

Manuel Corrales, Jr., Esq. SBN 117647  
**ATTORNEY AT LAW**  
17140 Bernardo Center Drive, Suite 358  
San Diego, California 92128  
Tel: (858) 521-0634  
Fax: (858) 521-0633  
Email: [mannycorrales@yahoo.com](mailto:mannycorrales@yahoo.com)

Attorney for Plaintiffs  
CALIFORNIA VALLEY MIWOK TRIBE,  
THE GENERAL COUNCIL, SILVIA BURLEY,  
RASHEL REZNOR, ANJELICA PAULK and  
TRISTIAN WALLACE

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

**CALIFORNIA VALLEY MIWOK TRIBE, a** ) Case No.: 2:16-cv-01345-WBS-CKD  
federally-recognized Indian )  
tribe, **THE GENERAL COUNCIL,** ) **EX PARTE APPLICATION FOR AN**  
**SILVIA BURLEY, RASHEL REZNOR;** ) **ORDER SHORTENING TIME**  
**ANJELICA PAULK; and TRISTIAN** )  
**WALLACE** )

Plaintiffs,

vs.

) Date: August 8, 2016  
) Time: 1:30 p.m.  
) Judge: William B. Shubb  
)

**SALLY JEWEL, in her official** )  
capacity as U.S. Secretary of )  
Interior; **LAWRENCE S. ROBERTS, in** )  
his official capacity as Acting )  
Assistant Secretary of Interior - )  
Indian Affairs; **MICHAEL BLACK, in** )  
his official capacity as Director )  
of the Bureau of Indian Affairs. )

Defendants.

Plaintiffs CALIFORNIA VALLEY MIWOK TRIBE, THE GENERAL  
COUNCIL, SILVIA BURLEY, RASHEL REZNOR, ANJELICA PAULK and  
TRISTIAN WALLACE hereby apply Ex Parte for an Order Shortening  
Time in which to have their motion heard for an order staying

1 the AS-IA's December 30, 2015 Decision, which is presently set  
2 to heard on August 8, 2016, on the following grounds:

3 Plaintiffs filed suit on June 17, 2016 challenging the  
4 Washburn decision as arbitrary and capricious, or otherwise  
5 unlawful. The decision is a final agency action and allows the  
6 competing tribal faction to submit documentation to support its  
7 own constitution for purposes or "reorganizing" the Tribe. The  
8 BIA has recently sought to implement the Washburn decision by  
9 notifying Plaintiffs that the competing tribal faction has in  
10 fact submitted documentation to support its own constitution,  
11 and further notifying Plaintiffs that it intends to act on the  
12 submission by July 12, 2016. (See Ex. "1," BIA letter to Silvia  
13 Burley).

14 Plaintiffs requested in their complaint an immediate stay  
15 of the Washburn decision pending resolution of their suit in  
16 federal court.

17 The Defendants were served by formal process on June 29,  
18 2016 with the summons and complaint. In addition, Plaintiffs'  
19 counsel sent a separate letter to Defendants enclosing the  
20 complaint and requesting that they voluntarily stay the  
21 implementation of the Washburn decision. (See letter dated June  
22 29, 2016 to Lawrence Roberts, AS-IA, Ex. "2"). To date, the  
23 Defendants have not responded, and the July 12, 2016 date is  
24 fast approaching.

25 Plaintiffs will be irreparably harmed if a stay is not  
26 imposed, since once the competing faction's constitution is  
27 approved by the BIA, then the competing faction will take over  
28 the Tribe and submit their approved constitution to the  
California Gambling Control Commission ("the Commission") which  
is presently withholding over \$12.5 million in Revenue Sharing  
Trust Fund ("RSTF") payments belonging to the Tribe. (See Ex.  
"3" attached Report from the Commission regarding RSTF payments

1 withheld from the Tribe "pending identification of Tribal  
2 government"). In particular, the Commission's recent report  
3 states:

