisions is at issue this lawsuit.

⁷¹ As Mr. Olsen repeatedly observes in his letter of February 11th, the decisions Plaintiff seeks to challenge in this litigation were made in March 2004 and conveyed at that time directly to Silvia Burley. Despite providing appeal rights, no administrative challenge has ever been made to these decisions. Thus, they became final several months prior to Mr. Olsen’s February 11th letter.

“First Claim for Relief” (¶¶ 49(a) and (b) of Complaint), the 2004 tribal resolution creating the tribal forum and the tribal constitution are both tribal governing documents. Accordingly, it follows that the refusal to recognize the tribal constitution implicitly encompasses any and all tribal governing documents.

Plaintiff predicates its claims on the Administrative Procedure Act (“APA”), 5 U.S.C. § 701, *et seq.*, and the Indian Reorganization Act (“IRA”), 25 U.S.C. § 476 (h), (the Native American Technical Corrections Act). Defendants hereby move to dismiss this action for lack of subject matter jurisdiction pursuant to FRCP 12(b)(1) or, alternatively, for failure to state a claim upon which relief may be granted pursuant to FRCP 12(b)(6). Subject matter jurisdiction is absent because the resolution of internal tribal disputes are not within the court’s limited jurisdiction.

Alternatively, Plaintiff fails to state a claim under the APA because the decisions which are challenged in this suit were made in March, 2004, and have never been administratively appealed, as authorized by Section 2.6(a) of 25 C.F.R. Part 2 (See ATTACHMENTS D and E). As to its claims under the IRA, Plaintiff cannot show that Defendants’ March 26, 2004, decision violated the IRA. Plaintiff’s argument relating to the IRA is also without merit. Section 103 of the Native American Technical Corrections Act of 2004 which added subsection (h) to Section 16 of the IRA (25 U.S.C. § 476 (h)), simply confirmed the right of Indian tribes to adopt their own governing documents outside the provisions of that IRA. The added subsection did not do away with the substantive and procedural requirements of IRA and the Secretary’s regulations when a tribe sought to reorganize pursuant to it and in return to obtain the Secretary’s approval of its governing document pursuant to the act.

Sylvia Burley (born in 1960) and her two daughters have changed the name of the Sheep Ranch Rancheria of Me-Wuk Indians, and seek legitimacy as a tribe consisting only of them and their descendants. In its prior suit against the government in the Eastern District of California (California Valley Miwok Tribe v. United States, et al., No. CIV. 5-02-0912 FCD GGH), the Tribe alleged in the Complaint: “Plaintiff claims it is an Indian tribe with a potential membership of 250 people . . .” (Copy of Complaint appended as ATTACHMENT B). These 250 people, in our opinion, constitute the “whole” (or a least) “greater” tribal community discussed in the March 26th letter, which is not reflected in the present membership of the Tribe.

SUMMARY OF ARGUMENT

This case should be dismissed for lack of subject matter jurisdiction because it involves, in essence, an internal tribal dispute. In the alternative, it should be dismissed for failure to state a claim upon which relief may be granted under the Administrative Procedure Act because Plaintiff failed to exhaust its administrative remedies and because the supposed violation of the Indian Reorganization Act is not supported by the facts alleged.

FACTUAL BACKGROUND

In 1998, the BIA Central California Agency recognized the right of certain individuals to “ ‘participate in the initial organization of the Tribe.’ ”²⁹ (¶ No. 11 of General Allegations of the Complaint). Following the Tribe’s general election in May of 1999, the BIA’s Central California Agency recognized Sylvia Burley as Tribal Chairperson in June, 1999. (Paragraph Nos. 14 and 15 of General Allegations of Complaint).

²⁹ Organizing the tribe entails identifying the greater tribal membership, drafting governing documents, and seeing that those documents are adopted by the membership.

In October, 1999, the Tribal Council adopted a resolution on “Interim Operations Authorities and Rights.” (§ No. 25 of the General Allegations). In July of 2000 and 2001, the BIA’s Central California Agency confirmed its recognition of Sylvia Burley as Tribal Chairperson. (§§ Nos. 27 and 28 of General Allegations).

In a June 7, 2001 letter, Ms. Burley withdrew the Tribe’s initial request for the review of the Tribal constitution and the scheduling of a Secretarial Election to approve this constitution. (§ No. 30 of the General Allegations).

In an October 31, 2001, letter to Sylvia Burley, the Superintendent of the BIA’s Central California Agency stated, in pertinent part, as follows:

The Agency will continue to recognize the Tribe as an unorganized Tribe and its selected officials as an Interim Tribal Council until the Tribe takes steps to complete the Secretarial election process. Agency staff is available to provide technical assistance in this matter upon receipt of the Tribe’s written request. We are returning the original document [the September, 2001 tribal constitution] without any action.

[Emphasis added.] (§§ Nos. 32 and 21). In 2001, Yakima Dixie filed suit filed in federal district court for the Eastern District of California, “. . . challenging the Tribe’s membership and leadership;” the suit was dismissed in 2002, in part, for failure to exhaust administrative remedies. (§§ Nos. 31 and 33 of Complaint; Attachment C to Memorandum in Support of Defendants’ Motion to Transfer Venue and Suspend Obligation to Answer in District of Columbia). (Copy of Attachment C appended hereto as Attachment C.) Around October of 2003, Mr. Dixie filed an “Administrative Appeal” to the Deputy Assistant Secretary - Indian Affairs raising the same issues that were raised in the Eastern District of California suit. (§ No. 35).

On February 11, 2004, the Tribe transmitted a copy of its September 2001 constitution to the Superintendent of the BIA's Central California Agency for BIA's "... records, and not for review." (§ No. 42). In a March 26, 2004 letter to Sylvia Burley, the Superintendent states, in pertinent part, as follows:

Although the Tribe has not requested any assistance or comments from this office in response to your document, we provide the following observations. As you know, the BIA's Central California Agency (CCA) has a responsibility to develop and maintain a government-to-government relationship with each of the 54 federally recognized tribes situated within the CCA's jurisdiction. This relationship includes, among other things, the responsibility of working with the person or persons from each tribe who either are rightfully elected to a position of authority within the tribe or who otherwise occupy a position of authority within an unorganized tribe. However, the BIA does not view your tribe to be an 'organized' Indian Tribe and this view is borne out by the document you have presented as the tribe's constitution but additionally, by our relations over the last several decades with members of the tribal community in and around Sheep Ranch Rancheria .

* * *

When a tribe that has not previously organized seeks to do so, BIA also has a responsibility to determine that the organizational efforts reflect the involvement of the whole tribal community. We have not seen evidence of such general involvement was attempted or has occurred within the purported organization of your tribe. For example, we have not been made aware of any efforts to reach out to the Indian communities in and around the Sheep Ranch Rancheria, or to persons who maintained any cultural contact with the Sheep Ranch. To our knowledge, the only persons of Indian descent involved in the tribe's organization efforts, were you and your two daughters. We are unaware of any efforts to involve Yakima Dixie or Mr. Dixie's brother Melvin Dixie or any offspring of Merle Butler, Tillie Jeff or Lenny Jeff, all persons who have resided at Sheep Ranch Rancheria at various times in the past 75 years and persons who have inherited an interest in the Rancheria. We are also not aware of any efforts to involve Indians (such as Lena Shelton) and their descendants who once lived adjacent to Sheep Ranch Rancheria or to investigate the possibility of involving a neighboring group. We are aware that the Indians of the Sheep Ranch Rancheria were in fact, part of a larger group of Indians residing less than 20 miles away at West Point. * * * The BIA remains available, upon your request, to assist you in identifying the members of the local Indian community, to assist in disseminating

both individual and public notices, facilitating public meetings, and otherwise providing logistical support.

It is only after the greater tribal community is initially identified that governing documents should be drafted and the Tribe's base and membership criteria identified. The participation of the greater tribal community is essential to this effort. We are very concerned about the designated 'base roll' for the tribe as identified in the submitted tribal constitution ***

* * * *

We must continue to emphasize the importance of the participation of a greater tribal community. We reiterate our continued availability and willingness to assist you in this process and that via PL 93-638 contracts intended to facilitate the organization or reorganization of the tribal community, we have already extended assistance. we urge you to continue the work you have begun towards formal organization of the California Valley Miwok Tribe. * * *

* * * *

Should you wish to appeal any portion of this letter, you are advised you may do so by complying with the following:

* * * *

If no timely appeal is filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

(emphasis added.) See Exhibit 3 attached to Complaint. In her effort to organize the tribe, therefore, Ms. Burley had failed to identify the greater tribal membership and obtain its support for her proposed constitution, which she acknowledged/asserted to exist in her prior complaint in the Eastern District of California (see supra, p. 5).

Defendant Olsen addressed the issue of the tribe's forum in a February 11, 2005 letter to Yakima Dixie which states, in pertinent part as follows:

Your appeal of the BIA's recognition of Ms. Burley as Tribal Chairman has been rendered moot by the BIA's decision of March 26, 2004, . . . rejecting the Tribe's proposed Constitution. In that letter, the BIA made clear that the

Federal government did not recognize Ms. Burley as the tribal Chairman. * * *

* * * *

In light of the BIA's letter of March 26, 2004, that the Tribe is not an organized tribe, however, the BIA does not recognize any tribal government, and therefore, cannot defer to any tribal dispute resolution process at this time. I understand that a Mr. Troy M. Woodward has held himself out as an Administrative Hearing Officer for the Tribe and purported to conduct a hearing to resolve your complaint against Ms. Burley. Please be advised that the BIA does not recognize Mr. Woodward as a tribal official or his hearing process as a legitimate tribal forum. * * *

ARGUMENT

I. THIS COURT LACKS SUBJECT MATTER JURISDICTION.

A. Rule 12(b)(1) Motions

In ruling on a FRCP 12(b)(1) motion to dismiss for lack of subject matter jurisdiction, the court is not limited to the allegations of the Complaint, but can consider matters outside the Complaint. Marsh v. Johnson, 263 F. Supp. 2d 49, 54 (D.D. C. 2003). Indeed, the factual allegations in the Complaint receive “closer scrutiny” than they do in the case of a FRCP 12(b)(6) motion. The principal rationale for this “closer scrutiny” is because “subject matter jurisdiction focuses on the court’s power to hear the claim.” (Id.) Bobreski v. U.S. Environmental Protection Agency, 284 F. Supp. 2d 67, 72 (D.D.C. 2003). Another rationale for this “closer scrutiny” is that a 12(b)(1) motion “ . . . focuses on the Court’s power to hear the claim.”(Id.). The Plaintiff has a burden of establishing by a preponderance of the evidence that the court has jurisdiction to adjudicate these three claims. U.S. v. ex rel. Rockefeller v. Westinghouse Electric Co., 274 F. Supp. 2d 10, 14 (D.D. C. 2003), aff’d sub nom. Rockefeller ex rel. U.S. v. Washington TRU Solutions, LLC, 2004 WL 180264 (D.C. Cir. 2004).

B. The Court Lacks Jurisdiction to Adjudicate an Internal Tribal Dispute.

At heart this case is about an internal tribal dispute between Yakima Dixie and Sylvia Burley over leadership and tribal organizational issues. Ms. Burley's submission of a constitution to the BIA in March 2004 was part of that dispute and the BIA's March 26, 2004 letter was the BIA's response to it. Plaintiff's claims, therefore, will necessarily require this court to settle that internal tribal dispute. The Plaintiff's prayer for relief is most telling. It requests the court to declare, among other things, that Ms. Burley's constitution is a valid governing document, that Ms. Burley is the tribal chairperson, and that the resolution establishing the tribal forum is a legitimate governing document. This court, however, lacks jurisdiction to resolve Plaintiff's claims and grant its requested relief.

As a general rule, federal district courts lack jurisdiction over internal tribal leadership disputes, membership issues, and organizational issues. In re Sac & Fox Tribe, 340 F.3d 749, 763 (8th Cir. 2003) (leadership); Smith v. Babbitt, 100 F.3d 556, 558-559 (8th Cir. 1996), cert. denied, 522 U.S. 807 (1997) (membership); Ordinance 59 Ass'n v. United States Dep't of the Interior, 163 F.3d 1150, 1159-1160 (10th Cir. 1998) (membership); Potts v. Bruce, 533 F.2d 527, 529-530 (10th Cir. 1976) (organizational issues), cert. denied, 429 U.S. 1002 (1976); Motah v. United States, 402 F.2d 1, 2 (10th Cir. 1968) (organizational issues). But see Seminole Nation of Oklahoma v. Norton, 223 F. Supp. 2d 122 (D.D.C. 2002).

There is a limited exception to this general rule when a federal statutory responsibility is implicated. In Seminole Nation of Oklahoma v. Norton, 223 F. Supp. 2d 122 (D.D.C. 2002) this court adjudicated a challenge by the Seminole Nation to the Secretary's refusal to recognize the tribal government and its principal chief because the Nation was excluding its Freedmen members from voting. But Seminole is distinguishable from the case at hand because in

Seminole the Secretary had a statutory responsibility to ensure the integrity of the tribal election process. In this case, the Defendants have no comparable statutory responsibility under Section 476(h) which would require the Secretary to review a tribal constitution, as opposed to review at the Secretary's discretion.

This case squarely involves an internal tribal dispute over leadership and organizational issues. First, Yakima Dixie and Sylvia Burley dispute who should lead the Tribe, as evidenced by Michael Olsen's February 11, 2005 letter about Mr. Dixie's challenge of Ms. Burley's leadership position. Second, Yakima Dixie and Sylvia Burley are presently working with the BIA along parallel lines to organize the tribe. Were the Court to adjudicate the Plaintiff's claims, it would necessarily decide these issues for the tribe. Under the authority cited above, the court does not have jurisdiction to do so. The case should be dismissed under FRCP 12(b)(1).

C. The Government Has Not Waived its Sovereign Immunity

_____The United States, its agencies and its employees may not be sued in the absence of a waiver of sovereign immunity. F.D.I.C. v. Meyer, 510 U.S. 471, 475 (1994); Loeffler v. Frank, 486 U.S. 549, 554 (1988); United States v. Testan, 424 U.S. 392, 399 (1976). The terms of the sovereign's consent define a court's jurisdiction. United States v. Sherwood, 312 U.S. 584, 586-87 (1941). Therefore, the United States, as a sovereign, is immune from suit except to the extent that it consents to be sued. Id.

Where suit is brought against the United States, as here, the United States' waiver of sovereign immunity is one of the cornerstones informing the court's jurisdiction. F.D.I.C., 510 U.S. at 475 ("Sovereign immunity is jurisdictional in nature"); United States v. Mottaz, 476 U.S. 834, 841 (1986) ("When the United States consents to be sued the terms of its waiver of

sovereign immunity define the extent of the court's jurisdiction")(emphasis added); Block v. North Dakota, 461 U.S. 273, 278 (1983)(same); *see also* United States v. White Mountain Apache Tribe, 537 U.S. 465, 472 (2003)("Jurisdiction over any suit against the [United States] Government requires a clear statement from the United States waiving sovereign immunity. . . together with a claim falling within the terms of the waiver"). The burden of establishing waiver of sovereign immunity rests at all times with the party asserting a claim against the United States, its agencies and/or its employees. Baker v. United States, 817 F.2d 560, 562 (9th Cir. 1987) (plaintiff "bears the burden of demonstrating an unequivocal waiver of immunity"), cert. denied, 487 U.S. 1204 (1988).

Here, Plaintiff has not identified any waiver of sovereign immunity which would allow it to bring suit on the claims at issue. Without such a waiver, this court has no subject matter jurisdiction over Plaintiff's claims.

II. ALL OF PLAINTIFF'S CLAIMS SHOULD BE DISMISSED FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES.

A. Rule 12(b)(6) Motions.

In ruling upon a FRCP 12(b)(6) motion, the court must accept the allegations of the complaint as true, but need not accept any of plaintiff's legal conclusions as true. Briton v. Palestinian Interim Self - Government Authority, 310 F. Supp. 2d 172, 177 (D.D.C. 2004); Coleman v. Elec. Power Co., 310 F. Supp. 2d 154, 157 (D.D.C. 2004), aff'd, No. 04-7043, 2004 WL 2348144 (D.C. Cir. Oct. 19, 2004). In the same vein, the court need not accept plaintiff's legal inferences or conclusory allegations unsupported by facts set forth in the complaint. Hopkins v. Women's Div., Gen. Bd. of Global Ministries, 238 F. Supp. 2d 174, 177-178 (D.D.C.

2002). Also, the court need not accept legal conclusions cast in the form of factual allegations.

In re Lorazepam & Clorazepate Antitrust Litigation, 295 F. Supp. 2d 30, 34 (D.D.C. 2003).

The court may take judicial notice of matters of a general public nature such as court records. Primorac v. CIA, 277 F. Supp. 2d 117, 119 (D.D.C.), aff'd, No. 03-5271, 2004 WL 869631 (D.C. Cir.2004).²⁹ In ruling on a 12(b)(6) motion, the court may consider public records and matters of which a court may take judicial notice. Jackson v. City of Columbus, 194 F. 3d. 737, 741 (6th Cir. 1999) overruled on other grounds sub nom., Swierkiewicz v. Sorema, N.A., 534 U.S. 506 (2002). Matters of “public record” include pleadings, orders and other papers filed with the court or records of administrative bodies. Barapind v. Reno, 72 F. Supp. 2d 1132, 1141 (E.D. Cal. 1999), aff'd, 225 F.3d. 1100 (9th Cir. 2000).

B. The Failure to Exhaust Administrative Remedies is Properly Pled Under a 12(b)(6) Motion.

The Second Claim for Relief in the Complaint alleges that all of Plaintiff’s three claims implicate the APA. See ¶¶ Nos. 53, 54, and 57. Plaintiff, however, has failed to exhaust administrative remedies and, therefore, the Complaint should be dismissed under FRCP 12(b)(6).

The BIA’s decision of March 26, 2004, which gave rise to all of Plaintiff’s claims, was appealable to the Regional (formerly Area) Director of BIA’s Pacific Regional Office. Under 25 C.F.R. Part 2 (2004). Plaintiff does not allege that it filed such an administrative appeal. Indeed, no such appeal has ever been filed. See ATTACHMENTS A and B hereto.

²⁹ But see Herron v. Veneman, 305 F. Supp. 2d 64, 69 (D.D.C. 2004) which held the court could not consider factual allegations in briefs or the memoranda of law, particularly when they contradict the complaint. This case can be distinguished because it concerns the government’s failure to use the proper format for its motion for summary judgment. Rather than prepare a Statement of Uncontroverted Facts with supporting documents, the government attached excerpts from its prior pleadings in Veneman.

This Circuit has held that even in the case of “non-jurisdictional” exhaustion, the failure to exhaust administrative remedies is properly pled under a 12(b)(6) motion. See Johnson v.

District of Columbia, 368 F. Supp. 2d 30, 36 (D.D.C. 2005):

In cases involving the application of the non-jurisdictional exhaustion requirement imposed by the Freedom of Information Act (“FOIA”), the D.C. Circuit has treated exhaustion as a condition precedent to filing suit in federal court. See Hidalgo v. F.B.I., 344 F.3d 1256, 1259-60 (D.C.Cir.2003); see also Wilbur v. C.I.A., 355 F.3d 675, 677 (D.C.Cir.2004). A plaintiff's failure to demonstrate that he or she has satisfied this condition, then, is tantamount to a failure to sufficiently plead a necessary element of a federal cause of action. Thus, when a federal court finds that the plaintiff failed to exhaust his or her administrative remedies, and the exhaustion requirement is prudential rather than jurisdictional, the appropriate disposition is to dismiss the plaintiff's unexhausted claims under Federal Rule of Civil Procedure 12(b)(6). In such a case, the plaintiff has in fact “failed to state a claim on which relief may be granted” with respect to the unexhausted claim or claims by failing to demonstrate that a necessary precondition to judicial review of those claims has been satisfied. In evaluating the defendants' exhaustion argument on the present motion, then, the Court will proceed under the legal standard applicable to Rule 12(b)(6) motions to dismiss.

Id.

C. Exhaustion of Administrative Remedies in General.

“Exhaustion of administrative remedies is generally required before filing suit in federal court so that the agency has an opportunity to exercise its discretion and expertise on the matter and to make a factual record to support its decision.” Oglesby v. United States Dep't of the Army, 920 F.2d 57, 61 (D.C. Cir. 1990) (citations omitted). Until a party has exhausted all administrative remedies required by a statute or an agency rule, it may not obtain judicial review of the challenged agency action. Darby v. Cisneros, 509 U.S. 137, 146-147 (1993). See also James v. United States Department of Health and Human Resources, 824 F.2d 1132, 1136-1137 (D.C. Cir. 1987) (held that suit filed by dissident tribal faction of an unrecognized Indian tribe seeking federal recognition of the Tribe by the Department of the Interior was properly dismissed

for failure to exhaust its administrative remedies). However, BIA's regulations, 25 C.F.R. Part 2 (2004) do not require exhaustion; thus, the type of exhaustion at issue is "non-jurisdictional" exhaustion (where exhaustion is provided for, but not mandated).

Although the BIA's regulations give rise only to the "non-jurisdictional" type of exhaustion, we submit that the exhaustion of remedies is a "condition precedent" to filing suit. Hidalgo v. Federal Bureau of Investigation, 344 F.3d 1256, 1258-59 (D.C. Cir. 2005). (dismissed for failing to pursue administrative appeal process); Johnson v. District of Columbia, 368 F. Supp. 2d 30, 32, 36-37 (D.D.C. 2005) (dismissed for failing to pursue administrative appeal process). Given the circumstances of this case, and based upon the strength of these two decisions alone, we submit that the Court should, as a "prudential" matter, dismiss the Complaint because of the Plaintiff's failure to exhaust its administrative remedies. We reiterate that Plaintiff does not even allege that it exhausted its administrative remedies, and, in fact, has never attempted to exhaust its administrative remedies.

If the Court should reject this contention, then, in the alternative, Defendants submit that the application of the two-part analysis in Advocado Plus, with respect to the "non-jurisdictional" form of exhaustion, to the facts of this case yields an outcome which clearly warrants dismissal of the Complaint. See discussion under subheading D below.

D. The Circuit Standards for Ruling Upon a "Non-Jurisdictional" Failure to Exhaust Administrative Remedies.

1. The Exhaustion of Remedies Includes Two Distinct Legal Concepts.

In Avocados Plus Inc. v. Veneman, 370 F.3d 1243, 1247-48 (D.C. Cir. 2004), supra, the United States Court of Appeals for this Circuit held that the defense of failure to exhaust

administrative remedies involves “two distinct legal concepts” the first of which is called “**non-jurisdictional exhaustion**.” (emphasis in original) (370 F. 3d at 1247). The first concept is “a judicially created doctrine requiring parties who seek to challenge agency action to exhaust available administrative remedies before bringing their case to court.” Id. “**Non - jurisdictional exhaustion**” serves three functions: “ ‘giving agencies the opportunity to correct their own errors, affording parties and courts the benefits of agencies’ expertise, and compiling a record inadequate for judicial review.’ ” Id.

The “second form of exhaustion arises when Congress requires resort to the administrative process as a predicate to the judicial review.” (Id.) This form of exhaustion – “**jurisdictional exhaustion**” is “rooted, not in prudential principles, but in Congress’ power to control the jurisdiction of the federal courts. [Citation omitted.]” (Id.) If a federal statute “mandates exhaustion”, then a federal court has no jurisdiction over the case in question “prior to exhaustion.” (370 F. 3d at 1248). Here, the Defendants are relying upon the “**non - jurisdictional**” form of exhaustion of remedies; under this form of exhaustion, the court has the discretion to require a plaintiff to exhaust its administrative remedies. (370 F. 3d at 1250-51).

2. Required Two-Part Analysis

In making its determination as to whether to so require a plaintiff, the court must conduct a two - part analysis: (1) determine whether requiring exhaustion would “serve the policies underlying the doctrine;” and if it would serve these policies, then (2) balance the “interest of the individual in retaining prompt access to a federal judicial forum against countervailing institutional interests favoring exhaustion,” (citing McCarthy v. Madigan, 503 U.S. 140, 147 (1992)). McCarthy holds that there are three “sets of circumstances” to be taken into account in

doing this balancing process. (*Id.* at 146-48). These are: (1) whether requiring exhaustion would prejudice a subsequent court action because of unreasonable or indefinite time frames for action by the administrative appellate entity; (2) whether the agency can grant effective relief; and (3) whether the administrative appellate body has been shown to be “biased” or has made a “prejudgment of the issue” before it.

In *James*, the Court of Appeals stated that exhaustion has four purposes:

First, it carries out the congressional purpose in granting authority to the agency by discouraging the frequent and deliberate flouting of administrative processes that could encourage people to ignore its procedures. Second, it protects agency autonomy by allowing the agency the opportunity in the first instance to apply its expertise, exercise whatever discretion it may have been granted, and correct its own errors. Third, it aids judicial review by allowing the parties and the agency to develop the facts of the case in the administrative proceeding. Fourth, it promotes judicial economy by avoiding needless repetition of administrative and judicial fact-finding, and by perhaps avoiding the necessity of any judicial involvement at all if the parties successfully vindicate their claims before the agency.