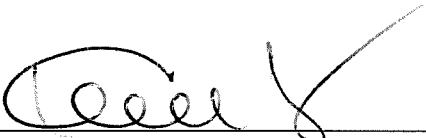
4 "Staff continues to recommend that the distribution to the  
5 California Valley Miwok Tribe be allocated but withheld.  
6 On December 30, 2015, Kevin Washburn, the Assistant  
7 Secretary (of the Department of the Interior) for Indian  
8 Affairs (AS-IA), issued a final agency decision that  
9 unequivocally states that the United States does not  
10 recognize leadership for the California Valley Miwok  
11 government. A decision by AS-IA is final for the  
12 Department, effective immediately, and unlike decisions  
13 rendered by subordinate Bureau of Indian Affairs (BIA)  
14 officials, is not automatically stayed upon appeal.  
15 Accordingly, there continues to be no California Valley  
16 Miwok Tribe government to which the Commission can make an  
17 RSTF payment."

18 (Ex. "3," Commission Report, dated April 25, 2016 regarding RSTF  
19 payments to various Tribes, page 1).

20 Attached as Ex. "4" is the Washburn decision.

21 Accordingly, Plaintiffs request an order shortening time in  
22 which to have their August 8, 2016 motion heard.

23 Dated: July 8, 2016

24   
25 Manuel Corrales, Jr., Esq.  
26 Attorney for Plaintiffs  
27 CALIFORNIA VALLEY MIWOK  
28 TRIBE, THE GENERAL COUNCIL,  
SILVIA BURLEY, RASHEL REZNOR,  
ANJELICA PAULK and TRISTIAN  
WALLACE

29 **DECLARATION OF MANUEL CORRALES, JR.**

30 I, Manuel Corrales, Jr., declare that if called a witness  
31 in this case I could competently testify as follows:

32 1. I am an attorney at law duly licensed to practice law  
33 in the State of California, the State of New Mexico, and the

1 State of Utah. I am the attorney of record for Plaintiffs  
2 herein. I have personal knowledge of the facts set forth herein.

3 2. Attached herewith and marked as Exhibit "1" is a true  
4 and correct copy of a letter to Silvia Burley from the BIA dated  
5 June 9, 2016.

6 3. Attached herewith and marked as Exhibit "2" is a true  
7 and correct copy of a letter to Lawrence Roberts, AS-IA, from  
8 Manuel Corrales, Jr., dated June 29, 2016.

9 4. Attached herewith and marked as Exhibit "3" is a true  
10 and correct copy of the Commission's Revenue Sharing Trust Fund  
11 Report dated April 25, 2016.

12 5. Attached herewith and marked as Exhibit "4" is a true  
13 and correct copy of a letter to Silvia Burley from Kevin  
14 Washburn, dated December 30, 2015.

15 6. The need for an immediate stay is based upon the facts  
16 set forth above, including the fact that the BIA intends to  
17 implement the Washburn decision on July 12, 2016, and give the  
18 Tribe over to the competing tribal faction. The tribal faction,  
19 once it gets control of the Tribe, will contact the Commission  
20 and request release of the \$12.5 million in RSTF payments being  
21 withheld by the Commission for the Tribe, since 2005. Plaintiff  
22 cannot obtain a stipulation from the opposing counsel, because  
23 no appearance by counsel has occurred.

24 7. It will be too late to set this matter for a noticed  
25 motion in the ordinary course, given the July 12, 2016 deadline.

26 8. The Court can impose a temporary stay pending a  
27 hearing on the matter, but a stay should be imposed immediately  
28 to maintain the status quo of the parties.

///

///

///



**EXHIBIT “1”**



## United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Pacific Regional Office

2800 Cottage Way

Sacramento, California 95825

IN REPLY REFER TO:

Tribal Government Services

**JUN 09 2016**

Ms. Silvia Burley  
% Robert A. Rosette, Esq  
Rosette, LLP  
565 W. Chandler Boulevard, Suite 212  
Chandler, AZ 85225

Dear Ms. Burley:

In accordance with the Assistant Secretary - Indian Affairs' December 30, 2015, decision, Robert Uram, Attorney, Sheppard, Mullin, Richter & Hampton, LLP, on behalf of his clients Yakima Dixie and others, submitted documentation to support the election held in 2013 to adopt a Constitution purportedly organizing the California Valley Miwok Tribe.