James, 842 F.2d at 1137-38. In this case, requiring exhaustion would serve the purposes of the doctrine.

3. Part I of the Avocado Plus Analysis: Whether Requiring Exhaustion of Remedies Here Would Serve the Purposes of the Exhaustion Doctrine.

a. The Plaintiff has Ignored the Department’s Administrative Process.

Congress granted broad authority over Indian affairs to the Secretary in 25 U.S.C. §§ 2 and 9, and 43 U.S.C. § 1457. Pursuant to that authority, the Secretary has adopted rules and regulations, including those governing agency appeals decisions - 25 C.F.R. Part 2. Section 2.6 of 25 C.F.R. Part 2 authorizes the exhaustion of administrative before seeking judicial review under the APA. In his March 26th decision, the Superintendent informed the Plaintiff of its right

to appeal the his decision to the Regional Director of BIA's Pacific Region. From there, 25 C.F.R. Part 2 provides that an appeal may be taken to the Interior Board of Indian Appeals. During the pendency of an appeal, the Superintendent's decision is stayed. Rather than pursue its administrative appeal rights under 25 C.F.R. Part 2 with respect to Defendants' alleged failure to recognize the tribal constitution, Ms. Burley as the purported Tribal Chairperson, and the Plaintiff ignored the administrative appeal process and waited over a year from the date the agency decision was issued and then filed this Complaint to obtain judicial review of the decision. Here, the Plaintiff is "deliberately flouting" the Defendants' administrative process.

b. The Doctrine of Exhaustion Protects the Agency's Autonomy.

Requiring exhaustion in this case would protect the Department of the Interior's autonomy in managing Indian affairs. As noted above, Congress has delegated to the Department broad authority over Indian affairs. The Department has extensive expertise over Indian matters. See e.g., Shenandoah v. United States, 159 F.3d 708, 712 (2d Cir. 1998); James, 824 F.2d at 1138; Goodface v. Grassrope, 708 F.2d 335, 352 (8th Cir. 1983). Exhaustion here would allow the agency to apply this expertise and its discretion, correct any error it may have made in the first instance prior to being subject to any judicial action. By going directly to district court, Plaintiff has deprived the Department of this opportunity.

c. Requiring Exhaustion Would Aid Judicial Review.

Requiring exhaustion here would aid judicial review by allowing a factual record to be developed prior to review. In this litigation, because the Plaintiff did not exhaust its administrative remedies, the only factual record for the court to review is Superintendent Risling's March 26, 2004 letter to Ms. Burley. Had Plaintiff exhausted its administrative

remedies, the Court would have before it Plaintiff's appeal to the Regional Director, the Regional Director's decision, any appeal the Plaintiff might have taken from that decision to the BIA, and the decision of that appeal. Without exhaustion, the record before the Court is limited.

d. Requiring Exhaustion Would Promote Judicial Economy.

Finally, requiring exhaustion would promote judicial economy by allowing this court to benefit from the development of the factual record as part of the administrative process. Because Plaintiff failed to exhaust its administrative remedies, this Court does not have the benefit of being able to review a factual record that should have been developed at the agency level and may need to be constructed here. __

Accordingly, Plaintiff should be required to exhaust its administrative remedies before seeking alleged judicial review. As demonstrated below, Plaintiff has not and indeed cannot allege, any facts to demonstrate that it exhausted its administrative remedies with respect to its claim concerning its constitution and Ms. Burley's status as Chairperson warranting dismissal of Plaintiff's Complaint.

e. The Plaintiff Failed to Exhaust Its Administrative Remedies.

On March 26, 2004, the Superintendent of the Central California Agency of the BIA wrote in reply to Ms. Burley declining recognition of the tribe as an 'organized' tribe and offering guidance as to the proper procedures to become organized. (Plaintiff's Exhibit 3) The BIA understood that she had submitted the Tribe's constitution "in an attempt to demonstrate that it [Plaintiff] is an 'organized' tribe." The purpose of the letter was to inform Ms. Burley that she had failed to make such a demonstration, explain the tribe's status as an unorganized tribe, and to offer guidance as to how the Tribe could become organized. The letter made two points, which

the Plaintiff's Complaint challenges: first, the Tribe's constitution did not qualify as a valid governing document because the broader tribal community was not involved in its adoption; second, Ms. Burley was not a government official of the Tribe, but was a "person of authority" with whom the BIA would deal. (Complaint ¶¶ 49(a), 53, 57, 58, 59). Plaintiff was informed of its right to appeal the decision to the Regional Director, and was provided a copy of the relevant regulations. The letter provided instruction on how to file an appeal and informed the Plaintiff that, if needed, it could receive assistance preparing its appeal from the Superintendent's office. Finally, the letter explained that if no timely appeal was filed, the decision would become "final" for the Department. (Emphasis added.)

The Plaintiff fails to allege anywhere in its Complaint that it appealed the March 26, 2004 decision. Because Plaintiff failed to avail itself of its administrative appeal rights within the time provided, all three of Plaintiff's claims, or in the alternative, the claims relating to the failure to recognize the tribal constitution and Ms. Burley as tribal Chairperson should, for the reasons set forth earlier, be dismissed for failure to state a claim upon which relief can be granted under Rule 12(b)(6). See e.g. Johnson v. District of Columbia, 368 F. Supp. 2d at 36-37; Hildalgo v. Federal Bureau of Investigation, 344 F.3d at 1257-1258.

4. Part II of the Advocado Plus Analysis: Whether Balancing the Interests of the Plaintiff and the Institutional Interests of the U.S. Department of the Interior Weighs in Favor of Requiring Exhaustion of Remedies. Here,

As noted, there are three "sets of circumstances" (three elements of the balancing test) that the Court must take into account when it rules upon a "non-jurisdictional" exhaustion Rule 12 (b)(6) motion. The first element is whether requiring exhaustion would prejudice a later court action because of lack of reasonable or definite timeframes for action by the appellate

administrative body. Plaintiff has not alleged that it would be prejudiced if it brought a later court suit. The second element is whether the administrative agency can afford the requested relief. Certainly, the Plaintiff here does not contend that Interior is not empowered to grant the requested relief. Finally, Plaintiff has not asserted that the administrative appellate entity to which Plaintiff could have appealed the March 26, 2004, BIA decision with respect to the claims concerning the failures to recognize the tribal constitution or Ms. Burley as Tribal Chairperson the Regional Director of BIA's Pacific Region, was "biased" or had made a "prejudgment" on the issues raised by these claims.

In sum, the application of the "balancing" test required as the second part of this Court's analysis of Defendants' FRCP 12(b)(6) motion weighs in favor of the institutional interests of the Department of the Interior, and therefore, a dismissal for failure to exhaust administrative remedies is clearly warranted.

**III. PLAINTIFF'S CLAIMS FOR FAILURE TO RECOGNIZE THE TRIBE'S
CONSTITUTION AND TO RECOGNIZE THE TRIBE'S FORUM ARE NOT
CLAIMS UPON WHICH RELIEF MAY BE GRANTED AND SHOULD BE
DISMISSED.**

Plaintiff alleges that the government's failures to recognize the tribal constitution and tribal forum constitute violations of Section 476(h) of the Indian Reorganization Act. See First Claim for Relief, ¶ 49 of Complaint. In the March 26, 2004 letter, Superintendent of the BIA's Central California Agency rejected the constitution submitted by Ms. Burley because she had not involved the greater tribal community, but rather had involved only herself and her two daughters. (Exhibit 3 attached to Complaint). Given the March 26, 2004 decision of the Superintendent that the Tribe was not "organized," Michael Olsen, in turn, reasonably concluded

(in his February 11, 2005 letter) that the BIA does not “recognize any tribal government” of the Plaintiff Tribe and, therefore, does not recognize the “tribal dispute resolution process at this time” as a “legitimate tribal forum.” (Exhibit 4 attached to Complaint). As noted, all of the Plaintiffs’ claims arose from the March 26, 2004 letter.

As stated earlier, a court may dismiss a complaint under Rule 12(b)(6) when the Complaint fails “to state a claim upon which relief can be granted.” A complaint may also be dismissed under Rule 12(b)(6) if relief cannot be granted on some set of facts consistent with the allegations in the complaint. Hishon v. King & Spaulding, 467 U.S. 69, 73 (1984). There is no duty on the part of the Department to recognize a governing document without a showing that the will of the membership supports. It has long been recognized that tribal authority derives from the will of the members:

In point of form it is immaterial whether the powers of an Indian tribe are expressed and exercised through customs handed down by word of mouth or through written constitutions and statutes. In either case the laws of the Indian tribe owe their force to the will of the members of the tribe.

Felix Cohen’s Handbook of Indian Law, 122 (1942). Indeed, the IRA requires that a majority of the tribe adopt the Tribe’s governing document. Plaintiff’s reliance on the 2004 addition of subsection (h) to Section 16 of the IRA is misplaced and without merit. As already noted, the plain language of subsection (h) (25 U.S.C. § 476(h)) is simply Congressional confirmation of the right of Indian tribes to adopt their own governing documents outside the provisions of that IRA. The subsection does not impose a duty on the part of the Department to recognize or approve governing documents adopted outside the provisions of the IRA, which imposes significant minimum participation requirements on the recognition of valid elections to adopt

tribal constitutions as a prerequisite for Secretary's approval. See 25 U.S.C. § 478(a). But in this case, Plaintiff failed to allege that a majority of the Tribe did so. Instead, the Plaintiff would have this Court find that the Department was arbitrary and capricious or otherwise violated the IRA in failing to recognize the governing document of the Tribe, a document that was supported by a small group – maybe three or four in number – and not by the majority of the members of the “greater tribal community.” (Exhibit No. 3 attached to Complaint). Without an allegation that a majority of the members of the greater tribal community approved or adopted the constitution, the Complaint does not support the relief Plaintiff seeks with respect to Defendants' alleged failures to recognize the Tribe's constitution and tribal forum. Accordingly, the Plaintiff's claims should be dismissed for failure to state a claim under Rule 12(b)(6).

A. Section 476(h) of the IRA Does Not Contain an Unequivocal Waiver of Sovereign Immunity.

In its First Claim for Relief, Plaintiff asserts that the Defendants' failure to recognize its claims alleging the tribal constitution and failure to recognize the tribal forum involve the violation of Section 476(h) of the IRA (First Claim for Relief, paras. 48-51). Section 476(h), however, does not contain a private right of action such that Plaintiff can properly allege that Defendants violated the statute. While the APA can provide the waiver of sovereign immunity to allege violations of statutes not containing private rights of action, Plaintiff has not invoked the APA in its First Claim for Relief.¹⁹ For example, Williams v. United States, et al, No. Civ. S-01-2040 WBS JFM, Order of August 28, 2003 (E.D. Cal) (Copy attached as Attachment G), individual tribal members based their suit, in part, on alleged violations of Section 476(f) and (g)

¹⁹ Plaintiff, has, however invoked the APA in its Second Count, but not in Count I.

of the IRA. The court held that nothing in these statutes reflected the existence of an “unequivocal waiver of sovereign immunity.” (Order at 6-7). Accordingly, because Section 476(h) does not embody an unequivocal waiver of sovereign immunity, the First Claim for Relief of Plaintiff’s Complaint should be dismissed under 12(b)(6).

B. Section 476(h) of the IRA Does Not Require the Department To Recognize a Tribe As “Organized,” Absent Adoption of the Governing Documents By a Majority of the Members of the Greater Tribal Community.

Under the IRA, of which section 476(h) is a part, a tribe becomes organized upon the adoption of governing documents by a majority vote of the adult tribal members. *See* 25 U.S.C. § 476(a)(1) and 478a; 25 C.F.R. § 81.7. Sections 476(a) and (c) lay out fairly detailed procedures and timetables binding on the Secretary in conducting constitutional elections when a tribe seeks to adopt or amend governing documents to be approved by the Secretary. The Plaintiff here asserts its organization is mandated under Section 476(h). This section provides:

Notwithstanding any other provision of this Act--

(1) each Indian tribe shall retain inherent sovereign power to adopt governing documents under procedures other than those specified in this section; and

(2) nothing in the Act invalidates any constitution or other governing document adopted by an Indian tribe after June 18, 1934, in accordance with the authority described in paragraph 1.

25 U.S.C. § 476 (h). Certainly, Section 476 is silent as to whether the Secretary has the authority to find that a tribe is not “organized,” and, therefore, to refuse to recognize a tribal forum, and to refuse to recognize of a tribal constitution (or a tribal resolution) which does not reflect the will of the membership of the greater tribal community – that is, a constitution adopted by the majority of the members of that community. When the language of a statute is not clear, a court

may resort to the legislative history thereof. E.g., Rotec Industries, Inc. v. Mitsubishi Corp., 215 F.3d 1246, 1252 (Fed. Cir. 2000). Where statutory language is subject to more than one interpretation, as is true of Section 476(h), the court may examine the legislative history. United States v. Braxtonbrown-Smith, 278 F.3d 1348, 1352 (D.C. Cir.), cert. denied, 536 U.S. 932 (2002). The very limited legislative history on this section provides that this section:

clarifies that Indian tribes that accepted the Indian Reorganization Act (IRA), 25 U.S.C. 476 are not required to adopt constitutions pursuant to the IRA and remain free to organize their governing bodies pursuant to organizational governing documents that they determine.

Senate Report 108-49 (May 15, 2003).

We submit that the legislative history of Section 476(h) should be viewed as encompassing Interior's comments on Section 103 of the S. 523^{11/}. Interior noted that it was unclear what Section 103 added to existing law. Interior stated that the IRA and Oklahoma Indian Welfare Act of 1936 form the statutory "basis for tribal reorganization."^{12/} These statutes:

"...guarantee notice, a defined process and minimum participation before a tribe's constitution is adopted. That process and minimum participation provides the Secretary with assurance that those with whom she deals in accordance with the Tribe's constitution represent the majority of tribal members."

(emphasis added.)

The 2003 interpretation of the IRA by Interior quoted above has effectively been held to be reasonable. Shakopee Mdewakanton Sioux (Dakota) Community v. Babbitt, 107 F. 3d 667, 670 (8th Cir. 1997). In Shakopee, the Secretary disapproved the results of the Secretarial

^{11/} The language of Section 476(h) is essentially identical to that of Section 103 of S. 523.

^{12/} See Interior's comments of June 10, 2003 and October 24, 2003 on Section 103 of S. 523 to the House and Senate Committee with jurisdiction over S.523. Copy attached as Attachment E.

election approving certain amendments to the community's tribal constitution. The Secretary interpreted the IRA as allowing him to reject such election results:

...when, as here, the Secretary is unable to determine whether an election has resulted in ratification by a majority of the voting members of the tribe as required by 25 U.S.C. 476(a)(1). We believe that this interpretation is reasonable.

(107 F.3d at 670.)

Although the Tribe initially requested on March 9, 2000, that the Secretary review the draft constitution and hold a Secretarial election under the IRA to approve the draft tribal constitution, (¶ 23 of Complaint), on June 7, 2001, the Tribe withdrew that request. (¶¶ 23 and 30). While we read Section 476(h) as having freed tribes from the procedural requirements of Section 476 (a) and (c), where the Secretary, at the tribe's request, calls and conducts the election, Section 476(h) does not negate the Secretary's authority to find that a tribe is "unorganized" and to refuse to recognize the tribe's constitution, because it does not reflect approval by the majority of the membership of the greater tribal community. The problem for the Plaintiff is that it has yet to identify its membership. Therefore, Mr. Burley's constitution cannot possibly have the requisite support of the membership in order for the BIA to accept it as a legitimate governing document. Section 476(h) cannot be fairly interpreted as requiring the Department to recognize a purported governing document whether it be a tribal constitution or the tribal resolution establishing a forum under such circumstances, as Plaintiff would have this court do. Such a reading of the statute would be contrary to the very nature of the federal-tribal relationship, as well as the canons of statutory construction.

C. The Federal-Tribal Relationship.

The will of the tribal membership is fundamental to the relationship between the federal

government and a tribe. Ransom v. Babbitt, 69 F. Supp. 2d 141, 153 (D.D.C. 1999). Congress delegated to the Secretary of the Interior broad authority over "public business relating to . . . Indians." 43 U.S.C. § 1457. In discharging this responsibility, the Secretary has an obligation to ensure that the government with which she deals actually represents the members of the tribe. The Supreme Court articulated that the Department has a responsibility to conduct business only with the lawfully constituted governing bodies, specifically those that represent the tribe. As articulated by the Court:

In carrying out its treaty obligations with the Indian tribes the Government is something more than a mere contracting party. Under a humane and self imposed policy which has found expression in many acts of Congress and numerous decisions of this Court, it has charged itself with moral obligations of the highest responsibility and trust. Its conduct, as disclosed in the acts of those who represent it in dealings with the Indians, should therefore be judged by the most exacting fiduciary standards. Payment of funds at the request of a tribal council which, to the knowledge of the Government officers charged with the administration of Indian affairs and the disbursement of funds to satisfy treaty obligations, was composed of representatives faithless to their own people and without integrity would be a clear breach of the Government's fiduciary obligation.

Seminole Nation v. United States, 316 U.S. 286, 295-96 (1942).

Consistent with the Supreme Court's decision in Seminole, the Secretary has a responsibility to determine that he or she is dealing with a government that is representative of the tribe as a whole. This duty to deal only with representative governments has made the majority the yardstick against which legitimacy of tribal governments are measured. See Shakopee, 107 F.3d at 670 (IRA allows Secretary to reject results of election when the Secretary cannot determine whether the results were ratified by a majority of qualified voters); Ransom, 69 F. Supp. 2d at 153 ("By not determining for themselves whether or not the Constitution was valid, [the BIA was] derelict in [its] responsibility to ensure that the Tribe make its own

determination about its government consistent with the will of the Tribe and the principles of tribal sovereignty.”) This is especially true when the Secretary is faced with two competing factions as is the case here. See Milam v. U.S. Department of the Interior, 10 ILR 3013, 3017, No. 82-3099 (D.D.C. 1982), (“The longstanding controversy that has divided the Indian tribes [sic] into competing factions has cast into doubt the representativeness of the General Council and its officers, and has threatened the integrity of the trust funds over which the BIA has ultimate authority and responsibility.”) (citations omitted). The key, therefore, to determining whether a group claiming to be leaders or a document held out as a governing document should be accepted by the Department as such, therefore, is to determine whether the group or the document reflects the will of the membership. Ransom, 69 F. Supp. 2d at 153; Morris v. Watt, 640 F.2d 404 (D.C.Cir. 1981); cf. Goodface, 708 F.2d at 339 (district court must defer to tribal process to resolve election dispute); see also Potts, 533 F.2d at 528 (claims by Business Committee member against BIA dismissed because BIA’s actions were supported by a majority of the tribe). The federal-tribal relationship, thus, is founded on the premise that the tribal governing documents and government reflect the will of the tribal membership.

D. Defendants’ Position Is Consistent With the Canons of Statutory Construction

In addition to the federal-tribal relationship, canons of statutory construction also support the conclusion that governing documents must be supported by the will of the tribal membership. First, courts presume that Congress knows the law when it passes a statute. Garrett v. United States, 471 U.S. 773, 793-94 (1985); Albernaz v. United States, 450 U.S. 333, 341-42 (1981). Because Congress is presumed to have known the law regarding the federal-tribal relationship

when it passed Section 476(h), Section 476(h) implicitly contains a reflection of that relationship by requiring that a majority of the tribal members support the tribe's governing document.

Second, it is a cardinal rule of statutory construction that a statute is to be read as a whole. Washington State Dep't of Social and Health Services v. Keffler, 537 U.S. 371, 384 n. 7 (2003). This means that sections of the same act are to be read together so as to be consistent. See, e.g., King v. Shaefer, 940 F.2d 1182, 1185 (8th Cir. 1991) *cited in Keffler, id.* In order to read Sections 476(a) and 476(h) consistently, Section 476(a)'s requirement of majority support must also apply equally to Section 476(h). Finally, it is a canon of construction that when a specific section and a general section conflict, the specific section controls. Cohn v. Federal Bureau of Prisons, 302 F. Supp. 2d 267, 273 (S.D.N.Y. 2004); Rodriguez v. West, 189 F.3d 1351, 1353 (Fed. Cir. 1999), cert. denied, 529 U.S. 1004 (2000). In this case, because Section 476(a) is more specific than Section 476(h), the Section 476(a) provision requiring majority support controls. Under these rules of construction, the requirement of majority approval contained in Section 476(a), therefore, also applies to Section 476(h).

In sum, in order for the Department to accept a governing document under the IRA, the document must reflect the will of the tribal membership. This is based on the nature of the federal-tribal relationship, as well as the IRA itself. Governing documents, whether adopted under Section 476(a) or recognized under Section 476(h), must, therefore, be adopted by a majority of the tribal members. This well-reasoned interpretation of the Department of the Interior (which is charged with administering the IRA) can properly be utilized by a court for guidance. Olmstead v. L.C. en rel. Zimring, 527 U.S. 581, 597-598 (1991). The Court must uphold the agency's interpretation so long as it is reasonable. Safe Food & Fertilizer v. EPA, 350

F. 3d 1263,1268, 358 U.S. App. D.C. 416 (D.C. Cir. 2003.)

E. Plaintiff Fails to State a Claim Because It Fails To Allege That A Majority Adopted Its Constitution or the Tribal Resolution Establishing a Forum.

Plaintiff asserts that Defendants violated Section 476 (and in turn the APA) by refusing to accept its constitution as a legitimate governing document, and by refusing to recognize its resolution establishing a tribal forum. (Complaint Para. 49 (a) & (b), and 53-59). But nowhere in its Complaint does the Plaintiff assert that the constitution, or the Resolution were adopted by, or even enjoyed the support of, the majority of the tribe. Indeed, this lack of support is exactly why, in March 2004, the Bureau of Indian Affairs ("BIA") refused to recognize the constitution and Ms. Burley as the Chairman. Plaintiff, in its litigation in the Eastern District of California, has asserted it has a potential membership of 250. Yet, it has asserted no evidence of the participation of the 250 in the current tribal membership.

In a letter from Superintendent Dale Risling of the BIA to Ms. Burley, dated March 26, 2004, (Plaintiff's Exhibit 3), the BIA explained that it could not accept the Plaintiff's constitution because it did not reflect the will of the majority of the tribal membership:

Where a tribe that has not previously organized seeks to do so, BIA also has a responsibility to determine that the organizational efforts reflect the involvement of the whole tribal community. We have not seen evidence that such general involvement was attempted or has occurred with the purported organization of your tribe. . . . To our knowledge, the only persons of Indian descent involved in the tribe's organization efforts, were you and your two daughters.

Id. (Emphasis added). Defendants found, therefore, that the constitution, reflected only the will of Ms. Burley and her two daughters; it did not reflect the will of the membership as a whole. Accordingly, the BIA's decision not to accept it as an organizational document was consistent with case law and the standards of the IRA.

The Plaintiff asserts also that the Defendants' failure to recognize the Tribe's Resolution establishing a tribal forum violates the IRA. Defendant Olsen addressed the issue of the Tribe's forum in a February 11, 2005, letter to Mr. Yakima Dixie, a member of the Tribe who opposes Ms. Burley's control of the Tribe. In his letter, Defendant Olsen concluded that the Tribe did not have a forum that the BIA could recognize because it is not an "organized" Tribe. He wrote:

In light of the BIA's letter of March 26, 2004, that the Tribe is not an organized tribe, however, the BIA does not recognize any tribal government, and therefore, cannot defer to any tribal dispute resolution process at this time. I understand that a Mr. Troy M. Woodward has held himself out as an Administrative Hearing Officer for the Tribe and purported to conduct a hearing to resolve your complaint against Ms. Burley. Please be advised that the BIA does not recognize Mr. Woodward as a tribal official or his hearing process as a legitimate tribal forum.

(emphasis added) (Plaintiff's Exhibit 4). Plaintiff's claim that Defendants violated the IRA by failing to recognize this forum should be dismissed for the same reason that the tribal constitution claim must fail – until the Tribe as a whole becomes "organized" and adopts its governing documents, there is no forum for the Department to recognize. Both the tribal constitution and tribal forum claims flowed from the March 26, 2004, decision letter. Thus, the conclusions contained in and/or flowing from the March 26th decision letter are neither arbitrary nor capricious. In addition, these conclusions do not constitute an abuse of discretion.

As demonstrated above, nothing in Section 476(h) or its legislative history imposes a duty on the Department to recognize the organization of a tribe, unless it is supported by the will of the greater tribal community. Plaintiff has failed to allege any facts to demonstrate that its constitution ever received the support of the majority of the greater Tribal community. To the contrary, Superintendent Risling's March 26, 2004, letter makes clear that the Department declined to accept the Tribe's constitution as a legitimate governing document precisely because

it did not reflect the will of the greater tribal membership. This, in turn, caused the Department to determine that Ms. Burley could not be recognized as a tribal chairperson and that the Tribe's forum could not be recognized as a legitimate forum. Accordingly, Plaintiff's claims under the IRA should be dismissed for failure to state a claim under Rule 12(b)(6) because the Defendants did not violate the IRA in refusing to recognize the tribal constitution, or tribal forum.

CONCLUSION

For the foregoing reasons, the Defendants request that this case be dismissed for lack of subject matter jurisdiction pursuant to FRCP 12(b)(1). In the alternative, the Defendant request that this case be dismissed for failure to state a claim upon which relief may be granted pursuant to FRCP 12(b)(6)^{13/}.

Dated this 5th day of August, 2005.

Respectfully submitted,

Electronically signed
JAMES M. UPTON
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General Litigation Section
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Attorneys for Defendants

Attachments

^{13/} A proposed Order is attached.

APPENDIX DOCUMENT 12



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Central California Agency
650 Capitol Mall, Suite 8-500
Sacramento, CA 95814-4710

IN REPLY REFER TO

OCT 26 2005

Sylvia Burley
California Valley Miwok Tribe
10601 Escondido Pl.
Stockton, CA 95212

Dear Ms. Burley:

This letter shall serve to acknowledge receipt at the Central California Agency of California Valley Miwok Tribal Resolution No. R-1-09-26-2005, on October 17, 2005.

This resolution authorized the Tribe to Reprogram Fiscal Year 2006, 2007 and 2008 Tribal Priority (TPA) Allocation funds in the amount of \$3,000 annually into the Bureau of Indian Affairs (BIA) Fee-to-Trust Program.

Since the BIA does not recognize any governing body for the Tribe, nor do we currently have a government-to-government relationship with the California Valley Miwok Tribe, we are returning this resolution without action.

If you have any questions, please do not hesitate to contact Raymond Fry, Tribal Operations Officer at (916) 978-3794.

Sincerely,

Troy Burdick
Troy Burdick
Superintendent

APPENDIX DOCUMENT 13

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

**CALIFORNIA VALLEY MIWOK TRIBE,)
Formerly, SHEEP RANCH OF ME-WUK)
INDIANS OF CALIFORNIA,)**

Plaintiff,)

v.)

**No. 1:05CV00739
Judge James Robertson**

**UNITED STATES OF AMERICA,)
GALE A. NORTON, Secretary of the)
Interior,)**

**JAMES E. CASON, Associate Deputy)
Secretary of the Interior,¹)**

Defendants.)

THIRD DECLARATION OF RAYMOND FRY

¹ David W. Anderson, formerly the Assistant Secretary - Indian Affairs, is no longer with the Department of the Interior. The position of Assistant Secretary - Indian Affairs is vacant. The duties of the Assistant Secretary have been delegated by the Secretary of the Interior to the Associate Deputy Secretary by Secretarial Order 3259, dated February 8, 2005, as amended on August 11, 2005. James E. Cason, Associate Deputy Secretary is substituted for Mr. Anderson pursuant to Fed. R. Civ. P. 25(d).

I, Raymond Fry, declare:

1. I am the Tribal Operations Officer for the Central California Agency (CCA), Bureau of Indian Affairs, located in Sacramento, California and I have personal knowledge of the facts set forth in this Declaration.
2. I have held that position since June of 1991, and I have worked and continue to work extensively with a large number of the 54 federally recognized tribes in our service area to organize their tribes and develop and strengthen their governmental infrastructures by conducting training conferences for all tribes covering a variety of subjects and by providing technical support and assistance to these tribes resulting in an enhanced government-to-government relationship between these tribes and the BIA.
3. It was and continues to be the practice within the BIA's Pacific Region in California, that if a tribe is federally recognized but has not formally re-organized by adopting a written governing document at an election duly noticed and open to all adults who are eligible for membership in the tribe, that the BIA would identify a spokesperson for the tribe whom we could maintain contact with on behalf of the tribe until such re-organization occurred.
4. On September 7, 1994, I assisted the California Valley Miwok Tribe, then known as the Sheep Ranch Rancheria, by preparing two documents for the Tribal Spokesperson Mr. Yakima K. Dixie, to consider and if acceptable sign and I have been working with

the California Valley Miwok Tribe since July of 1994, and on tribal leadership issues since 1998.

5. Mr. Yakima K. Dixie was a son of Mabel Hodges Dixie, the last occupant of the groups small, 0.9 of an acre Rancheria. As one of four heirs to Ms. Dixie's estate, Mr. Dixie is considered a divided interest holder of the former Rancheria land.
6. The other initial members of the group were Ms. Silvia Burley, her two daughters and minor granddaughter. Ms. Burley's ties to the Rancheria are remote. In a deposition taken in an earlier case brought to challenge the transfer of the land to Mr. Dixie, which Ms. Burley has appealed to the Ninth Circuit Court of Appeals where it is awaiting a decision, Ms. Burley indicated that Mabel Dixie's mother was her grandfather's sister.
7. By certified letter dated March 26, 2004, from the BIA, to Ms. Silvia Burley (see Exhibit No. 1), the Superintendent stated that he recognized Ms. Burley as a person of some authority within the Indian Community, but he did not recognize the Tribe as being organized or as having any dully adopted governing document. In accordance with provisions of 25 CFR Part 2, Administrative Appeals, Ms. Burley was provided notice of her appeal rights and a copy of the regulations, but she failed to file a Notice of Appeal or an Appeal within the prescribed 30-day timeframe.
8. By letter dated February 11, 2005, to Mr. Yakima Dixie, of the Sheep Ranch Rancheria of Miwok Indians of California, Michael D. Olsen, Principal Deputy, Acting Assistant Secretary-Indian Affairs, addressed Mr. Dixie's appeal as well as referencing the Central California Agency's March 26, 2004, correspondence which indicated that

the tribe was not organized and that the BIA did not recognize any tribal government or governing document being in effect. (See Exhibit No. 2) Mr. Olsen further stated:

I encourage you to continue, either in conjunction with Ms. Burley, other tribal members, or potential tribal members to continue your efforts to organize the Tribe along the lines outlined in the March 26, 2004, letter so that the tribe can become organized and enjoy the full benefits of Federal recognition.

9. By letter dated March 7, 2005, addressed to the BIA, CCA, Yakima Dixie made a formal request for action from Ray Fry, BIA, CCA Tribal Operations Officer "in the form of a written acknowledgement of his right to organize the tribe . . . in such terms as may be mutually agreeable. (See Exhibit No. 3)
10. In an April 8, 2005, letter to the Superintendent of the Central California Agency, Ms. Burley acknowledged the efforts by Judge Kathryn Lynn, administrative law judge from the Department's Office of Hearings and Appeals, to mediate the dispute between the tribe and Mr. Dixie. Ms. Burley's response to Judge Lynn's efforts was to state that Mr. Dixie was a tribal member and that the Tribe had no dispute with him. (See Exhibit No. 4) While Ms. Burley stated her belief that the Bureau was interfering in the internal matter of the Tribe, she also stated that the Tribe believed it could work out solutions that address the core concerns of the BIA while protecting the sovereignty of the Tribe.
11. By letter of August 30, 2005, Mr. Dixie, was notified that he had been dis-enrolled in accordance with the Miwok Customs and Traditions and with the California Valley Miwok Tribe's Enrollment Ordinance. (See Exhibit No. 5).

12. Principal Deputy, Acting Assistant Secretary Olsen's February 11, 2005, letter included the observation that the first step in organizing the Tribe is identifying putative tribal members and the offer that [i]f you need guidance or assistance, Ray Fry (916) 930-3794, of the Central California Agency of the BIA can advise you how to go about doing this. Based upon this suggestion, the BIA was contacted by both tribal factions to set up meetings to discuss the organization of the Tribe. (See Exhibit No. 2).
13. On March 10, 2005, at 2:00 pm, Mr. Gregory, the Pacific Regional Director, members of his staff, Mr. Morris, Central California Agency Acting Superintendent, and members of his staff including myself met with Ms. Silvia Burley, her attorneys, and tribal staff at the Pacific Regional Office, to discuss Mr. Olsen's February 11, 2005, letter. Prior to setting up this meeting, the BIA continuously encouraged each group to work together in this organization effort, but Ms. Burley indicated that she did not want Mr. Dixie or his representatives to be present at this meeting. The central theme of this meeting was to define roles and responsibilities of the tribe and the BIA in the overall organization efforts of the tribe.
14. On March 14, 2005, a meeting took place at the Central California Agency between the Acting Superintendent, Mr. Morris, BIA staff and representatives of both tribal factions including Yakima Dixie, Melvin Dixie (Yakima's brother) their representatives and a representative for Ms. Burley. The primary topic of discussion was again, the organization of the tribe and who would constitute the putative member class.

15. On July 8, 2005, BIA's Central California Agency staff met with Mr. Yakima Dixie's consultants, attorneys, Ms. Dequita Boire (daughter to Merle Butler, also a divided interest holder of the Rancheria), Ms. Velma Whitebear and other local Miwok Indians and Ms. Carla Bell, attorney for Ms. Burley. Mr. Yakima Dixie was unable attend this meeting. The Yakima Dixie group requested that Ms. Bell not be allowed to participate in the meeting as they wanted Ms. Burley there as they believed that at this juncture of time, she was the only individual who could make positive contributions to the discussions. To accommodate all, the BIA's Agency Superintendent, Mr. Burdick and myself met separately with both Mr. Dixie's group as well as with Ms. Bell. Mr. Dixie's group was asked by the BIA to submit a proposal for organizing the tribe. This request was passed on to Ms. Bell, who indicated that she would relay this information back to Ms. Burley. There were no documents provided by Ms. Burley to have Ms. Bell be the designated representative for Ms. Burley's group.
16. The main topics of discussion at these meetings included identifying the putative members of the Tribe, organizational processes that should be considered and concerns the Dixie group had regarding the use of P.L. 93-638 funds by the Tribe, under Ms. Burley's leadership, the use of the non-gaming revenue by Ms. Burley's faction and the lack of involvement at these multiple meetings by Ms. Burley herself.
17. The Bureau's efforts to assist in the organization of the Tribe are reflected in part in the attached collection of correspondence, meeting sign-in sheets and minutes. (See Exhibit No. 6)

18. The enhancement of self-determination by federally recognized tribes was captured in P.L. 93-638, the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. ' 450 *et seq.*)(commonly referred to simply as "638"), which stated the following purposes:

This Act is to provide maximum Indian participation in the Government and education of the Indian people; to provide for the full participation of Indian tribes in programs and services conducted by the Federal Government for Indians and to encourage the development of human resources of the Indian people; to establish a program of assistance to upgrade Indian education; to support the right of Indian citizens to control their own educational activities; and for other purposes.

19. The regulations implementing the Indian Self-Determination and Education Assistance Act, contained in 25 CFR Part 900, prescribe the contracting process and the roles and responsibilities of the tribes, as well as the federal government in the tribal self-determination process contained in P.L. 93-638. The Act and these federal regulations provide significant latitude to tribes who are proposing to enter into a contractual relationship with the federal government. For instance, a tribe may contract to administer all or part of a BIA authorized program, for periods of time ranging from one to three years in length. These programs may be redesigned to meet the tribe's needs as long as they do not violate federal law or regulation. Once the contracts are reviewed and awarded by the BIA, the provisions of those contracts must be met. An example of non-compliance may occur if specific funding is set aside by BIA for the administration of a particular program and the tribe attempts to reprogram those earmarked funds for other purposes, without first BIA approval for revising or

modifying their contract, which is a process required to redefine the use of those funds.

20. The Fee-To-Trust Consortium that the California Valley Miwok Tribe had proposed to join in FY 2006, 2007 and 2008, was initially developed by the tribes located within the service area of BIA's Central California Agency in 2000, for the express purpose of assisting tribes who had or who had anticipated acquiring land in fee, put into trust. Although the process by which the United States puts land into trust for the benefit of Indians and tribes is a BIA responsibility, BIA's Central California Agency, with 54 federally recognized tribes covering 26 counties in its service area, could not promptly process all of the pending fee-to-trust applications with the Realty staff and resources available. To remedy this, the tribes agreed to enter into a Memorandum of Understanding (MOU) with the BIA and to provide funding to the BIA to hire additional staff to carryout this process. (See Exhibit No. 7)
21. With the lack of sufficient staff to perform realty and environmental services required to process fee-to-trust land applications throughout the entire Pacific Region, the Fee-To-Trust consortium was expanded in 2001, to federally recognized tribes located throughout the state of California. The administrative oversight was elevated to the BIA's Pacific Regional Office. Requirements for tribes to join this Fee-To-Trust Consortium, included adopting a separate resolution, contributing a minimum of \$3,000.00 to the consortium and entering into an MOU. As of August 2005, there were 56 tribes participating in this Fee-To-Trust Consortium throughout the State of California. (See Exhibit No. 8 - sample resolution).

22. I am advised by the Solicitor's office in Washington, D.C., that the Department has initiated a review of the authority for and appropriateness of this fee to trust program in California generally.
23. California Valley Miwok Tribal Resolution No. R-1-09-26-2005, was enacted by Ms. Silvia Burley, Chairperson; Ms. Anjelica Paulk, Vice-Chairperson; and Ms. Rashel Reznor, Secretary-Treasurer, on September 26, 2005. (See Exhibit No. 9) Resolution R-1-09-26-2005, was received by the Agency on October 7, 2005. I reviewed the resolution to determine whether it was properly authorized (role of the Branch of Tribal Operations) by the recognized tribal government and prepared a response for the signature of BIA's Central California Agency Superintendent, which was issued October 26, 2005. (See Exhibit No. 10).
24. The reasons stated for returning the tribal resolution was that the "BIA does not recognize any governing body for the Tribe, nor do we currently have a government - to-government relationship with the California Valley Miwok Tribe." Although I did not reference the March 26, 2004, letter of Superintendent Dale Risling to Ms. Silvia Burley, the reasons I gave for taking no action on the resolution were based upon the decision contained in that letter. Superintendent Risling decided, based upon a review of a copy of the tribal constitution sent to the BIA (and other information available to the Superintendent), that the Tribe was not "organized" because it had not identified the members of the "greater tribal community," and, thus, the Tribe's organizational efforts up to that point "did not reflect the involvement of the whole tribal community." The Superintendent concluded that the BIA could neither recognize the

tribal constitution nor Ms. Burley as the Tribal Chairperson. I believe that my statement that the "BIA does not recognize any governing body for the Tribe" accurately reflects the language and intent of the March 26, 2004, letter. The March 26th letter does not appear to support the second stated reason for taking no action on the Tribal resolution, that is, that there is no "government-to-government relationship" between the Tribe and the federal government. There is a government-to-government relationship between the Tribe and the federal government but that relationship can not function fully in the absence of duly authorized representatives of the entire tribal community.

25. The BIA advised Ms. Silvia Burley by letter dated October 28, 2005, it was scheduling an annual on-site monitoring visit for November 28, 2005 (30 day Notice provided) and that the monitoring team would be composed of four individuals. (See Exhibit No. 11). The monitoring visit was agreed upon by the Tribe and BIA through the FY 2005 Annual Funding Agreement that was a part of the PL 93-638 which states:

The Secretary shall provide monitoring services to ensure the proper delivery of program services to Indian people, compliance to Contract terms, and to the Act, pursuant to 1(b)(7)(C)(i) and (ii) and Attachment 2 (V) (a) and (c) of this contract.

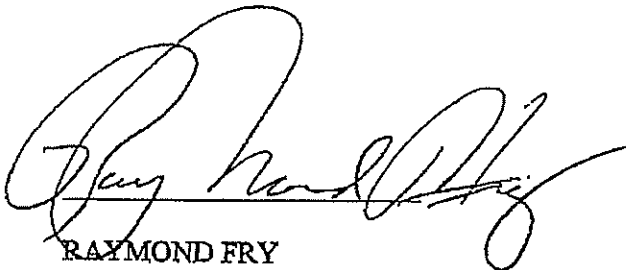
26. The October 28, 2005, letter informed the Tribe of the purpose of the monitoring visit and provided a copy of the standard guidelines for such visits entitled Purpose and Strategy - Official Monitoring Visit. (See Exhibit No. 12).

27. A November 7, 2005, letter from Ms. Burley to the Agency Superintendent BIA, Central California Agency, stated that [u]ntil we can reach agreement on the composition of a new monitoring team or appointment of a Special Master, the Tribe respectfully declines your request to schedule an on-site monitoring visit on November 28, 2005. (See Exhibit No. 13).
28. By letter dated November 15, 2005, the Agency acknowledged receipt of Ms. Burley's November 7, 2005, response and request. In the spirit of cooperation the BIA changed the makeup of the monitoring team and reaffirmed the scheduled monitoring trip date of November 28, 2005, at 10:00AM. (See Exhibit No. 14).
29. By letter dated November 17, 2005, Ms. Burley requested to reschedule the November 28, 2005, monitoring meeting to December 20, 2005, at 10:00 AM. (See Exhibit No. 15). Ms. Burley also stated in her letter that she would have a councilmember, tribal staff and legal counsel in attendance at the monitoring meeting and informed the BIA that the monitoring visit would be video taped.
30. By letter to Ms. Burley dated November 23, 2005, the Superintendent, BIA Central California Agency, indicated that the proposed December 20, 2005, date for monitoring was not feasible due to the our team's schedule, but that BIA would be willing to meet on either December 5, 2005, or December 12, 2005, at 10:00 am..(See Exhibit No. 16). The Superintendent agreed to having the tribe's proposed participants in attendance and video taping of the meeting.

31. By facsimile dated November 18, 2005, Ms. Burley, confirmed her availability for meeting with the Superintendent on December 12, 2005, at 1:00 pm. (See Exhibit No. 17).
32. By facsimile dated November 28, 2005, Ms. Burley agreed to the December 12, 2005, monitoring meeting date. Ms. Burley also requested to meet with the Superintendent of the BIA Central California Agency, to discuss issues prior to the monitoring visit. (See Exhibit No. 18).
33. In a letter dated December 6, 2005, the BIA Agency reminded Ms. Burley that she had cancelled the December 12, 2005, monitoring visit via a facsimile dated December 6, 2005. (See Exhibits No. 19 and 20). The Agency also indicated to Ms. Burley that it was imperative that monitoring take place and that December 20, 2005, would be a good date to complete this process.
34. By letter dated December 14, 2005, Ms. Burley cancelled without explanation the monitor meeting scheduled for December 20, 2005. (See Exhibit No. 21).

Pursuant to the provisions of 28 U.S.C. ' 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 3rd day of January 2006



RAYMOND FRY

APPENDIX DOCUMENT 14

ATTACHMENT 1

11/06/2006 10:34 FAX 916 830 3780

BIA CENTRAL CAL AGENCY

002/005



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Central California Agency
650 Capitol Mall, Suite 8-300
Sacramento, CA 95814-4710

IN REPLY REFER TO

CERTIFIED MAIL NO. 7003 1680 0002 3892 1019
RETURN RECEIPT REQUESTED

NOV - 6 2006

Ms. Silvia Burley
10601 Escondido Place
Stockton, California 95212

CERTIFIED MAIL NO. 7003 1680 0002 3892 1002
RETURN RECEIPT REQUESTED

Mr. Yakima K. Dixie
c/o Mr. Chadd Everone
2054 University Avenue, #407
Berkeley, California 94704

Dear Ms. Burley and Mr. Dixie:

The Bureau of Indian Affairs (BIA) remains committed to assist the California Valley Miwok Tribe (Tribe) (formerly Sheep Ranch Rancheria of the Me-Wuk Indians of California) in its efforts to reorganize a formal governmental structure that is representative of all Miwok Indians who can establish a basis for their interest in the Tribe and is acceptable to the clear majority of those Indians. We are writing you because of your claim of leadership of the Tribe.

The Central California Agency (Agency) has been meeting with both of you and your representatives for some time to discuss issues and to offer assistance in your organizational efforts for the Tribe. It is evident, however, that the ongoing leadership dispute is at an impasse and the likelihood of this impasse changing soon seems to be remote. Therefore, we renew our offer to assist the Tribe in the organizational process. Our intention is not to interfere with the Tribe's right to govern itself. Rather, we make this offer consistent with the well-established principle that the BIA has a responsibility to determine that it is dealing with a government that is representative of the Tribe as a whole. The authority and responsibility to take this action becomes evident once there is clear evidence that the dispute between competing leadership factions, such as yours, threatens to impair the government-to-government relationship between the Tribe and the United States.

The Agency, therefore, will publish a notice of a general council meeting of the Tribe to be sponsored by the BIA in the newspapers within the Miwok region. This will initiate the reorganization process. The notice shall invite the members of the Tribe and potential members to the meeting where the members will discuss the issues and needs confronting the Tribe. We have used this sort of general council meeting approach in other instances to help tribes reorganize when for various reasons the tribes lacked an organized tribal government that represented the entire membership.

CVMT-2011-001261

11/08/2006 16:34 FAX 916 930 3764

BIA CENTRAL CAL AGENCY

0003/003

-2-

It appears that you each have determined your membership criteria, and membership, and developed constitutions or governing documents. We understand, however, you do not agree on certain issues that are fundamental to the process of building an organized government. We propose to discuss the following issues that are preventing you from moving forward as a unified tribe:

- form of government;
- adoption of a constitution;
- organization under a federal statute (should the tribe decide to adopt a constitution);
- should the tribe adopt a constitution, what constitution will be used: the Dixie or Burley constitution, combination of both, or another;
- determining the census where membership is first listed, i.e., 1916 Sheep Ranch Rancheria census or other document;
- determining leadership of the tribe, i.e., holding a transitional election or agreeing to some type of power sharing.

The general council first needs to determine the type of government your tribe will adopt. Tribes do not always adopt constitutions; some govern according to the tribe's tradition or have some sort of power sharing in an open participatory type of government. Next, the general council needs to agree to the census or other documents that establishes the original members of the Rancheria. That census should be the starting point from which the tribe develops membership criteria. The immediate goal is determining membership of the tribe. Once membership is established and the general council determines the form of government, then the leadership issues can be resolved.

The Agency will coordinate the meeting by setting the date, time, location and other arrangements, but we would appreciate your suggestions, date, time, location, and possible agenda items. The BIA offers the assistance of an independent observer/mediator to facilitate the meeting or meetings. Please respond to the Agency concerning your willingness to participate in a meeting to discuss the issues in depth and begin the resolution process.

We very much desire that you both participate. We intend to conduct a fair and open process in which supporters of each of you can participate and be heard. We will proceed with this process, however, even if one or both of you declines to participate.

Please contact Carol Rogers-Davis, Acting Tribal Operations Officer, Central California Agency, at (916) 930-3764, to work with her on setting up the meeting.

Sincerely,


 Troy Burdick
 Superintendent

cc: Director, Pacific Region
 Regional Solicitor
 Director, Bureau of Indian Affairs
 Assistant Solicitor, Branch of Tribal Government & Alaska

CVMT-2011-001262

APPENDIX DOCUMENT 15

Ledger Dispatch

Wednesday, April 11, 2007

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THE BUREAU OF INDIAN AFFAIRS

Description

PUBLIC NOTICE The Bureau of Indian Affairs, Central California Agency (Agency) plans to assist the California Valley Miwok Tribe, aka, Sheep Ranch Rancheria (Tribe) in its efforts to organize a formal governmental structure that is acceptable to all members. The first step in the organizational process is to identify putative members of the Tribe who may be eligible to participate in all phases of the organizational process of the Tribe. Therefore, if you believe you are a lineal descendant of a person(s) listed below, you will need to complete Form OMB#1076-0153, Bureau of Indian Affairs, Request for Certificate of Degree of Indian or Alaska Native Blood, and provide a certified copy of a birth certificate, death certificate, or other official documentation as required to establish your relationship to a person(s) listed below or other documents acceptable to the Secretary of the Interior (Secretary), and submit them to the Bureau of Indian Affairs, Central California Agency, 650 Capitol Mall, 8-500, Sacramento, California 95814, postmarked on or before May 25, 2007. You may contact Carol Rogers-Davis, Acting Tribal Operations Officer, at (916) 930-3764, or Tia Sam, Tribal Operations Specialist, at (916) 930-3765, Bureau of Indian Affairs, Central California Agency, for the necessary information and to obtain the forms that will assist the Bureau Team in determining your eligibility. 1. August 13, 1915 - Census of Indians at or near Sheep Ranch, Calaveras County, California, which listed the following: 1. Peter Hodge 2. Annie Hodge 3. Malinda Hodge (Daughter of Peter and Annie Hodge) 4. Lena Hodge (Daughter of Peter and Annie Hodge) 5. Tom Hodge (Son of Peter and Annie Hodge) 6. Andy Hodge (Son of Peter and Annie Hodge) 7. Jeff Davis 8. Betsey Davis 9. Mrs. Limpey 10. John Tecumchey 11. Pinkey Tecumchey 12. Mamy Duncan (Granddaughter of Jeff Davis) 2. June 6, 1935, Approved List of Voters for Indian Reorganization Act of Sheep Ranch Rancheria, Calaveras County, California, which listed the following: 1. Jeff Davis 3. August 11, 1964, Approved Plan for Distribution of the Assets of the Sheep Ranch Rancheria, in accordance with provisions of Public Law 85-671, approved August 18, 1958, and amended by Public Law 88-419, which listed the following: 1. Mabel Hodge Dixie All individuals who have been determined to be eligible to participate in the organization of the Tribe will be notified by letter from the Agency. All individuals not determined eligible will be noticed of their right to appeal to the BIA, Pacific Regional Director within 30 days of receipt of decision. Upon rendering final decisions regarding appeals filed, the Agency will notify all individuals determined to be eligible of the organizational meeting which will include an agenda of the next actions to be taken by the group. 4/11, 4/18/07 CNS-1116998# AMADOR LEDGER DISPATCH April 11, 18 2007-S473

Details

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Posted On: 4/11/2007

Ad Expires: 4/20/2007

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APPENDIX DOCUMENT 16

EXHIBIT B

to

Affidavit of Robert J. Uram in Support of Plaintiffs'
Motion for Preliminary Injunction

Letter from Edith Blackwell, Associate Solicitor, Indian Affairs, to Peter Kaufman,
California Deputy Attorney General (Dec. 2, 2008) (the "Solicitor's Letter")



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240

IN REPLY REFER TO:

In reply, please address to:
Main Interior, Room 6513

Peter Kaufman, Esq.
Deputy Attorney General
110 West A Street, Suite 1100
San Diego, CA 92101

DEC 12 2008

Dear Mr. Kaufman:

This letter is in response to your telephone inquiry requesting information on the status of the leadership for the California Valley Miwok Tribe (CVMT). CVMT presents the Bureau of Indian Affairs (BIA) with a unique situation. The following summarizes the history of the Tribe and the current leadership dispute.

CVMT began as a rancheria set up for 12 individual Indians in 1916. The government set aside .92 acres of land on which those twelve individuals could live. In 1935, the sole adult member of the rancheria voted not to reject the Indian Reorganization Act (IRA).¹ In 1966, the Federal government undertook to terminate the rancheria by, among other things, distributing the assets of the rancheria to the rancheria's residents. Ultimately, the Federal government failed to take the steps necessary to complete terminate of the Federal relationship with the rancheria and the rancheria continued to exist. There was one resident, Mabel Hodge Dixie. For reasons that are not relevant to your inquiry, the government did not convey the property to Ms. Dixie successfully and ultimately held it in trust for her. When she died, her heirs inherited the 0.92 acre held in trust by the government. In 1998, Ms. Dixie's son, Yakima Dixie, resided on the rancheria land and was its only known member. That same year, Silvia Burley, a distant relative of Mr. Dixie, approached Mr. Dixie about adopting her, her two daughters, and her granddaughter into the Tribe so that they would be eligible for Indian health and education benefits. Mr. Dixie adopted Ms. Burley and her family.

Mr. Dixie and Ms. Burley became interested in organizing the tribe formally—that is establishing a tribal government. In 1999, the two of them approached the BIA for assistance. At that time, Mr. Dixie acted as the Tribe's leader and he held the title of "Chairman." On April 20, 1999, Ms. Burley submitted a purported letter of resignation from Mr. Dixie. The next day, Mr. Dixie asserted he never resigned his position and refused to do so. He claims that Ms. Burley forged his name on the resignation letter. After Mr. Dixie's purported resignation, Ms. Burley became leader of the Tribe, having been elected by herself and one of her daughters. Ms. Burley claimed the title of

¹ While it is common for people to refer to the Indians of a reservation as voting to accept the IRA, the act applied to a reservation unless a majority of the Indians voted against its application within a year, later extended for another year. See 25 U.S.C. § 478.

"Chairman." The BIA accepted her in this position but noted the leadership dispute between her and Mr. Dixie. On March 7, 2000, the BIA wrote in a letter to Ms. Burley that it would not interfere in the dispute unless the dispute continued without resolution and the government-to-government relationship between the United States and the Tribe became threatened. If the government-to-government relationship were to become threatened, the BIA advised, it would advise the Tribe to resolve the dispute within a reasonable period of time.

Ms. Burley and her daughters responded by attempting to organize the Tribe. Initially, they sought to organize the government under the provisions of the Indian Reorganization Act, but the BIA failed to call the requisite election on the proposed constitution.

In 2002, counsel purporting to represent the California Valley Miwok Tribe and Ms. Burley filed suit in the United States District Court for the Eastern District of California claiming the United States had breached its trust responsibilities and violated the California Rancheria by conveying the less than one acre of land to Ms. Dixie in 1967 when the tribe had potentially 250 members. The court dismissed the suit on grounds that it was filed beyond the six-year statute of limitations. The Ninth Circuit Court of Appeals affirmed in an unpublished opinion. *See California Valley Miwok Tribe v. United States*, No. 04-16676, 2006 WL 2373434 (9th Cir., Aug. 17, 2006)

Ultimately, in 2003, Ms. Burley tried to organize the Tribe under the Tribe's inherent sovereign authority without the supervision of the BIA. Ms. Burley submitted the Tribe's constitution to the BIA for informational purposes. The BIA reviewed the constitution and determined that it was not valid because Ms. Burley had failed in the process of developing and adopting the constitution to include other Indians with legitimate ties to the Tribe. On March 26, 2004, the BIA informed Ms. Burley that the Tribe remained unorganized and had no government. Because the Tribe had no government, it could not have a governmental leader. The BIA would not recognize Ms. Burley as Chairman, that is, the governmental leader of the Tribe. Instead the BIA would deal with her as a "spokesperson" or "person of authority" for the Tribe for the purposes of awarding Federal contracts.

Meanwhile, Mr. Dixie continued to assert that he was the hereditary leader of the Tribe and that he had never resigned his position. In March 2005, a representative of the Assistant Secretary – Indian Affairs decided Mr. Dixie's appeal of the BIA's acceptance of Ms. Burley as tribal Chairman. In the letter dismissing Mr. Dixie's appeal, the Deputy Assistant Secretary informed Mr. Dixie that Ms. Burley was not the governmental leader of the Tribe. In fact, the letter explained, the Tribe could have no governmental leader until it had a government developed through an organizational process that included the broader tribal community of other Indians with legitimate ties to the Tribe.

Thus, the BIA faced a stand-off between Ms. Burley, who insisted the Tribe had organized properly under her constitution, and Mr. Dixie, who claimed to be the hereditary leader of the Tribe. Ms. Burley sued the BIA in Federal district court in the District of Columbia, claiming that the BIA improperly denied her constitution's validity.

The district court granted the BIA's motion to dismiss for failure to state a claim. The Court of Appeals affirmed. See *California Valley Miwok Tribe v. United States*, 424 F. Supp. 2d 197 (D.D.C. 2006), *aff'd* 515 F.3d 1262 (D.C. Cir. 2008)

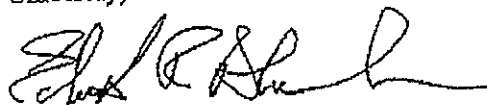
When the district court granted its motion to dismiss, the BIA worked with both Ms. Burley and Mr. Dixie to assist the Tribe in organizing itself. After initial efforts by the BIA to find a mutually agreeable solution, Ms. Burley chose not to cooperate. The BIA decided to initiate the organization process by identifying those persons who are lineal descendants of the original twelve Indians for whom the government established the rancheria, the single resident who voted in 1935 on the IRA, and the sole distributee, Mabel Hodge Dixie. Ms. Burley appealed the BIA's decision to the Interior Board of Indian Appeals (IBIA), *California Valley Miwok Tribe v. Pacific Regional Director*, Docket No.: IBIA 07-100-A. Under the Department's regulations, a decision of a Regional Director that has been appealed to IBIA is not final and effective except under certain circumstances, not present here, which effectively stayed the BIA's effort to assist the Tribe in organizing itself. See 25 C.F.R. § 2.6(a).

When the BIA is faced with a situation such as this, when it cannot determine who the legitimate leader of the Tribe is, the BIA must first defer to the Tribe to resolve the dispute. See, e.g., *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 65 (1978); *Fisher v. District Court*, 424 U.S. 382, 386-89 (1976); *Smith v. Babbitt*, 100 F.3d 556, 559 (8th Cir. 1996); *Wheeler v. Department of the Interior*, 811 F.2d 549 (10th Cir. 1987). The difficulty with CVMT is that because it has no government, it has no governmental forum for resolving the dispute. In similar situations, the BIA would turn to a tribe's general council, that is, the collective membership of the tribe. *Johannes Wanatee v. Acting Minneapolis Area Director*, 31 IBIA 93 (1997). But because CVMT has not even taken the initial step of determining its membership, a general council meeting is not possible.

The only answer is for the BIA to wait for the Tribe to organize itself. The Tribe will be able to do so once the IBIA decides Ms. Burley's appeal. The IBIA has a significant workload but the briefing on Ms. Burley's appeal was completed essentially a year ago and the D.C. Circuit Court opinion of earlier this year has been served as supplemental authority in the IBIA proceedings so we could expect a decision at any time. In the meantime, neither the BIA nor any court has authority to resolve the leadership dispute that is crippling the Tribe. See, *Goodface v. Grassrope*, 708 F.2d 335 (8th Cir. 1983).

I hope that this letter provides all the information you need. Should you need additional information or have further questions, please contact Jane Smith (202-208-5808), the member of my staff handling this matter.

Sincerely,



Edith R. Blackwell
Associate Solicitor, Indian Affairs

APPENDIX DOCUMENT 17



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

DEC 22 2010

Ms. Sylvia Burley
California Valley Miwok Tribe
10601 Escondido Place
Stockton, California 95212

Dear Ms. Burley:

This letter is to inform you of the Department of the Interior's response to the decision of the Interior Board of Indian Appeals (IBIA) in *California Valley Miwok Tribe v. Pacific Regional Director, Bureau of Indian Affairs*, 51 IBIA 103 (January 28, 2010) (Decision).

The Decision stemmed from Sylvia Burley's appeal of the Bureau of Indian Affairs Pacific Regional Director's April 2, 2007 decision to affirm the Central California Agency Superintendent in his efforts to "assist" the Tribe in organizing a tribal government. In the Decision, the IBIA dismissed each of Ms. Burley's three complaints for lack of jurisdiction.¹ The IBIA did, however, refer Ms. Burley's second claim to my office, because it was in the nature of a tribal enrollment dispute. *Decision*, 51 IBIA at 122.

This letter is intended to address the limited issues raised by Ms. Burley's second complaint, as referred to my office by the IBIA: the BIA's involvement in the Tribe's affairs related to government and membership.

Background

This difficult issue is rooted in the unique history of the California Valley Miwok Tribe. A relatively small number of tribal members had been living on less than 1 acre of land in Calaveras County, California known as the Sheep Ranch Rancheria, since 1916. In 1966, the Department was preparing to terminate the Tribe pursuant to the California Rancheria Termination Act, as part of that dark chapter of Federal Indian policy known as the "Termination Era." As part of this effort, the Department had intended to distribute the assets of the Sheep Ranch Rancheria to Ms. Mabel Dixie, as the only eligible person to receive the assets.

The Department never completed the process of terminating the Tribe, and the Tribe never lost its status as a sovereign federally-recognized tribe.

¹ Ms. Burley's complaints were: 1.) The BIA Pacific Regional Director's April 2, 2007 decision violated the Tribe's FY 2007 contract with the BIA under the Indian Self-Determination and Education Assistance Act, or the Regional Director's decision constituted an unlawful reassumption of the contract; 2.) the Tribe is already organized, and the BIA's offer of assistance constitutes an impermissible intrusion into tribal government and membership matters that are reserved exclusively to the Tribe; and, 3.) the Regional Director erred in stating that the Tribe was never terminated and thus is not a "restored" tribe. *Decision*, 51 IBIA at 104.

In 1998, Yakima Dixie, a tribal member acting as the leader of the Tribe, adopted Sylvia Burley, Rashel Reznor, Anjelica Paulk, and Tristian Wallace as members of the Tribe. At that time, the Department recognized those five individuals, along with Yakima Dixie's brother Melvin, as members of the Tribe. *Decision*, 51 IBIA at 108.

On September 24, 1998, the Superintendent of the Bureau of Indian Affairs Central California Agency advised Yakima Dixie, then serving as Tribal Chairman, that Yakima Dixie, Melvin Dixie, Sylvia Burley, Rashel Reznor, Anjelica Paulk, and Tristan Wallace were able to participate in an effort to reorganize under the Indian Reorganization Act. *California Valley Miwok Tribe v. United States*, 424 F. Supp. 2d. 197, 198 (D.D.C. 2006). In that same letter, the Superintendent also recommended that the Tribe establish a general council form of government for the organization process, and provided the Tribe with a draft version of a resolution to implement such a form of government. On November 5, 1998, by Resolution # GC-98-01, the Tribe established the General Council. *Id.*

Several months afterwards, in April 1999, Yakima Dixie resigned as Tribal Chairman. On May 8, 1999, the Tribe held a general election, in which Yakima Dixie participated, and elected Sylvia Burley as its new chairperson. The BIA later recognized Sylvia Burley as Chairperson of the California Valley Miwok Tribe. *Id.*

Shortly thereafter, the Tribe developed a draft constitution, and submitted it to the BIA for Secretarial review and approval in May 1999.² During this effort, it is apparent that a leadership dispute developed between Ms. Burley and Mr. Dixie.

On March 6, 2000, the Tribe ratified its Constitution and later requested that the BIA conduct a review and hold a secretarial election pursuant to the Indian Reorganization Act. *Id.* at 199. In the interim, on March 7, 2000, the Superintendent issued a letter to Sylvia Burley stating that the BIA "believed the Tribe's General Council to consist of the adult members of the tribe, i.e., Mr. Dixie, Ms. Burley, and Ms. Reznor,"³ and stated that the leadership dispute between Mr. Dixie and Ms. Burley was an internal tribal matter." *Id.*

In February 2004, Ms. Burley submitted a document to the BIA purporting to serve as the Tribe's constitution. The BIA declined to approve the constitution because it believed that Ms. Burley had not involved the entire tribal community in its development and adoption. Letter from Dale Risling, Sr. to Sylvia Burley (March 26, 2004). The BIA noted that there were other Indians in the local area who may have historical ties to the Tribe. In that same letter, the BIA indicated that it did not view the Tribe as an "organized" Indian Tribe," and that it would only recognize Ms. Burley as a "person of authority" within the Tribe, rather than the Chairperson. Letter from Dale Risling, Sr. to Sylvia Burley (March 26, 2004). The Office of the Assistant Secretary – Indian Affairs affirmed this position in a letter stating:

[T]he BIA made clear [in its decision of March 26, 2004] that the Federal government did not recognize Ms. Burley as the tribal Chairman. Rather, the BIA would recognize her as a 'person of

² The Tribe withdrew its original request for Secretarial review of its constitution in July 1999.

³ Pursuant to the Tribe's Resolution # GC-98-01, the General Council shall consist of all adult members of the Tribe.

authority within California Valley Miwok Tribe.’ Until such time as the Tribe has organized, the Federal government can recognize no one, including yourself, as the tribal Chairman.

Letter from Acting Assistant Secretary – Indian Affairs Michael D. Olsen to Yakima Dixie (February 11, 2005). At that point, the BIA became focused on an effort to organize the Tribe under the Indian Reorganization Act, and to include a number of people who were not officially tribal members in that effort.⁴

In 2005, the BIA suspended a contract with the Tribe, and later asserted that there was no longer a government-to-government relationship between the United States and the Tribe. 424 F. Supp. 2d. at 201.

Sylvia Burley, on behalf of the Tribe, filed a complaint against the United States in the United States District Court for the District of Columbia seeking declaratory relief affirming that it had the authority to organize under its own procedures pursuant to 25 U.S.C. § 476(h), and that its proffered constitution was a valid governing document. *Id.* The United States defended against the claim by arguing that its interpretation of the Indian Reorganization Act was not arbitrary and capricious, and that it had a duty to protect the interests of all tribal members during the organization process – which included those individual Miwok Indians who were eligible for enrollment in the tribe. See *Id.* at 202. The District Court ruled that the Tribe failed to state a claim for which relief could be granted, which was affirmed by the United States Court of Appeals for the District of Columbia Circuit. *Id.* at 202; 515 F.3d. 1262.

On November 6, 2006, the Superintendent of the BIA Central California Agency issued letters to Sylvia Burley and Yakima Dixie, stating, “[i]t is evident, however, that the ongoing leadership dispute is at an impasse and the likelihood of this impasse changing soon seems to be remote. Therefore, we renew our offer to assist the Tribe in the organizational process.” Letter from Troy Burdick to Sylvia Burley and Yakima Dixie (November 6, 2006). The Superintendent then stated “[t]he Agency, therefore, will publish notice of a general council meeting of the Tribe to be sponsored by the BIA in the newspapers within the Miwok region. This will initiate the reorganization process.” *Id.*

Sylvia Burley appealed this decision to the BIA Pacific Regional Director, who affirmed the Superintendent’s decision on April 2, 2007. That same month, the BIA Pacific Regional Office published notice of the reorganizational meeting in a newspaper in the region. Sylvia Burley appealed the Regional Director’s decision to the IBIA, which subsequently dismissed her claims, while referring the second claim to my office.

Discussion

⁴ The BIA, Yakima Dixie, and Sylvia Burley all agreed that there was a number of additional people who were potentially eligible for membership in the Tribe. See, *California Valley Miwok Tribe v. United States*, 515 F.3d 1267 - 1268 (D.C. Cir. 2008) (noting that the Tribe has admitted it has a *potential* membership of 250) (emphasis added).

I must decide whether to move forward with the BIA's previous efforts to organize the Tribe's government, or to recognize the Tribe's general council form of government – consisting of the adult members of the tribe – as sufficient to fulfill our nation-to-nation relationship.

The Department of the Interior is reluctant to involve itself in these internal tribal matters. To the extent that Department must touch upon these fundamental internal tribal matters, its actions must be limited to upholding its trust responsibility and effectuating the nation-to-nation relationship.

A. Tribal Citizenship

In this instance, the facts clearly establish that the Tribe is a federally recognized tribe which shares a nation-to-nation relationship with the United States. Moreover, the facts also establish that Mr. Dixie adopted Sylvia Burley, Rashel Reznor, Anjelica Paulk, and Tristian Wallace as members of the Sheep Ranch Rancheria in 1998.

The California Valley Miwok Tribe, like all other federally recognized tribes, is a distinct political community possessing the power to determine its own membership, and may do so according to written law, custom, intertribal agreement, or treaty with the United States. See, Cohen's Handbook of Federal Indian Law, § 4.01[2][b] (2005 Edition); see also, *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 54 (1978) ("To abrogate tribal decisions, particularly in the delicate area of membership, for whatever 'good' reasons, is to destroy cultural identity under the guise of saving it") quoting *Santa Clara Pueblo v. Martinez*, 402 F.Supp. 5, 18-19 (D.N.M. 1975).

I understand the difficult circumstances facing those individual Miwok Indians living in Calaveras County, California and who lack an affiliation with a federally recognized tribe. Affiliation with a tribe lies at the core of Indian identity. This is one reason why the Department is working to improve the process by which tribes can become federally recognized, and have their nation-to-nation relationship with the United States restored.

Nevertheless, the United States cannot compel a sovereign federally recognized tribe to accept individual Indians as tribal citizens to participate in a reorganization effort against the Tribe's will. See *Santa Clara Pueblo*, supra. It is possible that there are other individual Indians in the area surrounding Sheep Ranch who are *eligible* to become members of the Tribe. Mr. Dixie and Ms. Burley, along with the BIA, have previously indicated such. See 515 F.3d at 1267-68 (D.C. Cir. 2008).

There is a significant difference, however, between eligibility for tribal citizenship and actual tribal citizenship. Only those individuals who are actually admitted as citizens of the Tribe are entitled to participate in its government. The proper recourse for those individuals eligible for tribal citizenship, but who are not yet enrolled, is to work through the Tribe's internal process for gaining citizenship.

It is indisputable that Mr. Dixie adopted Sylvia Burley, Rashel Reznor, Anjelica Paulk, and Tristian Wallace as citizens of the Tribe. Moreover, it is indisputable that the BIA previously accepted the Tribe's decision to enroll these individuals as tribal citizens, as evidenced by its letter of September 24, 1998.

Whatever good reasons the BIA may have had for requiring the Tribe to admit new citizens to participate in its government are not sufficient to overcome the longstanding principles of reserving questions of enrollment to the Tribe.

B. Tribal Government

As with matters of enrollment, each tribe is vested with the authority to determine its own form of government. This authority is a quintessential attribute of tribal sovereignty. Cohen's Handbook of Federal Indian Law, § 4.01[2][a] (2005 Edition).

The Department recommended in a letter to the Tribe, that it "operate as a General Council," which would serve as its governing body. Letter from BIA Central California Superintendent Dale Risling to Yakima K. Dixie, Spokesperson for the Sheep Ranch Rancheria (September 24, 1998). In its letter to the Tribe, the Department advised the Tribe that, "[t]he General Council would then be able to proceed with the conduct of business, in a manner consistent with the authorizing resolution." *Id.* The Department previously considered this form sufficient to fulfill the government-to-government relationship. See award of P.L. 93-638 Contract CTJ51T62801 (February 8, 2000).

The determination of whether to adopt a new constitution, and whether to admit new tribal citizens to participate in that effort, must be made by the Tribe in the exercise of its inherent sovereign authority, and not by the Department.

Conclusion

I have reviewed the documents referenced in this letter, as well as the numerous submissions made by Mr. Dixie and Ms. Burley to my office since the issuance of the IBIA Decision in January 2010.

I conclude that there is no need for the BIA to continue its previous efforts to organize the Tribe's government, because it is organized as a General Council, pursuant to the resolution it adopted at the suggestion of the BIA. Consequently, there is no need for the BIA to continue its previous efforts to ensure that the Tribe confers tribal citizenship upon other individual Miwok Indians in the surrounding area.

Based upon the foregoing principles of tribal sovereignty, and our government-to-government relationship with the Tribe, I am directing that the following actions be undertaken:

1. The BIA will rescind its April 2007 public notice to, "assist the California Valley Miwok Tribe, aka, Sheep Ranch Rancheria (Tribe) in its efforts to organize a formal governmental structure that is acceptable to all members."
2. The BIA will rescind its November 6, 2006 letters to Sylvia Burley and Yakima Dixie stating that the BIA will initiate the reorganization process for the California Valley Miwok Tribe.

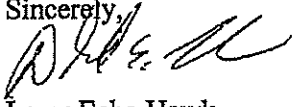
3. I am rescinding the February 11, 2005 letter from the Office of the Assistant Secretary to Yakima Dixie stating that the BIA does not recognize any government of the California Valley Miwok Tribe.
4. The BIA will rescind its letter of March 26, 2004 to Sylvia Burley stating that it "does not yet view your tribe to be an 'organized' Indian Tribe," and indicating that Ms. Burley is merely a "person of authority" within the Tribe.
5. Both my office and the BIA will work with the Tribe's existing governing body – its General Council, as established by Resolution # GC-98-01 – to fulfill the government-to-government relationship between the United States and the California Valley Miwok Tribe.

My decision addresses those issues referred to my office by the decision of the IBIA.

Lastly, I recognize that issues related to membership and leadership have been significant sources of contention within the Tribe in recent years. I strongly encourage the Tribe's governing body, the General Council, to resolve these issues through internal processes so as to mitigate the need for future involvement by the Department in these matters. To this point, I understand that Resolution #GC-98-01 provides for proper notice and conduct of meetings of the General Council. I likewise encourage the Tribe's General Council to act in accord with its governing document when settling matters relating to leadership and membership, so as to bring this highly contentious period of the Tribe's history to a close.

A similar letter has been transmitted to Mr. Yakima Dixie, and his legal counsel.

Sincerely,



For Larry Echo Hawk

Assistant Secretary – Indian Affairs

cc: Mike Black, Director of the Bureau of Indian Affairs
Amy Dutschke, BIA Pacific Regional Director
Robert Rosette, Rosette and Associates, PC

APPENDIX DOCUMENT 18



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240

IN REPLY REFER TO

JAN 21 2011

Robert J. Uram, Esq.
Sheppard Mullin Richter & Hampton, LLP
Four Embarcadero Center
Seventeenth Floor
San Francisco, CA 94111-4109

Dear Mr. Uram:

The Secretary has asked the Solicitor's Office to respond to your letter to him of January 6, 2011, requesting a stay and reconsideration of the decision by the Assistant Secretary – Indian Affairs regarding the organization of the California Valley Miwok Tribe. After discussing the matter with the Assistant Secretary and his staff, I have been advised that the Assistant Secretary has declined to reconsider the December 22, 2010 decision by Mr. Laverdure on his behalf.

Sincerely,

Pilar M. Thomas
Deputy Solicitor, Indian Affairs

cc:

Ms. Sylvia Burley
10601 Escondido Place
Stockton, CA 95212

Mr. Yakima Dixie
1231 E. Hazelton Ave.
Stockton, CA 95205

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Rosette & Associates
193 Blue Ravine Road
Suite 255
Folsom, CA 95630

Elizabeth T. Walker, Esq.
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127 South Fairfax
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Phillip E. Thompson, Esq.
601 Pennsylvania Avenue
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Mr. Chadd Everone
2140 Shattuck Avenue, # 602
Berkeley, CA 94704

Larry Echo Hawk
Assistant Secretary -- Indian Affairs

Michael Black
Director, Bureau of Indian Affairs

Amy Dutschke
Director, Pacific Region
Bureau of Indian Affairs

Troy Burdick
Superintendent, Central California Agency
Bureau of Indian Affairs

APPENDIX DOCUMENT 19



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

APR 01 2011

Mr. Yakima Dixie
1231 E. Hazelton Avenue
Stockton, California 95205

Dear Mr. Dixie:

On December 22, 2010, my office issued a letter setting out the Department of the Interior's decision on a question respecting the composition of the California Valley Miwok Tribe. The question had been referred to my office by the Interior Board of Indian Appeals. On January 24, 2011, you filed suit 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.

I believe that the longstanding problems within the Tribe need prompt resolution, and I remain committed to the timely issuance of my reconsidered decision. I am mindful, however, that additional briefing may inform my analysis of the problems presented in this dispute. To that end, I will issue a briefing schedule in the coming week, requesting submissions from you and from Ms. Silvia Burley on specific questions of fact and law relevant to the referred question.

Sincerely,

Larry Echo Hawk
Assistant Secretary – Indian Affairs

cc: Ms. Silvia Burley
10601 Escondido Place
Stockton, California 95212

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565 West Chandler Boulevard, Suite 212
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Kenneth D. Rooney
Trial Attorney
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Mike Black, Director, Bureau of Indian Affairs
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Washington, D.C. 20240

Amy Dutschke, Director
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Troy Burdick, Superintendent
Central California Agency, Bureau of Indian Affairs
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Sacramento, CA 95814

APPENDIX DOCUMENT 20



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

APR 08 2011

Mr. Yakima Dixie
1231 E. Hazelton Avenue
Stockton, California 95205

Ms. Silvia Burley
10601 Escondido Place
Stockton, California 95212

Dear Mr. Dixie and Ms. Burley:

The Bureau of Indian Affairs (BIA) and the California Valley Miwok Tribe (Tribe) have worked for years to reach a shared understanding of the structure and composition of the Tribe, its government, and its relationship with the Federal government. Disputes within the Tribe, and between the Tribal factions and the BIA, have led to several administrative appeals as well as federal court litigation. On January 28, 2010, the Interior Board of Indian Appeals (IBIA) issued a decision respecting one of the administrative appeals. The IBIA remanded to my office one of the issues raised in that appeal, as being an enrollment question and thus beyond the IBIA's jurisdiction. On December 22, 2010, my office issued a letter attempting to set out a clear and final answer to the referred question.

After the December 22, 2010, decision, a number of issues were raised in litigation that challenged that decision; therefore, I have withdrawn it for reconsideration. I would like to ensure that I consider all issues in my reconsideration of this matter. To ensure full and fair review, I am asking the parties to brief the issues. Parties may submit any legal arguments they wish for me to consider. In addition, the parties should consider addressing the following issues.

1. It is undisputed that the Federal government currently recognizes five people as members of the tribe. The September 24, 1998, letter from Superintendent Risling to Yakima Dixie, mentioned the development of enrollment criteria that "will be used to identify other persons eligible to participate in the initial organization of the Tribe" (emphasis added). Please brief your views on whether the Secretary has an obligation to ensure that potential tribal members participate in an election to organize the Tribe.
2. It is undisputed that the Tribe is federally recognized, being included on the Department's list of recognized tribes. The Tribal Resolution of November 5, 1998, signed by Ms. Burley and Mr. Dixie, said: "The Tribe, on June 12, 1935, voted to accept the terms of the Indian Reorganization Act . . . but never formally organized pursuant to federal statute, and now desires to pursue the formal organization of the Tribe." Please explain your position regarding the status of the Tribe's organization and the Federal Governments' duty to assist the Tribe in organizing.

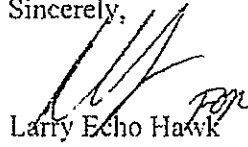
3. It is undisputed that the position taken in the December 22 decision letter represented a change in direction regarding the Bureau's relations with the Tribe. Courts have found the BIA's past actions to be permissible under the APA, but did not state that those actions were mandatory under federal Indian law. Some statements in court opinions, however, must be read as statements of law with which my decisions must comply. In particular, the D.C. Circuit stated that (paraphrased for clarity): "It cannot be that the Secretary has no role in determining whether a tribe has properly organized itself to qualify for the federal benefits provided in the [Indian Reorganization] Act and elsewhere." 515 F.3d 1262, 1267 (D.C. Cir. 2008). Please brief your views on what the Secretary's role is in "determining whether a tribe has properly organized itself."

To ensure the promptness of my reconsidered decision, please provide your submission so that it is received by the Department no later than 9:00 am, eastern daylight savings time, Tuesday, May 3, 2011.

My office will give your submissions careful and objective consideration. No outcome in this matter will resolve all the disputes between the parties, but my duty under the APA is to reach, and explain, a carefully-considered decision that is not "arbitrary and capricious," and is "in accordance with law" (5 U.S.C. § 706(2)(a)).

Please limit your submissions to no more than 30 pages. We prefer, for timeliness and convenience, that you submit your response documents in pdf format via email to Mr. Brian Newland, one of my advisors, at bryan_newland@ios.doi.gov, and Mr. Jim Porter, an attorney in Solicitor's Office, at james.porter@sol.doi.gov. Please also transmit your response documents to each other at the same time you send them to this office.

Sincerely,



Larry Echo Hawk
Assistant Secretary - Indian Affairs

cc: Robert A. Rosette, Esq.
565 West Chandler Boulevard, Suite 212
Chandler, Arizona 85225

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APPENDIX DOCUMENT 21



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

AUG 31 2011

Ms. Silvia Burley
10601 N. Escondido Place
Stockton, California 95212

Mr. Yakima Dixie
1231 E. Hazelton Avenue
Stockton, California 95295

Dear Ms. Burley and Mr. Dixie:

Introduction and Decision

On December 22, 2010, I sent you a letter setting out my decision in response to a question referred to me by the Interior Board of Indian Appeals (IBIA) in *California Valley Miwok Tribe v. Pacific Regional Director, Bureau of Indian Affairs*, 51 IBIA 103 (January 28, 2010) (IBIA decision). I determined that there was "no need for the BIA to continue its previous efforts to organize the Tribe's government, because it is organized as a General Council, pursuant to the [1998 General Council Resolution] it adopted at the suggestion of the BIA." I concluded further that there was "no need for the BIA to continue its previous efforts to ensure that the Tribe confers tribal citizenship upon other individual Miwok Indians in the surrounding area."

I issued my December decision without providing the parties a formal opportunity to brief me on the facts and issues as they saw them. As a result of subsequent actions by both parties, I determined to withdraw the December decision, and, on April 8, 2011, I requested briefing from the parties. Counsel for the parties provided detailed responses with numerous exhibits. I appreciate the time and effort that went into providing these responses. I have considered them carefully.

Based on the litigation records in the prior Federal court actions in both California and Washington, D.C., the proceedings before the Department's Interior Board of Indian Appeals, and the material submitted in response to my April 8 letter, I now find the following:

- (1) The California Valley Miwok Tribe (CVMT) is a federally recognized tribe, and has been continuously recognized by the United States since at least 1916;
- (2) At the present date, the citizenship of the CVMT consists solely of Yakima Dixie, Silvia Burley, Rashel Reznor, Anjelica Paulk, and Tristian Wallace;

(3) The CVMT today operates under a General Council form of government, pursuant to Resolution #CG-98-01, which the CVMT passed in 1998, facilitated by representatives of the Bureau of Indian Affairs (Bureau or BIA)(1998 General Council Resolution);

(4) Pursuant to the 1998 General Council Resolution, the CVMT's General Council is vested with the governmental authority of the Tribe, and may conduct the full range of government-to-government relations with the United States;

(5) Although this current General Council form of government does not render CVMT an "organized" tribe under the Indian Reorganization Act (IRA) (*see e.g.*, 25 U.S.C. 476(a) and (d)), as a federally recognized tribe it is not required "to organize" in accord with the procedures of the IRA (25 U.S.C. § 476(h));

(6) Under the IRA, as amended, it is impermissible for the Federal government to treat tribes not "organized" under the IRA differently from those "organized" under the IRA (25 U.S.C. §§ 476(f)-(h)); and

(7) As discussed in more detail below, with respect to finding (6), on this particular legal point, I specifically diverge with a key underlying rationale of past decisions by Department of the Interior (Department) officials dealing with CVMT matters, apparently beginning around 2004, and decide to pursue a different policy direction.¹ Under the circumstances of this case, it is inappropriate to invoke the Secretary's broad authority to manage "all Indian affairs and [] all matters arising out of Indian relations," 25 U.S.C. § 2, or any other broad-based authority, to justify interfering with the CVMT's internal governance. Such interference would run counter to the bedrock Federal Indian law principles of tribal sovereignty and tribal self-government, according to which the tribe, as a distinct political entity, may "manag[e] its own affairs and govern[] itself," *Cherokee Nation v. Georgia*, 30 U.S. 1, 16 (1832); and would conflict with this Administration's clear commitment to protect and honor tribal sovereignty.

Obviously, the December 2010 decision, and today's reaffirmation of that decision, mark a 180-degree change of course from positions defended by this Department in administrative and judicial proceedings over the past seven years. This change is driven by a straightforward correction in the Department's understanding of the California Valley Miwok Tribe's citizenship and a different policy perspective on the Department's legal obligations in light of those facts.

As discussed below, the BIA clearly understood in 1998 that the acknowledged CVMT citizens had the right to exercise the Tribe's inherent sovereign power in a manner they chose. It is unfortunate that soon after the 1998 General Council Resolution was enacted, an intra-tribal leadership dispute erupted, and both sides of the dispute found, at various points in time in the intervening years, that it served their respective interests to raise the theory that the BIA had a duty to protect the rights of approximately 250 "potential citizens" of the Tribe. A focus on that theory has shaped the BIA's and the Department's position on the citizenship question ever

¹ I recognize that the D.C. Circuit Court of Appeals' 2008 opinion upholding prior Department efforts to organize the CVMT pursuant to the IRA afforded broad deference to the Department's prior decisions and interpretations of the law. *Cal. Valley Miwok Tribe v. United States*, 515 F.3d 1262, 1264-68 (D.C. Cir. 2008).

since. By contrast, today's decision clears away the misconceptions that these individuals have inchoate citizenship rights that the Secretary has a duty to protect. They do not. The Tribe is not comprised of both citizens and potential citizens. Rather, the five acknowledged citizens are the only citizens of the Tribe, and the General Council of the Tribe has the exclusive authority to determine the citizenship criteria for the Tribe. *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 57 (1978). I believe this change in the Department's position is the most suitable means of resolving this decade-long dispute and is in accord with principles of administrative law. *Nat'l Cable & Telecomms. Ass'n v. Brand X Internet Servs.*, 545 U.S. 967 (2005).

Background

This decision is necessitated by a long and complex tribal leadership dispute that resulted in extensive administrative and judicial litigation. Much of the factual background is set out in the prior decisions, so it is not necessary to repeat or even summarize all of it here.

The history of this Tribe, and the record of this case to date, demonstrates the following:

- The CVMT is a federally recognized tribe. 74 Fed. Reg. 40,218, 40,219 (Aug. 11, 2009);
- In 1916, the United States purchased approximately 0.92 acres in Calaveras County, California, for the benefit of 12 named Indians living on the Sheepranch Rancheria (now Sheep Ranch)(Rancheria) (51 IBIA at 106);
- The Indian Agent, who in 1915 recommended the purchase of the 0.92 acres, described the group of 12 named individuals as "the remnant of once quite a large band of Indians in former years living in and near the old decaying mining town known and designated on the map as 'Sheepranch.'" *Id.*;
- The record shows only one adult Indian lived on the Rancheria in 1935, a Jeff Davis, who voted "in favor of the IRA" *Id.*;
- In 1966, the record shows only one adult Indian, Mabel Hodge Dixie, Yakima Dixie's mother, lived on the Rancheria, when the BIA crafted a plan for distribution of tribal assets pursuant to the California Rancheria Act of 1958, Pub. L. No. 85-671, 72 Stat. 619, *as amended by* Act of Aug. 11, 1964, Pub. L. No. 88-419, 78 Stat. 390;
- Mabel Hodge Dixie was to be the sole distributee of tribal assets under the 1966 Rancheria distribution plan;
- While the Bureau initiated the process to terminate the Tribe, it never declared the Tribe terminated and has never treated the Tribe as if it had been terminated;
- In 1994, Yakima Dixie wrote the BIA asking for assistance with home repairs and describing himself as "the only descendant and recognized . . . member of the Tribe." (51 IBIA at 107);
- At some point during the 1990s, Silvia Burley "contacted BIA for information related to her Indian heritage, which BIA provided, and by 1998—at BIA's suggestion—Burley had contacted Yakima[]" Dixie (as the IBIA has noted, "it appears that Burley may trace her ancestry to a 'Jeff Davis' who was listed on the 1913 census. . .") 51 IBIA at 107, including footnote 7;
- On August 5, 1998, Mr. Dixie "signed a statement accepting Burley as an enrolled member of the Tribe, and also enrolling Burley's two daughters and her granddaughter." *Id.*;

- The Tribe was not organized pursuant to the IRA prior to 1998 and did not have organic documents setting out its form of government or criteria for tribal citizenship;
- In September of 1998, BIA staff met with Mr. Dixie and Ms. Burley “to discuss organizing the Tribe,” and on September 24, 1998 sent follow-up correspondence recommending that, “given the small size of the Tribe, we recommend that the Tribe operate as a General Council,” which could elect or appoint a chairperson and conduct business. *Id.* at 108;
- On November 5, 1998, Mr. Dixie and Ms. Burley signed a resolution establishing a General Council, which consisted of all adult citizens of the Tribe, to serve as the governing body of the Tribe. *Id.* at 109;
- Less than five months later, leadership disputes arose between Mr. Dixie and Ms. Burley—and those conflicts have continued to the present day;²
- Initially the BIA recognized Mr. Dixie as Chairman, but later recognized Ms. Burley as Chairperson based primarily upon the April 1999 General Council action appointing Ms. Burley as Chairperson - an action concurred in by Mr. Dixie. *Id.*;
- Mr. Dixie later challenged Ms. Burley’s 1999 appointment;
- In 2002, Ms. Burley filed suit in the name of the Tribe alleging that the Department had breached its trust responsibility to the Tribe by distributing the assets of the Rancheria to a single individual, Mabel Dixie, when the Tribe had a potential citizenship of “nearly 250 people[.]” *See* Complaint for Injunctive and Declaratory Relief at 1, *Cal. Valley Miwok Tribe v. United States*, No. 02-0912 (E.D. Cal. Apr. 29, 2002);
- In March, 2004, the BIA Superintendent rejected a proposed constitution from Ms. Burley because she had not involved the “whole tribal community” in the governmental organization process;
- On February 11, 2005, the Acting Assistant Secretary – Indian Affairs issued a decision on Mr. Dixie’s 1999 appeal, ruling that the appeal of the Bureau’s 1999 decision to recognize Ms. Burley as Chairperson was moot and that the BIA would recognize Ms. Burley only as a person of authority within the Tribe;
- Ms. Burley sued in D.C. District Court challenging the February 2005 decision;
- After the District Court dismissed her challenge, *Cal. Valley Miwok Tribe v. United States*, 424 F.Supp. 2d 197 (D.D.C. 2006), the D. C. Circuit Court of Appeals affirmed, *Cal. Valley Miwok Tribe v. United States*, 515 F.3d 1262 (D.C. Cir. 2008);
- In January 2010, the IBIA rejected Ms. Burley’s appeal objecting to, among other matters, the Superintendent’s decision to continue to assist the Tribe in organizing its government according to the IRA because it viewed the matter as “effectively and functionally a tribal enrollment dispute,” and then referred the matter to me on jurisdictional grounds.

In response to the Board’s referral, I issued my December 22, 2010 decision letter. I intended that decision to resolve the citizenship question referred to me by the IBIA by finding that the current Tribe’s citizenship consisted of the five acknowledged citizens noted above and recognizing the Tribe’s General Council as a tribal government with which the United States may

² I note that the Department repeatedly has offered to assist in mediating this dispute—to no avail. The amount of time and resources focused on these disputes reflects poorly on all the parties, and they must be mindful that continuing this imprudent dispute risks potential adverse consequences well beyond the Tribe and its citizens.

conduct government-to-government relations. Almost immediately, Mr. Dixie filed suit in the D.C. District Court challenging that decision. Recognizing the complex and fundamental nature of the underlying issues, and because I desired the benefit of submissions from the interested parties, I set aside that decision and requested formal briefing.

The submissions by the parties in response to my request were thorough. I have carefully reviewed the submissions and find they were most helpful in enhancing my understanding of the parties' positions.

Analysis

It is clear to me that the heart of this matter is a misapprehension about the nature and extent of the Secretary's role, if any, in determining tribal citizenship of a very small, uniquely situated tribe. Related to this issue is the Tribe's current reluctance to "organize" itself under the IRA, choosing instead to avail itself of the provisions in 25 U.S.C. § 476(h), first enacted in 2004, which recognizes the inherent sovereign powers of tribes "to adopt governing documents under procedures other than those specified . . . [in the IRA.]"

Applicability of General Legal Authorities of the Secretary of the Interior in Indian Affairs

The D.C. Circuit viewed § 476(h) as ambiguous, and then granted *Chevron* deference to the then-Secretary's interpretation of that provision. 513 F.3d at 1266-68. The D.C. Circuit put great weight on the Secretary's broad authority over Indian affairs under 25 U.S.C. § 2, writing that "[w]e have previously held that this extensive grant of authority gives the Secretary broad power to carry out the federal government's unique responsibilities with respect to Indians." *Id.* at 1267, *citations omitted*. In addition to § 2, 25 U.S.C. §§ 9, and 13, and 43 U.S.C. § 1457, are often cited as the main statutory bases for the Department's general authority in Indian affairs. *Cal. Valley Miwok Tribe v. United States*, 424 F.Supp. 2d 197, 201 (D.D.C. 2006); *see also* COHEN'S HANDBOOK OF FEDERAL INDIAN LAW § 5.03[2] at 405 (2005 ed.) [hereinafter COHEN]. The D.C. Circuit also cited two cases involving separate bands of the Seminole Nation for the general propositions that the United States has an "obligation" "to promote a tribe's political integrity" as well as "the responsibility to ensure that [a tribe's] representatives, with whom [it] must conduct government-to-government relations, are valid representatives of the [tribe] as a whole." 513 F.3d at 1267 (*emphasis added by the Court*), *citing*, *Seminole Nation v. United States*, 313 U.S. 286, 296 (1942), and *Seminole Nation of Oklahoma v. Norton*, 223 F.Supp. 2d 122, 140 (D.D.C. 2002).

In my view, prior Department officials misapprehended their responsibility when they: (1) took their focus off the fact that the CVMT was comprised a five individuals, and (2) mistakenly viewed the Federal government as having particular duties relating to individuals who were not citizens of the tribe. I decline to invoke the broad legal authorities cited above to further intrude into internal tribal citizenship and governance issues in the instant case. In making this decision, I also am mindful of the Supreme Court's recent guidance concerning: (1) the importance of identifying "specific rights creating or duty-imposing statutory or regulatory prescriptions" before concluding the United States is obligated to act in a particular manner in Indian affairs,

and (2) the central role Federal policy plays in administering Indian affairs. *United States v. Jicarilla Apache Nation*, 131 S. Ct. 2313, 2323-24, 2326-27 (June 13, 2011).

Application of Specific Legal Authorities

In my view, prior Department officials (from 2003 to the present) fundamentally misunderstood the role of the Federal government in addressing the CVMT citizenship and governance issues: (1) they misunderstood and ignored the legal authority of CVMT to govern itself through its General Council structure without being compelled to “organize” under the IRA; and (2) they confused the Federal government’s obligations to *possible* tribal citizens with those owed to *actual* tribal citizens.

The February 11, 2005, decision of Acting Assistant Secretary – Indian Affairs Michael D. Olsen stated that, until the Tribe organized itself, the Department could not recognize anyone as the Tribe’s Chairperson, and that the “first step in organizing the Tribe is identifying the putative tribal members.” (2005 Decision at 1-2, *discussed in* 51 IBIA at 112). The D.C. Circuit, after citing the Secretary’s broad authority under 25 U.S.C. § 2, endorsed this approach as a reasonable interpretation of 25 U.S.C. § 476(h) because “[t]he exercise of this authority is especially vital when, as is the case here, the government is determining whether a tribe is organized, and the receipt of significant federal benefits turns on the decision.” 515 F.3d at 1267. As I have stated above, I reject as contrary to § 476(h) the notions that a tribe can be compelled to “organize” under the IRA and that a tribe not so organized can have “significant federal benefits” withheld from it. Either would be a clear violation of 25 U.S.C. § 476(f).

The CVMT currently consists of the five citizens identified above. Under the current facts, the Department does not have a legitimate role in attempting to force the Tribe to expand its citizenship.³ Department officials previously referred to “the importance of participation of a greater tribal community in determining citizenship criteria.” (Superintendent’s 2004 Decision at 3, *discussed in* 51 IBIA at 111-112). The D.C. Circuit, referring to the Tribe’s governance structure that arguably would maintain a limited citizenship, stated “[t]his antimajoritarian gambit deserves no stamp of approval from the Secretary.” 515 F.3d at 1267. However, I know of no *specific statutory or regulatory authority* that warrants such intrusion into a federally recognized tribe’s internal affairs. (As to the more general sources of authority cited in support of Federal oversight of tribal matters, I have explained my views on the proper scope of those authorities above). “Courts have consistently recognized that one of an Indian tribe’s most basic powers is the authority to determine questions of its own membership.” *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 57, 72 n.32 (1978); *United States v. Wheeler*, 435 U.S., 313, 322 n.18 (1978); COHEN § 3.03[3] at 176, *citations omitted*. “[I]f the issue for which the determination is important involves internal affairs of the Indian nation, it is more consistent with principles of tribal sovereignty to defer to that nation’s definition.” *Id.* at 180. As discussed in the previous paragraph, I also believe that, based on an incorrect interpretation of § 476(h), the previous Administration’s views on the IRA’s application to this case were erroneous and led to an improper focus on expanding the size of the Tribe and altering the form of its government.

³ While I believe that it is *equitably* appropriate for the CVMT General Council to reach out to potential citizens of the Tribe, I do not believe it is proper, *as a matter of law*, for the Federal government to attempt to impose such a requirement on a federally recognized tribe.

Mr. Dixie invokes the *Alan-Wilson* IBIA cases to support the theory that the Secretary has a duty to ensure that the potential citizens are involved in the organization of an unorganized, but federally recognized tribe.⁴ 30 IBIA 241. But, in fact, *Alan-Wilson* works directly against Mr. Dixie's position, and this distinction provides additional support for my decision. Unlike CVMT, the Cloverdale Rancheria was a federally recognized tribe terminated under the California Rancheria Act. It was later restored pursuant to the *Tillie Hardwick* litigation and settlement, which required the Rancheria to organize its tribal government under the IRA.

30 IBIA 241, 248.

My review of the history of the CVMT compels the conclusion set out in the December decision and reaffirmed here: the CVMT has been continuously recognized, and its political relationship with the Federal government has not been terminated. The five acknowledged citizens are the only current citizens of the Tribe, and the Tribe's General Council is authorized to exercise the Tribe's governmental authority. In this case, again, the factual record is clear: there are only five citizens of CVMT. The Federal government is under no duty or obligation to "potential citizens" of the CVMT. Those potential citizens, if they so desire, should take up their cause with the CVMT General Council directly.

Given both parties' acknowledgment of the existence of other individuals who could potentially become tribal citizens, the Department's prior positions are understandable. The Department endeavored to engage both parties in a resolution of the tribal citizenship issues, including offers of assistance from the Department's Office of Collaborative Action and Dispute Resolution (CADR) – to no avail. By the time this matter was referred to me by the IBIA in January 2010, serious doubts existed about the likelihood of the parties ever being able to work together to resolve the issues involving the citizenship and governance of the Tribe.

Absent an express commitment from the parties to formally define tribal citizenship criteria, any further effort by the Department to do so would result in an unwarranted intrusion into the internal affairs of the Tribe. Moreover, given the unfortunate history of this case, most likely such efforts would not succeed in accomplishing this objective. While there may be rare circumstances in which such an intrusion would be warranted in order for the Secretary to discharge specific responsibilities, no such specific law or circumstances exist here.

Accordingly, unless asked by the CVMT General Council, the Department will make no further efforts to assist the Tribe to organize and define its citizenship. I accept the Resolution #GC-98-01 as the interim governing document of the Tribe, and as the basis for resuming government-to-government relations between the United States and the Tribe.

While I appreciate that the General Council Resolution may prove lacking as to certain aspects of tribal governance, I also recognize that this tribe is very small and uniquely situated. Many tribes have been able to govern effectively with limited or no written governing documents.

⁴ Mr. Dixie also invokes the case of *Seminole Nation of Oklahoma v. Norton*, 223 F.Supp.2d 122 (D.D.C. 2002) in support of his position. *Seminole Nation* involved a dispute where a particular faction of the Tribe asserted rights to tribal citizenship under an 1866 treaty. *Id.* at 138. There is no overriding treaty or congressional enactment governing tribal citizenship at issue in this dispute.

Conclusion

Based upon the foregoing analysis, I re-affirm the following:

- CVMT is a federally recognized tribe whose entire citizenship, as of this date, consists of the five acknowledged citizens;
- The 1998 Resolution established a General Council form of government, comprised of all the adult citizens of the Tribe, with whom the Department may conduct government-to-government relations;
- The Department shall respect the validly enacted resolutions of the General Council; and
- Only upon a request from the General Council will the Department assist the Tribe in refining or expanding its citizenship criteria, or developing and adopting other governing documents.

In my December 2010 decision letter I rescinded several earlier decisions. I am persuaded that such attempts to rewrite history are fraught with the risk of unintended consequences. Past actions, undertaken in good faith and in reliance on the authority of prior Agency decisions, should not be called into question by today's determination that those prior Agency decisions were erroneous. Thus, today's decision shall apply prospectively.

This decision is final for the Department and effective immediately, but implementation shall be stayed pending resolution of the litigation in the District Court for the District of Columbia, *California Valley Miwok Tribe v. Salazar*, C.A. No. 1:11-cv-00160-RWR (filed 03/16/11).

Finally, I strongly encourage the parties to work within the Tribe's existing government structure to resolve this longstanding dispute and bring this contentious period in the Tribe's history to a close.

Sincerely,



Larry Echo Hawk
Assistant Secretary – Indian Affairs

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APPENDIX DOCUMENT 22

INTERIOR BOARD OF INDIAN APPEALS

California Valley Miwok Tribe)	
)	
Appellant,)	Docket No.: IBIA 07-100-A
)	
vs.)	
)	
Pacific Regional Director,)	
)	
Appellee.)	
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DECLARATION OF TROY BURDICK

I, Troy Burdick, do hereby state as follows:

1. I am employed by the Bureau of Indian Affairs (BIA) within the United States Department of the Interior as the Superintendent of the Central California Agency.
2. In my capacity as Superintendent, I am responsible for managing the government-to-government relationship between the United States and the California Valley Miwok Tribe (CVMT or Tribe).
3. CVMT is an unorganized tribe, meaning the BIA does not recognize that the tribe has a functioning government or a governmental leader.
4. On November 6, 2006 I sent a letter to Silvia Burley and Yakima Dixie, both of whom claim to be the legitimate leader of CVMT with authority to organize the Tribe. Both Silvia Burley and Yakima Dixie were working separately to organize the Tribe.
5. My letter indicated that their dispute had reached an impasse and threatened the Tribe's government-to-government relationship with the United States. It further indicated that the BIA would assist the Tribe in organizing itself. As

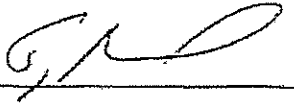
the first step in the Tribe's effort to organize itself, the BIA would call a general council meeting of the Tribe's members and potential members

6. Silvia Burley appealed that decision to the Regional Director. On April 2, 2007, the Regional Director affirmed the November 6, 2006, letter and remanded the matter back to me to proceed with the plans to assist the Tribe organize itself by first calling a general council meeting of the Tribe's member's and putative members.
7. I did not call a general council meeting. Instead, I took a step in preparation of calling a general council meeting. On April 10, 2007, I had published in local newspapers a notice that the BIA was accepting applications from persons who claim lineal decendency from a list of 14 historic members of the Tribe and who sought to be included in the class of putative members who would be eligible to participate in the Tribe's organizational process.
8. By May 25, 2007, the BIA received 503 applications. Between the dates of May 25, 2007, and April 20, 2007, the BIA was only engaged in the internal review of these applications.
9. On April 20, 2007, Silvia Burley, allegedly acting in the name of the Tribe, appealed the Regional Director's April 2 2007, letter to the Interior Board of Indian Appeals (IBIA)
10. The BIA reviewed those applications and determined which applicants qualify as lineal descndents and which do not. The BIA drafted letters to send to all applicants notifying them of their status and, as needed, informing them of their rights of appeal, after completing that review.

11. Because of the stay in this case, the BIA has not and will not send those letter to the applicants until the IBIA issues a decision in Silvia Burley's appeal in the BIA's favor. Moreover, the BIA will not initiate the process by which the Tribe will organize itself by calling a general council meeting of the Tribe until IBIA issues a decision in Silvia Burley's appeal in the BIA's favor. The BIA will not take any action to assist the Tribe organize itself until IBIA decides Silvia Burley's appeal in the BIA's favor.

I declare under penalty of perjury that the forgoing is true and correct.

Executed on the 6th day of December, 2007.



Troy Burdick
Superintendent, BIA
Central California Agency

APPENDIX DOCUMENT 23

EXHIBIT 9

**to Brief of Chief Yakima Dixie and the Tribal Council of the California Valley
Miwok Tribe (May 3, 2011)**

Affidavit of Yakima Dixie

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Civil Division

THE CALIFORNIA VALLEY MIWOK
TRIBE, *et al.*,

v.

KEN SALAZAR, in his official capacity
as Secretary of the United States
Department of the Interior, *et al.*

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

Affidavit of Yakima Dixie In Support of
Plaintiffs' Motion for Preliminary
Injunction

Hon. Richard W. Roberts

AFFIDAVIT OF YAKIMA K. DIXIE

I, Yakima K. Dixie, declare as follows:

1. I am an individual and a party in the above-entitled action. I am over the age of 18 and a resident of Calaveras County, California. I have personal knowledge of the facts set forth herein, which are known by me to be true and correct, and if called as a witness, I could and would competently testify thereto.

2. This affidavit is submitted in support of Plaintiffs' Motion for Preliminary Injunction.

3. I am a member of the California Valley Miwok Tribe ("Tribe") (also known as the Sheep Ranch Rancheria of Me-wuk Indians of California), the Hereditary Chief and the Traditional Spokesperson for the Tribe, the historical Chairperson of the Tribe, and a member of the Tribal Council. I inherited the position of Hereditary Chief upon the death of my mother, Mabel Hodge Dixie, on July 11, 1971. My tribal lineal descent through my mother goes back to the Hodge family of the 1915 census of the Sheep Ranch Indians.

1 4. In 1998, Silvia Burley approached me seeking to be allowed into the
2 Tribe so that she and her daughters could obtain medical and education benefits available
3 to members of federal Indian tribes. In August 1998 I allowed Burley and her two
4 daughters, Rashel Reznor and Anjelica Paulk, and her granddaughter Tristan Wallace
5 (collectively, the "Burley Faction") into the Tribe.

6
7 5. Shortly after I enrolled Burley and her family members, Burley and I
8 met with the BIA to discuss organizing the Tribe under the Indian Reorganization Act.
9 The BIA advised me in September 1998 that enrollment criteria should be used to identify
10 the members of the Tribal community eligible to participate in the initial organization of
11 the Tribe, in addition to myself and the Burley Faction.

12
13 6. In November 1998, Burley submitted to the BIA a document
14 described as Resolution #GC-98-01 (the "1998 Resolution"), which purported to be a
15 Tribal resolution establishing a General Council to serve as the governing body of the
16 Tribe.

17
18 7. The Resolution was not signed by a majority of the Tribe's known
19 adult members, which at that time included, among others, me and my brother Melvin
20 Dixie. As I told the BIA, Melvin was living in the Sacramento area at the time and could
21 be found regularly at Loaves and Fishes there.

22
23 8. In April 1999, Burley submitted to the BIA a document allegedly
24 showing my resignation as Tribal Chairman. I did not sign it.

25
26 9. Burley then held a purported "general election" in May 1999, at which
27 she was allegedly elected Chairperson of the Tribe. That election was not valid, and I have
28

1 never recognized Burley as Tribal Chairperson or as an authority or representative of the
2 Tribe.

3
4 10. Although I informed the BIA that my resignation was forged and
5 disputed the validity of the May 1999 election, the BIA initially recognized Burley as
6 Chairperson of the Tribe, over my protests, in June 1999.

7
8 11. Since 1999, Burley has attempted several times to have the BIA
9 recognize a Tribal constitution drafted by her and ratified only by Burley and her
10 daughters. I have never been involved in the drafting of the constitutions submitted by
11 Burley. To my knowledge, Burley has never involved any member of the Tribe other than
12 herself and her daughters in the drafting or attempted adoption of her constitutions.

13
14 12. Beginning in 1999, Burley received money, from both the United
15 States government and the state of California, that belonged to the Tribe. I never received
16 any of those funds, and I am not aware of any other Tribal member who received any of
17 the funds except for Burley and her immediate family. I am not aware of any programs or
18 services for the benefit of Tribe members that were established or supported using the
19 funds.

20
21 13. In 2003, I filed a formal appeal with the BIA, challenging its
22 recognition of Burley as Chairperson of the Tribe. The BIA never ruled on the merits of
23 my appeal, but in 2005 the Assistant Secretary for Indian Affairs stated that my appeal was
24 moot because the BIA did not regard the Tribe as organized, did not recognize any
25 government of the Tribe, and therefore could not recognize anyone, including Burley, as
26 Chairperson.

1 14. In 2003 I renewed efforts to organize the Tribe with the participation
2 of the entire Tribal community. Exercising my traditional authority as the Hereditary
3 Chief of the Tribe, I appointed a Tribal Council to oversee the Tribe's affairs. The Council
4 currently consists of me and five other persons who are recognized as persons of authority
5 within the Tribe: Velma Whitebear, Antonia Lopez, Michael Mendibles, Evelyn Wilson
6 and Antone Azevedo. With few exceptions, the Council has met each month since 2003 to
7 conduct Tribal business, enact resolutions, and perform other governmental functions.

8
9 15. The Tribal Council, including myself, met with the BIA in September
10 2003 and presented them with documentation of the Council's legitimate claim to Tribal
11 authority. We also presented the BIA with a list of Tribal community members who
12 should be allowed to participate in the initial organization of the Tribe. We requested that
13 the BIA call a Secretarial election under the IRA to select a tribal government by majority
14 vote that would be recognized by the United States government. The BIA did not act on
15 the Council's request to call a Secretarial election but continued to meet with the Council
16 to discuss efforts to organize the Tribe.

17
18 16. Tribal Council meetings are open to all members of the Tribal
19 community. Attendance at the meetings ranges from approximately 30 persons to more
20 than 100 persons. Attendance records are kept and meetings are recorded and archived. I
21 participate regularly in these meetings. Burley was specifically invited to the initial
22 meetings and has never been excluded, but she has never attended any of the meetings at
23 which I was present.

24
25 17. Under the leadership of the Council, the Tribe has initiated a number
26 of programs aimed at benefiting the full Tribal membership, strengthening the tribal
27 community, and reestablishing historic ties with the larger Indian community.

28

1 18. In April 2007, the BIA published public notices requesting that
2 individuals who asserted a claim to Tribal membership provide the BIA with
3 documentation of their claims, such as personal genealogies showing their descent from
4 historical members of the Tribe. I submitted my genealogy to the BIA. To my knowledge,
5 no member of the Burley Faction submitted any documentation of their claims to
6 membership.

7
8 19. On December 22, 2010, the Assistant Secretary for Indian Affairs
9 informed me by letter that he considered the Tribe organized under the invalid 1998
10 Resolution, that he was rescinding the BIA's 2005 decision denying recognition of Burley
11 as a Tribal leader, and that he was rescinding the BIA's efforts to assist the Tribe in
12 organizing with the participation of the entire Tribal community (the "December 22
13 Decision"). The Assistant Secretary directed the BIA to reestablish "government to
14 government" relations with the Tribe through its General Council, as established by the
15 invalid 1998 Resolution. As a result of the December 22 Decision, my traditional
16 authority as Hereditary Chief and Traditional Spokesperson is infringed, and the Tribal
17 Council's authority is infringed. As a result of the December 22 Decision, the United
18 States does not recognize the Council or its members as representatives or authorities of
19 the Tribe.

20
21 20. Based on the December 22 Decision, Burley held a "special meeting"
22 on January 7, 2011, at which only Burley, her daughters, her granddaughter and myself
23 were allowed to attend. Burley characterized this as a meeting of the Tribe's General
24 Council and attempted to hold a Tribal election at the meeting. I do not recognize Burley's
25 authority to call a Tribal election or General Council meeting and did not participate in the
26 January 7 meeting.

1 21. I do not recognize the results of the election Burley conducted at that
2 meeting, in which only Burley and her family members voted. However, the BIA has
3 issued decisions recognizing the results of the election and recognizing Burley as
4 Chairperson and her daughter Rashel Reznor as Secretary/Treasurer of the Tribe.

5
6 22. Burley also seeks to use the December 22 Decision as a basis to
7 prevent members of the Council from participating in litigation that she filed in California
8 Superior Court to gain access to more than \$6 million in Revenue Sharing Trust Fund
9 ("RSTF") money held in trust for the Tribe by the state of California. If Burley receives
10 the funds, neither the Tribe itself, nor the Council, nor any other members of the Tribe will
11 receive any of the funds or benefit from the funds.

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13 23. The December 22 Decision effectively gives the Burley Faction the
14 power to deny membership in the Tribe to anyone who is not a member of Burley's
15 immediate family.

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17 24. The Burley Faction has already attempted to disenroll me from the
18 Tribe, in 2005, in an attempt to deny me a basis to intervene in a federal lawsuit that
19 Burley had filed, purportedly on behalf of the Tribe. In 2009, the Burley Faction
20 attempted to reenroll me, in an attempt to deny me a basis to participate in litigation filed
21 by Burley in California Superior Court.

22
23 25. I fear that Burley will attempt to disenroll me again as soon as it is no
24 longer useful for her to assert my membership as an obstacle to my participation in the
25 state litigation. If I am disenrolled from the Tribe, I will lose access to the federal medical
26 and other benefits provided to members of recognized federal Indian tribes.

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1 26. Based on the December 22 Decision, the BIA has resumed payment
2 of tribal "self-determination" funds to Burley under Public Law 93-638. Those funds are
3 intended to assist the Tribe in organizing itself, forming a representative government and
4 performing governmental services and functions. If Burley receives the funds, the Tribe,
5 the Council and its members will be deprived of the funds. In addition, the funds will
6 support Burley's continued efforts to deny the benefits of Tribe membership to other
7 members.

8
9 I declare under penalty of perjury under the laws of the United States of
10 America that the foregoing is true and correct.

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12 Executed March 1, 2011, at Sheep Ranch, California.

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16 Yakima K. Dixie
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EXHIBIT 10

**to Brief of Chief Yakima Dixie and the Tribal Council of the California Valley
Miwok Tribe (May 3, 2011)**

Affidavit of Velma Whitebear

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Civil Division

THE CALIFORNIA VALLEY MIWOK
TRIBE, *et al.*,

v.

KEN SALAZAR, in his official capacity
as Secretary of the United States
Department of the Interior, *et al.*

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

Affidavit of Velma Whitebear In Support of
Plaintiffs' Motion for Preliminary
Injunction

Hon. Richard W. Roberts

AFFIDAVIT OF VELMA WHITEBEAR

I, Velma Whitebear, declare as follows:

1. I am an individual and a party in the above-entitled action. I am over the age of 18 and a resident of Sacramento County, California. I have personal knowledge of the facts set forth herein, which are known by me to be true and correct, and if called as a witness, I could and would competently testify thereto.

2. This affidavit is submitted in support of Plaintiffs' Motion for Preliminary Injunction.

3. I am a member of the California Valley Miwok Tribe ("Tribe") and a member of its Tribal Council ("Council"). I trace my tribal lineal descent from my great grandparents (John Jeff, born 1867, and Tillie Jeff, born 1889), my grandmother (Laural Geto, born 1902) and my mother (Annie Jeanette Geto, born 1928), all of whom are listed in the Indian Census Roll of June 30, 1929, for Calaveras County as taken by L.A. Dorrington, Superintendent of the BIA.

1 4. I recognize Yakima Dixie as the Hereditary Chief and Traditional
2 Spokesperson of the Tribe.

3
4 5. I do not recognize Silvia Burley as any authority for the Tribe.

5
6 6. In 2003, Yakima Dixie appointed me to the Council. The Council
7 currently consists of Yakima Dixie, me, and four other persons who are recognized as
8 persons of authority within the Tribe: Antonia Lopez, Michael Mendibles, Evelyn Wilson
9 and Antone Azevedo. With few exceptions, the Council has met each month since 2003 to
10 conduct Tribal business, enact resolutions, and perform other governmental functions.

11
12 7. The Council met with the Bureau of Indian Affairs ("BIA") in
13 September 2003 and presented the BIA with documentation of the Council's legitimate
14 claim to Tribal authority. We also presented the BIA with a list of Tribal community
15 members who should be allowed to participate in the initial organization of the Tribe. We
16 requested that the BIA call a Secretarial election under the IRA to select a tribal
17 government by majority vote that would be recognized by the United States government.
18 The BIA did not act on the Council's request to call a Secretarial election but continued to
19 meet with the Council to discuss efforts to organize the Tribe.

20
21 8. Tribal Council meetings are open to all members of the Tribal
22 community. Attendance at the meetings ranges from approximately 30 persons to more
23 than 100 persons. Attendance records are kept and meetings are recorded and archived. I
24 participate regularly in these meetings. Burley was specifically invited to the initial
25 meetings and has never been excluded, but she has never attended any of the meetings that
26 I attended.

1 9. Under the leadership of the Council, the Tribe has initiated a number
2 of programs aimed at benefiting the full Tribal membership, strengthening the tribal
3 community, and reestablishing historic ties with the larger Indian community. These
4 programs and activities include the following:

5
6 10. The Tribe has interceded in approximately ten child custody
7 proceedings under the Indian Child Welfare Act ("ICWA"), on behalf of children of Tribe
8 members. In those cases where a child is removed from its family, the Tribe seeks to have
9 the child placed with an Indian family or a family with ties to Indian traditions. I have
10 been the Tribe's contact person for local agencies seeking to determine whether children
11 are eligible for protection under ICWA (i.e., are members or potential members of the
12 Tribe). I have referred many of the cases to John Bergersen of the Kene Me-Wu Family
13 Healing Center, who has represented the Tribe in those proceedings. A true and correct
14 copy of a letter from me to Mr. Bergersen, authorizing him to represent the Tribe in an
15 ICWA proceeding for a member of the Tribe, is attached hereto as Exhibit "A".

16
17 11. Burley has consistently opposed the Tribe's efforts to protect children
18 in ICWA proceedings. She and her daughter, Rashel Reznor, have asserted that I and
19 others involved in these efforts are not members of the Tribe and are not authorized to
20 represent the Tribe or its children in ICWA proceedings. They have asserted that the
21 children themselves are not members of the Tribe, and thus not entitled to protection under
22 ICWA. According to Burley, the only child who is a member of the Tribe is her
23 granddaughter, Tristian Wallace. A true and correct copy of a letter from Rashel Reznor to
24 Amador County Deputy Counsel Jennifer Magee, claiming that two children are not
25 members of the Tribe, is attached hereto as Exhibit "B". As a result of the actions taken by
26 Burley and Reznor, some children who were members of the Tribe have been denied
27 protection under ICWA and placed for adoption with non-Indian families. Outcomes such
28

1 as this deprive the children of their cultural identity and deprive the Tribal community of
2 contact with its members.

3
4 12. Recently I was contacted by county officials regarding custody
5 proceedings for another child who is a member of our Tribe. I wish to intervene under
6 ICWA on behalf of the Tribe and this child, but I am afraid to do so because the Assistant
7 Secretary's December 22 decision casts doubt on my authority to represent the Tribe and
8 its members in ICWA proceedings. Without intervention by the Tribe, the child is likely
9 be placed with a non-Indian family.

10
11 13. The Tribe has participated, with other Miwok tribes, in an intertribal
12 Miwok Language Restoration Group. Evelyn Wilson is the senior Miwok member who
13 still speaks the Miwok language.

14
15 14. The Tribe has formed a ceremonial Indian dance group that represents
16 the Tribe at events throughout California.

17
18 15. The Tribe has consulted with Caltrans and other agencies regarding
19 Indian cultural artifacts and remains found at development sites.

20
21 16. The Tribe has offered classes in traditional crafts and skills, such as
22 basket weaving, and participates in ongoing efforts to revive the gathering of native plants,
23 pine nuts, and other materials for such crafts, as well as to protect the sites where those
24 materials are gathered. I have participated in the gathering of those materials, such as
25 willow roots for basket weaving, and would like to continue to do so. However, the loss of
26 federally recognized tribal status would prevent me from doing so, because only members
27 of federally recognized tribes are permitted to gather such materials on public lands.

1 17. The Tribe participates in the annual Salmon Distribution Project in
2 which it obtains several tons of fresh salmon from the Oroville Dam hatchery and
3 distributes it to Tribe members.

4
5 18. The Tribe has issued Tribal identification cards and keeps a
6 membership roll that is updated regularly.

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9 19. In April 2007, the BIA published public notices requesting that
10 individuals who asserted a claim to Tribal membership provide the BIA with
11 documentation of their claims, such as personal genealogies showing their descent from
12 historical members of the Tribe. I submitted my genealogy to the BIA. To my knowledge,
13 no member of the Burley Faction submitted any documentation of their claims to
14 membership.

15
16 20. As a result of the Assistant Secretary for Indian Affairs' December 22,
17 2010 Decision to recognize the Tribe as organized under an invalid 1998 resolution (the
18 "December 22 Decision"), the Council's authority is infringed, and the United States does
19 not recognize the Council or its members as representatives or authorities of the Tribe.

20
21 21. I would like to participate in the organization of the Tribe under the
22 Indian Reorganization Act, but as a result of the December 22 Decision, neither I nor any
23 other member of the Tribal Council or the larger Tribal community will be allowed to
24 participate in the organization process, the drafting and adoption of a Tribal constitution,
25 or the creation of a Tribal government that is recognized by the United States.

1 22. Based on the December 22 Decision, Burley held a "special meeting"
2 on January 7, 2011, at which only Burley, her daughters, and her granddaughter were
3 allowed to attend. I was not permitted to attend the special meeting.
4

5 23. Burley characterized the special meeting as a meeting of the Tribe's
6 General Council and attempted to hold a Tribal election at the meeting. I do not recognize
7 Burley's authority to call a Tribal election or General Council meeting.
8

9 24. I do not recognize the results of the election Burley conducted at that
10 meeting, in which only Burley and her family members voted. However, the BIA has
11 issued decisions recognizing the results of the election and recognizing Burley as
12 Chairperson and her daughter Rashel Reznor as Secretary/Treasurer of the Tribe.
13

14 25. Burley also seeks to use the December 22 Decision as a basis to
15 exclude me and the other members of the Council from participating in litigation that she
16 filed in California Superior Court to gain access to more than \$6 million in Revenue
17 Sharing Trust Fund ("RSTF") money held in trust for the Tribe by the state of California.
18

19 26. Based on the December 22 Decision, the BIA has resumed payment
20 of tribal "self-determination" funds to Burley under Public Law 93-638. Those funds are
21 intended to assist the Tribe in organizing itself, forming a representative government and
22 providing governmental functions and services.
23

24 27. I have never received any of the RSTF money that Burley previously
25 received from the state of California, or any of the federal self-determination funds that
26 Burley previously received from the United States under Public Law 93-638. I am not
27 aware of any other Tribal member who received any of the funds except for Burley and her
28 immediate family. I am not aware of any programs or services for the benefit of the Tribe

1 or its members that were established or supported using the funds. If Burley receives the
2 funds, neither the Tribe itself, nor the Council, nor any other members of the Tribe will
3 receive any of the funds or benefit from the funds. In addition, the funds will support
4 Burley's continued efforts to deny the benefits of Tribe membership to other members.

5
6 28. The Assistant Secretary's December 22 Decision deprives me of
7 membership in the Tribe, because it allows Burley to deny membership to anyone who is
8 not a member of her immediate family. As a result of this deprivation, I feel a loss of my
9 cultural identity and my place in the Native American community. In addition, I will not
10 have access to federal medical benefits and other services available to members of
11 federally recognized Indian tribes.

12
13 I declare under penalty of perjury under the laws of the United States of
14 America that the foregoing is true and correct.

15
16 Executed March 7, 2011, at Sacramento County, California.

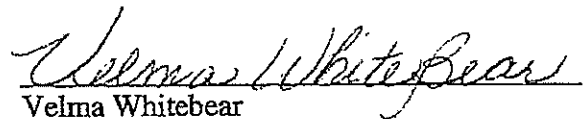
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20 Velma Whitebear
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Exhibit "A"

2008-01-24-Angelina-Dunlop-ICWA



California Valley Miwok Tribe, California
(formerly the Sheep Ranch Rancheria of Me-Wuk Indians of California)
11178 Sheep Ranch Rd. (Sheep Ranch)
Mountain Ranch, California 95246
209-728-8726
{www.californiavalleymiwok.com}

January 23, 2008

Velma WhiteBear, Executive Director
916-690-2312

John Bergersen
Kene Me-Wu Family Healing Center, Inc.
P.O. Box 605
Sonora, California 95370
209-984-8602
<icwa@volcano.net>

Regarding [REDACTED]

Mr. Bergersen:

This is to acknowledge that you and the Kene Me-Wu Family Healing Center, Inc. are authorized to represent the California Valley Miwok Tribe in proceedings of [REDACTED] under Indian Child Welfare Act (ICWA). [REDACTED] is a 3 year old child and is legible for enrollment with the California Valley Miwok Tribe.

Respectfully,

Velma WhiteBear

Velma WhiteBear, Executive Director

Exhibit "B"

03/24/2009 18:45

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Mar 24 09 08:33a KMFHC.

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PAGE 01

P. 1

CALIFORNIA VALLEY MIWOK TRIBE

10601 Escondido Pl., Stockton CA 95212 Bus: (209) 931-4567 Fax: (209) 931-4333

<http://www.californiavalleymiwoktribe-nvns.gov>



March 19, 2009

Jennifer Magee SBN 150561
Deputy County Counsel
810 Court Street
Jackson, California 95642-9534

Re: Case No. 08-DP-0266 / 08-DP-0267 - Destiny Fisher and Dakota Fisher

Dear Ms. Magee,

I am the ICWA (Indian Child Welfare Act) Director for the California Valley Miwok Tribe aka Sheep Ranch Rancheria. The California Valley Miwok Tribe is located in Stockton, California and listed in the federal register. Our Tribe is also listed in the Department of the Interior/Bureau of Indian Affairs Winter 2008 Tribal Leaders Directory (of which our address is listed at 10601 Escondido Pl., Stockton, CA 95212).

Be it known that, I am not an employee of Amador County Department of Social Services who has recommended foster care in the 08-DP-0266 / 08-DP-0267 Case. I have been the ICWA Director for the California Valley Miwok Tribe for eight (8) years and have extensive knowledge of the social and cultural standards within our Tribe. I have reviewed the records and reports in this matter including but not limited to: Detention Report filed November 17, 2008; Jurisdiction Report filed December 9, 2008; and the Disposition Report filed December 23, 2008.

In review of the aforementioned case, I am declaring that [REDACTED] and/or [REDACTED] are not members of our Tribe. I do know that their Grandmother [REDACTED] and their father [REDACTED] were purported to be Tribal Members of the Calaveras Band of Mi-Wuk Indians located in West Point California, contact Chairperson Gloria J. Grimes (209) 293.1218, then they left that Tribe and were said to have joined with the Calaveras County Mountain Miwuk, located in West Point, California, Chairperson Dolores Turner (510) 566.3670 of which there are relatives who are active members in the Calaveras County Mountain Miwuk. I have been informed that Ms. [REDACTED] has again, left that Tribe and joined with a fictitious group lead by Chadd Everone (non Indian) of which our Tribe has filed a complaint (against Chadd Everone and Valma Whitebear) with the Calaveras County Sheriff's Department and the Berkeley Police Department, for Fraud, Identity Theft and creating fake Tribal ID cards.

CVMT-2011-002214

Mar 24 09 09:23a KNUFHC.

209 984-8608

p.2

Chadd Everone, Velma Whitebear, [REDACTED] and/or [REDACTED] are not members of our Tribe, nor are they affiliated with our Tribe. They do not have applications pending with our Tribe. If Tribal ID cards (purporting to be our Tribe) have been submitted to the courts, the back of the cards must be signed by Chairperson Silvia Burley and Enrollment Director Anjelica Paulk. The card will have the Tribe's DOT GOV website listed as <http://www.californiavalleymiwoktribe-nsn.gov>.

In my opinion, as the ICWA Director for the California Valley Miwok Tribe, the courts should take into consideration the seriousness of the fact that misrepresentations by Chadd Everone, [REDACTED] are being purported to the courts.

Respectfully,

Rachel Reznor
 Rachel Reznor
 ICWA Director

Cc:

Ken Salazar, Secretary of the Interior – Indian Affairs, 1849 C St. NW, Washington DC 20240
 Calaveras County Sheriff's Department, 891 Mountain Ranch Rd., San Andreas, CA 95249
 Berkeley Police Department, 2100 Martin Luther King Jr. Blvd., Berkeley, California 94704
 Congressman Jerry McNerney, 5776 Stoneridge Mall Rd. Suite 175, Pleasanton, Calif. 94588
 Sarah Moffat, Field Rep. for Senator Dianne Feinstein, Fresno, California
 Attorney General Jerry Brown, 1300 I Street, Sacramento, California 95814
 Calaveras County Mtn. Miwok, Dolores Turner, Chairperson turnerdolores@comcast.net
 Calaveras Band of Mi-Wuk Indians, Gloria J. Grimes, 579 Bald Mt. Rd, West Point, CA 95255
 Chairman Senator Byron Dorgan. Senate Committee on Indian Affairs, Washington DC 20510
 NICWA – 5100 S.W. Macadam Avenue, Ste. 300, Portland Oregon 97239
 Mary Enriquez, ICWA Specialist, CDSS, 744 P Street, MS 11-82, Sacramento, CA 95814
 ✓ John Bergersen, ICWA – Kene Me-Wu Family Healing Center, P.O. Box 605 Sonora, CA 95370

EXHIBIT 11

**to Brief of Chief Yakima Dixie and the Tribal Council of the California Valley
Miwok Tribe (May 3, 2011)**

Affidavit of Antonia Lopez

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Civil Division

THE CALIFORNIA VALLEY MIWOK
TRIBE, *et al.*,

v.

KEN SALAZAR, in his official capacity
as Secretary of the United States
Department of the Interior, *et al.*

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

Affidavit of Antonia Lopez In Support of
Plaintiffs' Motion for Preliminary
Injunction

Hon. Richard W. Roberts

AFFIDAVIT OF ANTONIA LOPEZ

I, Antonia Lopez, declare as follows:

1. I am an individual and a party in the above-entitled action. I am over the age of 18 and a resident of Amador County, California. I have personal knowledge of

1 the facts set forth herein, which are known by me to be true and correct, and if called as a
2 witness, I could and would competently testify thereto.

3
4 2. This affidavit is submitted in support of Plaintiffs' Motion for
5 Preliminary Injunction.

6
7 3. I am a member of the California Valley Miwok Tribe ("Tribe") and of
8 its Tribal Council ("Council"). I trace my tribal lineal descent from my mother, Alice
9 Geto, my grandmother, Laura Jeff, and my great-grandparents, John Jeff and Tillie Jeff.

10
11 4. I recognize Yakima Dixie as the Hereditary Chief and Traditional
12 Spokesperson of the Tribe.

13
14 5. I do not recognize Silvia Burley as any authority for the Tribe.

15
16 6. In 2003, Yakima Dixie appointed me to the Council. The Council
17 currently consists of Yakima Dixie, me, and four other persons who are recognized as
18 persons of authority within the Tribe: Velma Whitebear, Michael Mendibles, Evelyn
19 Wilson and Antone Azevedo. With few exceptions, the Council has met each month since
20 2003 to conduct Tribal business, enact resolutions, and perform other governmental
21 functions.

22
23
24 7. The Tribal Council met with the BIA in September 2003 and
25 presented them with documentation of the Council's legitimate claim to Tribal authority.
26 We also presented the BIA with a list of Tribal community members who should be
27 allowed to participate in the initial organization of the Tribe. We requested that the BIA
28 call a Secretarial election under the IRA to select a tribal government by majority vote that

1 would be recognized by the United States government. The BIA did not act on the
2 Council's request to call a Secretarial election but continued to meet with the Council to
3 discuss efforts to organize the Tribe.
4

5 8. Tribal Council meetings are open to all members of the Tribal
6 community. Attendance at the meetings ranges from approximately 30 persons to more
7 than 100 persons. Attendance records are kept and meetings are recorded and archived. I
8 participate regularly in these meetings. Burley was specifically invited to the initial
9 meetings and has never been excluded, but she has never attended any of the meetings that
10 I attended.
11

12 9. Under the leadership of the Council, the Tribe has initiated a number
13 of programs aimed at benefiting the full Tribal membership, strengthening the tribal
14 community, and reestablishing historic ties with the larger Indian community. These
15 programs and activities include the following:
16

17 10. The Tribe has participated, with other Miwok tribes, in an intertribal
18 Miwok Language Restoration Group. Evelyn Wilson is the senior Miwok member who
19 still speaks the Miwok language.
20

21
22 11. The Tribe has formed a ceremonial Indian dance group that represents
23 the Tribe at events throughout California.
24

25 12. The Tribe has consulted with Caltrans and other agencies regarding
26 Indian cultural artifacts and remains found at development sites.
27
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1 13. The Tribe has offered classes in traditional crafts and skills, such as
2 basket weaving, and participates in ongoing efforts to revive the gathering of native plants,
3 pine nuts, and other materials for such crafts, as well as to protect the sites where those
4 materials are gathered.

5
6 14. The Tribe participates in the annual Salmon Distribution Project in
7 which it obtains several tons of fresh salmon from the Oroville Dam hatchery and
8 distributes it to Tribe members.

9
10 15. The Tribe has issued Tribal identification cards and keeps a
11 membership roll that is updated regularly.

12
13 16. In April 2007, the BIA published public notices requesting that
14 individuals who asserted a claim to Tribal membership provide the BIA with
15 documentation of their claims, such as personal genealogies showing their descent from
16 historical members of the Tribe. I submitted my genealogy to the BIA. To my knowledge,
17 no member of the Burley Faction submitted any documentation of their claims to
18 membership.

19
20
21 17. As a result of the Assistant Secretary for Indian Affairs' December 22,
22 2010 Decision to recognize the Tribe as organized under an invalid 1998 resolution (the
23 "December 22 Decision"), the Tribal Council's authority is infringed, and the United
24 States does not recognize the Council or its members as representatives or authorities of
25 the Tribe.

26
27 18. I would like to participate in the organization of the Tribe under the
28 Indian Reorganization Act, but as a result of the December 22 Decision, neither I nor any

1 other member of the Tribal Council will be allowed to participate in the organization
2 process, the drafting and adoption of a Tribal constitution, or the creation of a Tribal
3 government that is recognized by the United States.

4
5 19. Based on the December 22 Decision, Burley held a "special meeting"
6 on January 7, 2011, at which only Burley, her daughters, and her granddaughter were
7 allowed to attend. I was not permitted to attend the special meeting.

8
9 20. Burley characterized the special meeting as a meeting of the Tribe's
10 General Council and attempted to hold a Tribal election at the meeting. I do not recognize
11 Burley's authority to call a Tribal election or General Council meeting.

12
13 21. I do not recognize the results of the election Burley conducted at that
14 meeting, in which only Burley and her family members voted. However, the BIA has
15 issued decisions recognizing the results of the election and recognizing Burley as
16 Chairperson and her daughter Rashel Reznor as Secretary/Treasurer of the Tribe.

17
18 22. Burley also seeks to use the December 22 Decision as a basis to
19 exclude me and the other members of the Council from participating in litigation that she
20 filed in California Superior Court to gain access to more than \$6 million in Revenue
21 Sharing Trust Fund ("RSTF") money held in trust for the Tribe by the state of California.

22 23. Based on the December 22 Decision, the BIA has resumed payment of tribal "self-
23 determination" funds to Burley under Public Law 93-638. Those funds are intended to
24 assist the Tribe in organizing itself, forming a representative government and performing
25 governmental functions and services.

26
27 24. I have never received any of the RSTF money that Burley previously
28 received from the state of California, or any of the federal self-determination funds that

1 Burley previously received from the United States under Public Law 93-638. I am not
2 aware of any other Tribal member who received any of the funds except for Burley and her
3 immediate family. I am not aware of any programs or services for the benefit of the Tribe
4 or its members that were established or supported using the funds. If Burley receives the
5 funds, neither the Tribe itself, nor the Council, nor any other members of the Tribe will
6 receive any of the funds or benefit from the funds. In addition, the funds will support
7 Burley's continued efforts to deny the benefits of Tribe membership to other members.
8

9 28. The Assistant Secretary's December 22 Decision deprives me of
10 membership in the Tribe, because it allows Burley to deny membership to anyone who is
11 not a member of her immediate family. As a result of this deprivation, I feel a loss of my
12 cultural identity and my place in the Native American community. In addition, I will not
13 have access to federal medical benefits and other services available to members of
14 federally recognized Indian tribes.

15
16 I declare under penalty of perjury under the laws of the United States of
17 America that the foregoing is true and correct.

18
19 Executed March 8, 2011, at Amador County, California.

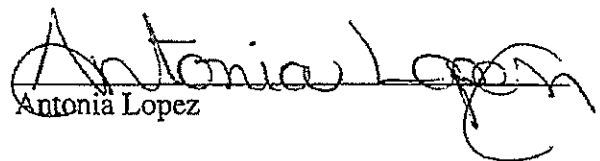
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EXHIBIT 12

**to Brief of Chief Yakima Dixie and the Tribal Council of the California Valley
Miwok Tribe (May 3, 2011)**

Affidavit of Michael Mendibles

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Civil Division

THE CALIFORNIA VALLEY MIWOK
TRIBE, *et al.*,

v.

KEN SALAZAR, in his official capacity
as Secretary of the United States
Department of the Interior, *et al.*

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

Affidavit of Michael Mendibles In Support
of Plaintiffs' Motion for Preliminary
Injunction

Hon. Richard W. Roberts

AFFIDAVIT OF MICHAEL MENDIBLES

I, Michael Mendibles, declare as follows:

1. I am an individual and a party in the above-entitled action. I am over the age of 18 and a resident of Calaveras County, California. I have personal knowledge of the facts set forth herein, which are known by me to be true and correct, and if called as a witness, I could and would competently testify thereto.

2. This affidavit is submitted in support of Plaintiffs' Motion for Preliminary Injunction.

3. I am a member of the California Valley Miwok Tribe ("Tribe") and of its Tribal Council ("Council"). I trace my tribal lineal descent from my mother, Valarie Mata-Mendibles, my grandmother, Dora Hodge-Shelton Mata, and my great-grandmother, Lena Hodge-Shelton, who were listed in the 1915 Indian census and/or the 1929 Indian Census Roll of Calaveras County.

4. I own ancestral land adjacent to the Sheep Ranch Rancheria.

1 5. I recognize Yakima Dixie as the Hereditary Chief and Traditional
2 Spokesperson of the Tribe.

3
4 6. I do not recognize Silvia Burley as any authority for the Tribe.

5
6 7. In 2003, Yakima Dixie appointed me to the Council. The Council
7 currently consists of Yakima Dixie, me, and four other persons who are recognized as
8 persons of authority within the Tribe: Velma Whitebear, Antonia Lopez, Evelyn Wilson
9 and Antone Azevedo. With few exceptions, the Council has met each month since 2003 to
10 conduct Tribal business, enact resolutions, and perform other governmental functions.

11
12 8. The Tribal Council met with the BIA in September 2003 and
13 presented them with documentation of the Council's legitimate claim to Tribal authority.
14 We also presented the BIA with a list of Tribal community members who should be
15 allowed to participate in the initial organization of the Tribe. We requested that the BIA
16 call a Secretarial election under the IRA to select a tribal government by majority vote that
17 would be recognized by the United States government. The BIA did not act on the
18 Council's request to call a Secretarial election but continued to meet with the Council to
19 discuss efforts to organize the Tribe.

20
21 9. Tribal Council meetings are open to all members of the Tribal
22 community. Attendance at the meetings ranges from approximately 30 persons to more
23 than 100 persons. Attendance records are kept and meetings are recorded and archived. I
24 participate regularly in these meetings. Burley was specifically invited to the initial
25 meetings and has never been excluded, but she has never attended any of the meetings that
26 I attended.

1 10. Under the leadership of the Council, the Tribe has initiated a number
2 of programs aimed at benefiting the full Tribal membership, strengthening the tribal
3 community, and reestablishing historic ties with the larger Indian community. These
4 programs and activities include the following:

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6 11. The Tribe has interceded in approximately ten child custody cases
7 under the Indian Child Welfare Act, in an effort to have children of Tribe members placed
8 with families that have ties to Indian traditions. Burley has opposed the Tribe's efforts in
9 those cases and denied that the children are eligible for membership in the Tribe.

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11 12. The Tribe has participated in Indian health services, emergency
12 services and food distribution programs, including the MACT Indian health services
13 program, that benefit members of the Tribe and other Indian tribes.

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15 13. The Tribe has participated, with other Miwok tribes, in an intertribal
16 Miwok Language Restoration Group. Evelyn Wilson is the senior Miwok member who
17 still speaks the Miwok language.

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19 14. The Tribe has formed a ceremonial Indian dance group that represents
20 the Tribe at events throughout California.

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22 15. The Tribe has consulted with Caltrans and other agencies regarding
23 Indian cultural artifacts and remains found at development sites.

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25 16. The Tribe has offered classes in traditional crafts and skills, such as
26 basket weaving, and participates in ongoing efforts to revive the gathering of native plants,
27 pine nuts, and other materials for such crafts, as well as to protect the sites where those
28 materials are gathered.

1 17. The Tribe is engaged in discussions with Calaveras County and other
2 local and state agencies, through the Amador-Calaveras Consensus Group and the
3 Calaveras Healthy Impact Products Solutions program, regarding joint participation in the
4 Collaborative Forest Landscape Restoration Program, a federally supported forest
5 rehabilitation program. This program would provide economic opportunities for Tribe
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10 distributes it to Tribe members.

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12 19. The Tribe has issued Tribal identification cards and keeps a
13 membership roll that is updated regularly.

14
15 20. In April 2007, the BIA published public notices requesting that
16 individuals who asserted a claim to Tribal membership provide the BIA with
17 documentation of their claims, such as personal genealogies showing their descent from
18 historical members of the Tribe. I submitted my genealogy to the BIA. To my knowledge,
19 no member of the Burley Faction submitted any documentation of their claims to
20 membership.

21
22 21. As a result of the Assistant Secretary for Indian Affairs' December 22,
23 2010 Decision to recognize the Tribe as organized under an invalid 1998 resolution (the
24 "December 22 Decision"), the Tribal Council's authority is infringed, and the United
25 States does not recognize the Council or its members as representatives or authorities of
26 the Tribe.

1 22. I would like to participate in the organization of the Tribe under the
2 Indian Reorganization Act, but as a result of the December 22 Decision, neither I will not
3 be allowed to participate in the organization process, the drafting and adoption of a Tribal
4 constitution, or the creation of a Tribal government that is recognized by the United States.

5
6 23. Based on the December 22 Decision, Burley held a "special meeting"
7 on January 7, 2011, at which only Burley, her daughters, and her granddaughter were
8 allowed to attend. I was not permitted to attend the special meeting.

9
10 24. Burley characterized the special meeting as a meeting of the Tribe's
11 General Council and attempted to hold a Tribal election at the meeting. I do not recognize
12 Burley's authority to call a Tribal election or General Council meeting.

13
14 25. I do not recognize the results of the election Burley conducted at that
15 meeting, in which only Burley and her family members voted. However, the BIA has
16 issued decisions recognizing the results of the election and recognizing Burley as
17 Chairperson and her daughter Rashel Reznor as Secretary/Treasurer of the Tribe.

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19 26. Burley also seeks to use the December 22 Decision as a basis to
20 exclude me and the other members of the Council from participating in litigation that she
21 filed in California Superior Court to gain access to more than \$6 million in Revenue
22 Sharing Trust Fund ("RSTF") money held in trust for the Tribe by the state of California.

23
24 27. Based on the December 12 Decision, the BIA has resumed payment
25 of tribal "self-determination" funds to Burley under Public Law 93-638. Those funds are
26 intended to assist the Tribe in organizing itself, forming a representative government and
27 performing governmental functions and services.

28

1 28. I have never received any of the RSTF money that Burley previously
2 received from the state of California, or any of the federal self-determination funds that
3 Burley previously received from the United States under Public Law 93-638. I am not
4 aware of any other Tribal member who received any of the funds except for Burley and her
5 immediate family. I am not aware of any programs or services for the benefit of the Tribe
6 or its members that were established or supported using the funds. If Burley receives the
7 funds, neither the Tribe itself, nor the Council, nor any other members of the Tribe will
8 receive any of the funds or benefit from the funds. In addition, the funds will support
9 Burley's continued efforts to deny the benefits of Tribe membership to other members.

10
11 29. The Assistant Secretary's December 22 Decision deprives me of
12 membership in the Tribe, because it allows Burley to deny membership to anyone who is
13 not a member of her immediate family. As a result of this deprivation, I feel a loss of my
14 cultural identity and my place in the Native American community. In addition, I will not
15 have access to federal medical benefits and other services available to members of
16 federally recognized Indian tribes.

17
18 I declare under penalty of perjury under the laws of the United States of
19 America that the foregoing is true and correct.

20
21 Executed March 5, 2011, at Calaveras County, California.


22
23
24 
25 Michael Mendibles
26 3-5-2011

EXHIBIT 13

**to Brief of Chief Yakima Dixie and the Tribal Council of the California Valley
Miwok Tribe (May 3, 2011)**

Affidavit of Evelyn Wilson

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE DISTRICT OF COLUMBIA**
 Civil Division

3 **THE CALIFORNIA VALLEY MIWOK**
4 **TRIBE, *et al.*,**

5 **v.**

6 **KEN SALAZAR, in his official capacity**
7 **as Secretary of the United States**
8 **Department of the Interior, *et al.***

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

Affidavit of Evelyn Wilson In Support of
Plaintiffs' Motion for Preliminary
Injunction

Hon. Richard W. Roberts

9
10 **AFFIDAVIT OF EVELYN WILSON**

11 I, Evelyn Wilson, declare as follows:

12
13 1. I am an individual and a party in the above-entitled action. I am over
14 the age of 18 and a resident of Calaveras County, California. I have personal knowledge
15 of the facts set forth herein, which are known by me to be true and correct, and if called as
16 a witness, I could and would competently testify thereto.

17
18 2. This affidavit is submitted in support of Plaintiffs' Motion for
19 Preliminary Injunction.

20
21 3. I am a member of the California Valley Miwok Tribe ("Tribe") and of
22 its Tribal Council ("Council"). I trace my tribal lineal descent from my mother, Laura
23 Hodge Jeff, and my grandparents, John Jeff and Tillie Jeff, who were listed in the 1929
24 Indian Census Roll of Calaveras County.

25
26 4. I recognize Yakima Dixie as the Hereditary Chief and Traditional
27 Spokesperson of the Tribe.

1 5. I do not recognize Silvia Burley as any authority for the Tribe.

2

3 6. In 2003, Yakima Dixie appointed me to the Council. The Council
4 currently consists of Yakima Dixie, me, and four other persons who are recognized as
5 persons of authority within the Tribe: Velma Whitebear, Antonia Lopez, Michael
6 Mendibles and Antone Azevedo. With few exceptions, the Council has met each month
7 since 2003 to conduct Tribal business, enact resolutions, and perform other governmental
8 functions.

9

10 7. The Tribal Council met with the BIA in September 2003 and
11 presented them with documentation of the Council's legitimate claim to Tribal authority.
12 We also presented the BIA with a list of Tribal community members who should be
13 allowed to participate in the initial organization of the Tribe. We requested that the BIA
14 call a Secretarial election under the IRA to select a tribal government by majority vote that
15 would be recognized by the United States government. The BIA did not act on the
16 Council's request to call a Secretarial election but continued to meet with the Council to
17 discuss efforts to organize the Tribe.

18

19 8. Tribal Council meetings are open to all members of the Tribal
20 community. Attendance at the meetings ranges from approximately 30 persons to more
21 than 100 persons. Attendance records are kept and meetings are recorded and archived. I
22 participate regularly in these meetings. Burley was specifically invited to the initial
23 meetings and has never been excluded, but she has never attended any of the meetings.

24

25 9. Under the leadership of the Council, the Tribe has initiated a number
26 of programs aimed at benefiting the full Tribal membership, strengthening the tribal
27 community, and reestablishing historic ties with the larger Indian community. These
28 programs and activities include the following:

1 10. The Tribe has interceded in approximately ten child custody cases
2 under the Indian Child Welfare Act, in an effort to have children of Tribe members placed
3 with families that have ties to Indian traditions. Burley has opposed the Tribe's efforts in
4 those cases and denied that the children are eligible for membership in the Tribe.

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6 11. The Tribe has participated in Indian health services, emergency
7 services and food distribution programs, including the MACT Indian health services
8 program, that benefit members of the Tribe and other Indian tribes.

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10 12. The Tribe has participated, with other Miwok tribes, in an intertribal
11 Miwok Language Restoration Group. I am the senior Miwok member who still speaks the
12 Miwok language.

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14 13. The Tribe has formed a ceremonial Indian dance group that represents
15 the Tribe at events throughout California.

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17 14. The Tribe has consulted with Caltrans and other agencies regarding
18 Indian cultural artifacts and remains found at development sites.

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20 15. The Tribe has offered classes in traditional crafts and skills, such as
21 basket weaving, and participates in ongoing efforts to revive the gathering of native plants,
22 pine nuts, and other materials for such crafts, as well as to protect the sites where those
23 materials are gathered.

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26 local and state agencies, through the Amador-Calaveras Consensus Group and the
27 Calaveras Healthy Impact Products Solutions program, regarding joint participation in the
28 Collaborative Forest Landscape Restoration Program, a federally supported forest

1 rehabilitation program. This program would provide economic opportunities for Tribe
2 members and the local community.

3
4 17. The Tribe participates in the annual Salmon Distribution Project in
5 which it obtains several tons of fresh salmon from the Oroville Dam hatchery and
6 distributes it to Tribe members.

7
8 18. The Tribe has issued Tribal identification cards and keeps a
9 membership roll that is updated regularly.

10
11
12 19. In April 2007, the BIA published public notices requesting that
13 individuals who asserted a claim to Tribal membership provide the BIA with
14 documentation of their claims, such as personal genealogies showing their descent from
15 historical members of the Tribe. I submitted my genealogy to the BIA. To my knowledge,
16 no member of the Burley Faction submitted any documentation of their claims to
17 membership.

18
19 20. As a result of the Assistant Secretary for Indian Affairs' December 22,
20 2010 Decision to recognize the Tribe as organized under an invalid 1998 resolution (the
21 "December 22 Decision"), the Tribal Council's authority is infringed, and the United
22 States does not recognize the Council or its members as representatives or authorities of
23 the Tribe.

24
25 21. I would like to participate in the organization of the Tribe under the
26 Indian Reorganization Act, but as a result of the December 22 Decision, neither I nor any
27 other member of the Tribal Council will be allowed to participate in the organization
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1 process, the drafting and adoption of a Tribal constitution, or the creation of a Tribal
2 government that is recognized by the United States.

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4 22. Based on the December 22 Decision, Burley held a "special meeting"
5 on January 7, 2011, at which only Burley, her daughters, and her granddaughter were
6 allowed to attend. I was not permitted to attend the special meeting.

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8 23. Burley characterized the special meeting as a meeting of the Tribe's
9 General Council and attempted to hold a Tribal election at the meeting. I do not recognize
10 Burley's authority to call a Tribal election or General Council meeting.

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12 24. I do not recognize the results of the election Burley conducted at that
13 meeting, in which only Burley and her family members voted. However, the BIA has
14 issued decisions recognizing the results of the election and recognizing Burley as
15 Chairperson and her daughter Rashel Reznor as Secretary/Treasurer of the Tribe.

16
17 25. Burley also seeks to use the December 22 Decision as a basis to
18 exclude me and the other members of the Council from participating in litigation that she
19 filed in California Superior Court to gain access to more than \$6 million in Revenue
20 Sharing Trust Fund ("RSTF") money held in trust for the Tribe by the state of California.

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22 26. Based on the December 12 Decision, the BIA has resumed payment
23 of tribal "self-determination" funds to Burley under Public Law 93-638. Those funds are
24 intended to assist the Tribe in organizing itself, forming a representative government and
25 performing governmental functions and services.


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27 27. I have never received any of the RSTF money that Burley previously
28 received from the state of California, or any of the federal self-determination funds that

1 Burley previously received from the United States under Public Law 93-638. I am not
2 aware of any other Tribal member who received any of the funds except for Burley and her
3 immediate family. I am not aware of any programs or services for the benefit of the Tribe
4 or its members that were established or supported using the funds. If Burley receives the
5 funds, neither the Tribe itself, nor the Council, nor any other members of the Tribe will
6 receive any of the funds or benefit from the funds. In addition, the funds will support
7 Burley's continued efforts to deny the benefits of Tribe membership to other members.

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9 28. The Assistant Secretary's December 22 Decision deprives me of
10 membership in the Tribe, because it allows Burley to deny membership to anyone who is
11 not a member of her immediate family. As a result of this deprivation, I feel a loss of my
12 cultural identity and my place in the Native American community. In addition, I will not
13 have access to federal medical benefits and other services available to members of
14 federally recognized Indian tribes.

15
16 I declare under penalty of perjury under the laws of the United States of
17 America that the foregoing is true and correct.

18
19 Executed March 5, 2011, at Calaveras County, California.

20
21
22 
23 Evelyn Wilson
24 3/5/11

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EXHIBIT 14

**to Brief of Chief Yakima Dixie and the Tribal Council of the California Valley
Miwok Tribe (May 3, 2011)**

Affidavit of Antone Azevedo

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Civil Division

THE CALIFORNIA VALLEY MIWOK
TRIBE, *et al.*,

v.

KEN SALAZAR, in his official capacity
as Secretary of the United States
Department of the Interior, *et al.*

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

Affidavit of Antone Azevedo In Support of
Plaintiffs' Motion for Preliminary
Injunction

Hon. Richard W. Roberts

AFFIDAVIT OF ANTONE AZEVEDO

I, Antone Azevedo, declare as follows:

1. I am an individual and a party in the above-entitled action. I am over the age of 18 and a resident of Calaveras County, California. I have personal knowledge of the facts set forth herein, which are known by me to be true and correct, and if called as a witness, I could and would competently testify thereto.

2. This affidavit is submitted in support of Plaintiffs' Motion for Preliminary Injunction.

3. I am a member of the California Valley Miwok Tribe ("Tribe") and of its Tribal Council ("Council"). From 1950 to 1959, I lived with my family on the Sheep Ranch Rancheria. I trace my tribal lineal descent to the ancestral members of the Tribe, as delineated in the 1929 Indian Census Roll of Calaveras County, through my mother, Annie Jeannete Geto, my grandmother, Laura Hodge Jeff, and my great-grandparents, John Jeff and Tillie Jeff.

1 4. I recognize Yakima Dixie as the Hereditary Chief and Traditional
2 Spokesperson of the Tribe.

3
4 5. I do not recognize Silvia Burley as any authority for the Tribe.
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6 6. In 2003, Yakima Dixie appointed me to the Council. The Council
7 currently consists of Yakima Dixie, me, and four other persons who are recognized as
8 persons of authority within the Tribe: Velma Whitebear, Antonia Lopez, Michael
9 Mendibles and Evelyn Wilson. With few exceptions, the Council has met each month
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15 We also presented the BIA with a list of Tribal community members who should be
16 allowed to participate in the initial organization of the Tribe. We requested that the BIA
17 call a Secretarial election under the IRA to select a tribal government by majority vote that
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24 than 100 persons. Attendance records are kept and meetings are recorded and archived. I
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26 meetings and has never been excluded, but she has never attended any of the meetings that
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4 Collaborative Forest Landscape Restoration Program, a federally supported forest
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26 intended to assist the Tribe in organizing itself, forming a representative government and
27 performing governmental functions and services.

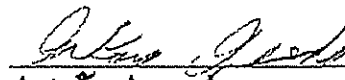
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5 immediate family. I am not aware of any programs or services for the benefit of the Tribe
6 or its members that were established or supported using the funds. If Burley receives the
7 funds, neither the Tribe itself, nor the Council, nor any other members of the Tribe will
8 receive any of the funds or benefit from the funds. In addition, the funds will support
9 Burley's continued efforts to deny the benefits of Tribe membership to other members.

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13 not a member of her immediate family. As a result of this deprivation, I feel a loss of my
14 cultural identity and my place in the Native American community. In addition, I will not
15 have access to federal medical benefits and other services available to members of
16 federally recognized Indian tribes.

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18 I declare under penalty of perjury under the laws of the United States of
19 America that the foregoing is true and correct.

20
21 Executed March 5, 2011, at Calaveras County, California.

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23
24 
25 Antone Azevedo
26 3-5-11

APPENDIX DOCUMENT 24



California Valley Miwok Tribe, California
(a.k.a. Sheep Ranch Rancheria of Me-Wuk Indians of California)

RESOLUTION 2011-04-30
(The Base-Enrollment of Members for Organizing the Tribe)

WHEREAS, the California Valley Miwok Tribe ("Tribe"), also known as the Sheep Ranch Rancheria of Me-Wuk Indians of California, is a federally recognized Indian tribe;

WHEREAS, the Tribe is governed by its Tribal Council, which consists of the undersigned Council members;

WHEREAS, the Tribe in 2006 adopted criteria defining those individuals who are eligible for membership in the Tribe, which include the lineal descendants of known historical members of the Tribe;

WHEREAS, the Tribal Council directed that all individuals who meet the membership criteria, and desire membership in the Tribe, should submit membership applications to the Tribe with supporting information that demonstrates the basis for their claim to membership;

WHEREAS, the Tribal Council has reviewed each of the membership applications for consistency with the Tribe's membership criteria and has enrolled those individuals who meet the membership criteria; and

WHEREAS, the Tribe has maintained accurate records of enrollment actions and maintains an up-to-date roster of all those individuals who are currently enrolled as members in the Tribe;

NOW, THEREFORE, BE IT RESOLVED that:

The Tribal Council declares and certifies that the individuals named in the attached Tribal Membership Roster constitute the current adult membership of the Tribe as of the effective date of this Resolution; and

Any individuals not named in the attached Tribal membership roster, who meet the Tribe's membership criteria and who desire membership in the Tribe, may submit applications for membership to the Tribal Council. The Tribal Council will review all applications for consistency with the Tribe's membership criteria and will continue to update the Tribal membership roster as needed.

VERIFICATION

We, the undersigned, as a majority of the Tribal Counsel of the California Valley Miwok Tribe, California (also known as the Sheep Ranch Rancheria of Me-Wuk Indians of California) do, hereby, certify that the foregoing Resolution was adopted at a duly convened meeting on April 30, 2011 or otherwise on the designated date of signing.

Approved: () yes () no () Abstained ()

Approved: () yes () no () Abstained ()

Yakima K. Dixie, Chief

Velma WhiteBear, Executive Director

Date: _____

Date: _____

Approved: () yes () no () Abstained ()

Approved: () yes () no () Abstained ()

Antonia Lopez, Secretary

Michael Mendibles

Date: _____

Date: _____

Approved: () yes () no () Abstained ()

Approved: () yes () no () Abstained ()

Evelyn Wilson

Shirley M. Wilson

Date: _____

Date: _____

Approved: () yes () no () Abstained ()

Approved: () yes () no () Abstained ()

Iva Carsoner

Antone Azevedo

Date: _____

Date: _____

VERIFICATION

We, the undersigned, as a majority of the Tribal Counsel of the California Valley Miwok Tribe, California (also known as the Sheep Ranch Rancheria of Me-Wuk Indians of California) do, hereby, certify that the foregoing Resolution was adopted at a duly convened meeting on April 30, 2011 or otherwise on the designated date of signing.

Approved: ☒ yes () no () Abstained ()

Yakima K. Dixie, Chief

Date: Yakima K. DixieApproved: ☒ yes () no () Abstained ()

Antonia Lopez, Secretary

Date: Antonia LopezApproved: ☒ yes () no () Abstained ()Evelyn A. Wilson Sr.

Evelyn Wilson

Date: _____

Approved: ☒ yes () no () Abstained ()Iva Carsoner

Iva Carsoner

Date: _____

Approved: ☒ yes () no () Abstained ()Velma White Bear

Velma WhiteBear, Executive Director

Date: _____

Approved: ☒ yes () no () Abstained ()Michael Mendibles

Michael Mendibles

Date: 4-30-2011Approved: ☒ yes () no () Abstained ()Shirley M. Wilson

Shirley M. Wilson

Date: _____

Approved: ☒ yes () no () Abstained ()Antone Azevedo

Antone Azevedo

Date: _____

Adult Individuals (age 18 and over) on the Tribal Membership Roster are listed below. Also, the Roster includes 350+ children, but they are not listed herein. This list was reviewed and validated at the Tribal Council Meeting on April 30, 2011.

	FirstName	Initial	LastName	City	State
1	Shiann	V.	Ahmed	Stockton	California
2	Phyllis	Marie Wilson	Alaway	West Point	California
3	Rodney	W.	Alaway	West Point	California
4	Joe	Rudy	Amial, Jr.	Jackson	California
1	Josephine	M..	Aranda	Jackson	California
2	Marie		Aranda	Kahului	Hawaii
3	Carmelita	Maria	Avina	Rocklin	California
4	Ruben		Avina, Jr.	Rocklin	California
5	Antone		Azevedo	North Highlands	California
6	Ashley		Azeyedo	Stockton	California
7	Cecilia		Azevedo	North Highlands	California
8	Antone		Azevedo, Jr.	North Highlands	California
9	Monica		Banuelos	Sacramento	California
10	Alejandro	A.	Barron	Sacramento	California
11	Juanito	Raul	Barron	Sacramento	California
12	Lorraine		Barron	Galt	California
13	Tina	Azevedo	Barron	Sacramento	California
14	Vincent	Manolo	Barron	Sacramento	California
15	Tina		Barron, Jr.	Sacramento	California
16	Ruby		Bazar	West Point	California
17	Michael		Bobian	Stockton	California
18	Ramona	L.	Brabbin	Wilseyville	California
19	Anjona	T.	Brooks	Stockton	California
20	Jonathan		Brooks	Stockton	California
21	Joseph	K.	Brooks	Stockton	California
22	Alex	D.	Burley	West Point	California
23	Christopher	A.	Burley	West Point	California
24	Crystal	M.	Burley	West Point	California
25	Daniel		Calderon	Wilseyville	California
26	Lynette		Carrillo	Sacramento	California
27	Roberta		Carrillo	Sacramento	California
28	Daniel		Carsoner	Stockton	California

Base Enrollment of Members

2011-04-30-Resolution-members

	FirstName	Initial	LastName	City	State
29	Iva	A.	Carsoner	Stockton	California
30	Tina		Carsoner	Stockton	California
31	Patrick		Chavez	Sacramento	California
32	Stephen	A.	Chavez	Sacramento	California
33	Donell		Clark	Wilseyville	California
34	Sandra	Gonzales	Contreras	Moreno Valley	California
35	Israel		Cortez Jr.	Stockton	California
36	Briana	L.	Creekmore	Wilseyville	California
37	Galadrial		Day	Sutter Creek	California
38	Kathryn	M.	Delgado	Coming	California
39	Yakima	K.	Dixie	Sheep Ranch	California
40	Peter	Orin	Dunlap, Jr. II	West Point	California
41	Desirre		Feist	Kingston	Oklahoma
42	Arvada		Fisher	Railroad Flat	California
43	Lee		Fisher	West Point	California
44	Roxanne		Fisher	West Point	California
45	Waite	Nathan	Fisher	West Point	California
46	Andrea	Jeanette	Flores	Galt	California
47	Yolanda	L.	Fontanilla	Kahului	Hawaii
48	Natalie	Irene	Franklin	West Point	California
49	Hudgee		Gemmill	Burney	California
50	Jake		Gemmill	Burney	California
51	Lucy		Gemmill	Burney	California
52	Owen		Gemmill	Burney	California
53	Rainbow		Gemmill	Burney	California
54	Renee		Gemmill	Burney	California
55	Dora	E.	Geto	Vallecito	California
56	Louis	Robert	Geto III	Murphys	California
57	Paul	D.	Geto	Antelope	California
58	Rose		Geto	West Point	California
59	Vanessa	M.	Geto	Wilseyville	California
60	Yolanda	L.	Geto	Vallecito	California
61	Laura	Renee	Geto-Hernandez	Sacramento	California
62	Sabrina	L.	Geto-Smith	Antelope	California
63	Samantha	F.	Geto-Smith	Antelope	California

Base Enrollment of Members

2011-04-30-Resolution-members

	FirstName	Initial	LastName	City	State
64	Teresa	M.	Geto-Smith	Antelope	California
65	Jazmyn		Gonzalez	Moreno Valley	California
66	Lindsay		Gonzalez	Moreno Valley	California
67	Mario		Gonzalez	Nuevo	California
68	Michelle	(Bernal)	Gonzalez	Moreno Valley	California
69	Rosemary		Gonzalez	Seymour	MO
70	Teresa		Gonzalez	Oakland	California
71	Tiffany	Andrea	Gonzalez	Moreno Valley	California
72	Tommie	John	Gonzalez	Robersville	MO
73	Valerie	Renee	Gonzalez	Moreno Valley	California
74	John	Noel	Gonzalez, Jr.	Galt	California
75	Andrea		Gonzales	Acampo	California
76	Darlene		Gonzales	Mokelumne Hill	California
77	Barbara	Ann (Azevedo)	Gonzalez	Moreno Valley	California
78	Candace	Marie	Gonzalez	Seymour	MO
79	Demitri		Gonzalez	Elk Grove	California
80	John		Gonzalez	Seymour	MO
81	John		Gonzalez	Stockton	California
82	Sandra	Christine	Gonzalez	Moreno Valley	California
83	Heather		Grimes	West Point	California
84	Leonard	E.	Grimes	West Point	California
85	Nicole		Grimes	West Point	California
86	Ronald		Grimes	West Point	California
87	Cynthia		Grow	West Point	California
88	James		Grow III	West Point	California
89	James		Grow Jr.	West Point	California
90	Margie	M.	Grow	Woodland	California
91	Tammy		Grow	West Point	California
92	Timothy		Grow	West Point	California
93	Travis		Grow	San Andreas	California
94	Elonda	May Stevens	Guzman	Corning	California
95	Little Flower	Stevens	Guzman	Corning	California
96	Carol		Herman	West Point	California
97	Harold		Jack	West Point	California
98	Harriet	I.	Jack	Stockton	California

	FirstName	Initial	LastName	City	State
99	Harry		Jack	Stockton	California
100	Helen	G.	Jack	Stockton	California
101	Shamona	L.	Jack	Stockton	California
102	Shaprice		Jack	Stockton	California
103	Teresa	Marie	Jack	Turlock	California
104	Tranetta	A.	Jack	Stockton	California
105	Harold		Jack, Jr	Turlock	California
106	Althea		Jeff	West Point	California
107	Betty		Jeff	West Point	California
108	Kathleen	Lois	Jeff	West Point	California
109	Tina	Valerie	Jeff	Alameda	California
110	Tyler	Joseph	Jeff	Alameda	California
111	Gail	I.	Jeff-Manney	Alameda	California
112	Angelina	V.	Jimenez	Stockton	California
113	Iva	R.	Jimenez	Stockton	California
114	Jonathan	Andrew	Kollen	Des Moines	Washington
115	Kristi	Marie	Kollen	Des Moines	Washington
116	Mary Louise	Rummerfield	Lewis	Coarsegold	California
117	Tobias		Lewis	Sonora	California
118	Jonathan	R.L	Lind	Wilseyville	California
119	Antoinette	Christina Amparo	Lopez	Jackson	California
120	Antonia		Lopez	Jackson	California
121	Lisa	Marie	Lopez	Jackson	California
122	Corina		Lopstain	Weed	California
123	Geneva		Lopstain	Weed	California
124	Joseph		Lopstain	Sacramento	California
125	Manuel		Lopstain	Galt	California
126	Sophia		Luna	Stockton	California
127	Edward	Anthony	Macias	Moreno Valley	California
128	Barbara	Ann	Magana	Moreno Valley	California
129	Felicia		Magana	Moreno Valley	California
130	Jose		Magana	Moreno Valley	California
131	Lisa	Ann	Magana	Moreno Valley	California
132	Jodi		Martinez	Sacramento	California
133	Melissa	Marie	Martinez	Winchester	California

Base Enrollment of Members

2011-04-30-Resolution-members

	FirstName	Initial	LastName	City	State
134	Michelle		Martinez	Stockton	California
135	Bronson		Mendibles	West Point	California
136	Leon		Mendibles	Carson City	Nevada
137	Michael		Mendibles	West Point	California
138	Fidel		Mendoza, Jr.	Sacramento	California
139	Donald	R.	Moody III	Stockton	California
140	Tami		Mora	Sacramento	California
141	Leslie	H.	Mose	West Point	California
142	Eugene	Mangas	Nalfon	Coming	California
143	Tatiana	E.	Navarrette	Sacramento	California
144	Christopher	Ryon	O'Grady	Westwood	California
145	Shawnee	Utona	O'Grady	Westwood	California
146	Ascencion		Ortega	Stockton	California
147	Denise		Ortega	Stockton	California
148	Julian		Ortega	Stockton	California
149	Rachel		Ortega	Stockton	California
150	Alice		Orozco	Stockton	California
151	Daniel		Orozco	Stockton	California
152	Elsa R.		Orozco	Stockton	California
153	Robert		Orozco	Stockton	California
154	Victor		Orozco	Stockton	California
155	Anne	Janette Gonzales	Owens	Fordland	Missouri
156	Enrique	Lazaro	Padilla I	Coming	California
157	Connie	Dec	Panag	Sacramento	California
158	Gonzalo		Perez	Moreno Valley	California
159	Leslie		Prater	Fortuna	California
160	Rosemarie	Alaway	Queen	West Point	California
161	George	J.	Ramirez	West Point	California
162	Hermينيا		Ramirez	Coming	California
163	Joseph	J.	Ramirez	Galt	California
164	Lorenzo	Anthony	Ramirez	Hemet	California
165	Lucinda	Rose	Ramirez	West Point	California
166	Manuel	Alex	Ramirez	West Point	California
167	Pete		Ramirez	Stockton	California
168	Vanessa	M.	Ramirez	Galt	California

Base Enrollment of Members

2011-04-30-Resolution-members

	FirstName	Initial	LastName	City	State
169	Gilbert	Juan	Ramirez, Jr.	Stockton	California
170	Gilbert	J.	Ramirez, Sr.	West Point	California
171	Robert		Ramirez, Jr.	Ione	California
172	Toni	Lopstain	Ramirez-Gomez	Galt	California
173	Esther		Rodriguez	Stockton	California
174	Ruby		Rodriguez	Stockton	California
175	Bonnie	R.	Rummerfield	West Point	California
176	Deborah		Rummerfield	West Point	California
177	Eric		Rummerfield	West Point	California
178	Laverne		Rummerfield	West Point	California
179	Sherry		Rummerfield	West Point	California
180	Shirley	Mae	Rummerfield	Stockton	California
181	Noelani	M.	Russell	Jackson	California
182	Rosalie	A.	Russell	Jackson	California
183	Georgette	Leeann Summers	Sanchez	San Andreas	California
184	Jose	A.	Sanchez	Corning	California
185	Esther	A.	Sandoval	Stockton	California
186	Juan		Sandoval	Stockton	California
187	Soloman		Sandoval	Stockton	California
188	Carolyn	Irene	Sayers	West Point	California
189	Jeffrey	Lyle	Sayers	West Point	California
190	Robert	Harry	Sayers	West Point	California
191	Maytenya		Sherwood	Burney	California
192	Renee		Shoaf	Wilseyville	California
193	Mark	Alan	Slaff	West Point	California
194	Elizabeth	Leola	Stevens	Corning	California
195	Joe		Stevens	Corning	California
196	Mikkel	Strongbear	Stevens	Corning	California
197	Patricia		Stevens	Corning	California
198	Genet	Ana Marie	Sumers	San Andreas	California
199	Phyllis Ann	Rummerfield	Sumers	San Andreas	California
200	Wendy	G.	Valdez	Sacramento	California
201	Vincent	James	Valdez, Jr.	West Point	California
202	Roger		Vargas	Stockton	California
203	Lloyd	Antonio	Yelazquez	Corning	California

	FirstName	Initial	LastName	City	State
204	Patricia	Elaine	Velazquez	Coming	California
205	Teresa	Marie	Velazquez	Coming	California
206	Robert	Kelsey	Villarreal, Jr.	Moreno Valley	California
207	Marilyn	Edith	Ward	Orland	California
208	Christina	Carolina	Weinberger	Oakland	California
209	Juan	Antonio	Weinberger	Oakland	California
210	Velma	Darlene	WhiteBear	Galt	California
211	Jason		Wiley	Pine Grove	California
212	Antonia		Williams	Sacramento	California
213	Lois	L.	Williams	West Point	California
214	Roberta		Williams	West Point	California
215	Victoria	T.	Williams	West Point	California
216	Angela		Wilson	West Point	California
217	Anthony		Wilson	West Point	California
218	Antonia	Marie	Wilson	West Point	California
219	Arlene		Wilson	West Point	California
220	Chaco	Chee	Wilson	West Point	California
221	Charles	E.	Wilson	West Point	California
222	Christopher	John	Wilson	Tuolumne	California
223	Clifford		Wilson	Galt	California
224	Edward	Stephen	Wilson	West Point	California
225	Ellen	Lee	Wilson	West Point	California
226	Evelyn	Frances	Wilson	Valley Springs	California
227	John	Elsworth	Wilson	San Andreas	California
228	Justin	Cody	Wilson	West Point	California
229	Lauren		Wilson	West Point	California
230	Lee		Wilson	Mountain Ranch	California
231	Mary	Anne	Wilson	West Point	California
232	Mechelle	Whpi Nayati	Wilson	West Point	California
233	MeLisa		Wilson	West Point	California
234	Raymond	E.	Wilson	Mountain Ranch	California
235	Ronald Lee		Wilson	West Point	California
236	Shirley		Wilson	Stockton	California
237	Evelyn	Faye	Wilson, Sr.	West Point	California
238	Lawrence	E.	Wilson, Jr.	West Point	California

Base Enrollment of Members

2011-04-30-Resolution-members

	FirstName	Initial	LastName	City	State
239	Lawrence	E.	Wilson, Sr.	West Point	California
240	Renee		Wilson-Hogan	Vallecito	California
241	Sherrie	L.	Wilson-Ramos	Lodi	California
242	Kathryn	Diane	Yates	Des Moines	Washington