Enclosed is a compact disc containing Mr. Uram's April 18, 2016, submittal in its entirety. This is to provide you the opportunity to comment on the process utilized to conduct the July 2013 election to adopt the Constitution outlined in Mr. Uram's submittal. **By close of business on July 12, 2016,** please provide your comments and any documents that support your position.

If you have a question contact Harley Long, Tribal Government Officer, at (916) 978-6067, or by e-mail at [harley.long@bia.gov](mailto:harley.long@bia.gov).

Sincerely,

Regional Director

cc: Robert Uram, Sheppard, Mullin, Richter & Hampton, LLP

**EXHIBIT “2”**



ADMITTED TO  
PRACTICE IN:  
CALIFORNIA, UTAH  
AND NEW MEXICO

# MANUEL CORRALES, JR.

A T T O R N E Y A T L A W

17140 BERNARDO CENTER DRIVE, SUITE 358  
SAN DIEGO, CALIFORNIA 92128  
TEL (858) 521-0634  
FAX (858) 521-0633

E-MAIL:  
mannycorrales@yahoo.com

June 29, 2016

Lawrence S. Roberts  
Assistant Secretary—Indian Affairs  
**U.S. DEPARTMENT OF INTERIOR**  
1849 C Street, N.W.  
Washington, D.C., 20240

Re: California Valley Miwok Tribe, et al. v. Jewel, et al.  
Case No. 2:16-CV-01345-WBS-CKD

Dear Mr. Roberts:

Enclosed is a copy of a Summons and Complaint my office filed in federal court on behalf of the California Valley Miwok Tribe, et al., against Sally Jewel, Lawrence S. Roberts, and Michael Black, in their official capacity, challenging Kevin Washburn's December 30, 2015 decision and seeking an order setting it aside as unlawful under 5 U.S.C. §706(2)(A). You will note that the Complaint seeks an immediate stay of Washburn's decision pending a resolution of this federal action.

You and the other Defendants will be served in due course by our process server, and, when all of the Defendants have formally appeared, we intend on obtaining a court order staying the Washburn decision. In the meantime, we request you voluntarily stay the implementation of that decision pending the issuance of a court order. A simple letter signed by you to that effect will suffice.

Thank you for your prompt attention to this matter.

Very truly yours,



Manuel Corrales, Jr.

Enclosure

Cc: Sally Jewell, with enclosure  
Michael Black, with enclosure

**EXHIBIT “3”**

**CALIFORNIA GAMBLING CONTROL COMMISSION**

Address: 2399 Gateway Oaks Drive, Suite 220 • Sacramento, CA 95833-4231  
Phone: (916) 263-0700 • FAX: (916) 263-0452

*Memorandum*

DATE: April 25, 2016

TO: Chairman Evans  
Commissioner Conklin  
Commissioner Dunstan  
Commissioner Hammond  
Commissioner To

VIA: Stacey Luna Baxter  
Executive Director

FROM: Rachelle Ryan  
Associate Analyst, Administration Division

SUBJECT: Revenue Sharing Trust Fund Report (RSTF) of Distribution of Funds to Eligible Recipient Indian Tribes for the Quarter Ended March 31, 2016

All eligible Tribes will be allocated a total of \$275,000.00, which consists of \$174,012.51 from RSTF payments and interest income, and \$100,987.49 from shortfall funds that have been transferred into the RSTF from the Special Distribution Fund (SDF) as shown in Exhibit 1.

RSTF payments of \$12,696,362.36 and interest income of \$21,130.45, for a total of \$12,717,492.81, was deposited into the RSTF for the quarterly period ended March 31, 2016. A portion of the interest income is allocated to previously approved distributions held in the RSTF on behalf of two (2) Tribes in the amount of \$14,579.58. The quarterly amount of the shortfall in payments to all eligible recipient Indian Tribes for the quarter totals \$7,372,086.77.

Staff continues to recommend that the distribution to the California Valley Miwok Tribe be allocated but withheld. On December 30, 2015, Kevin Washburn, the Assistant Secretary (of the Department of the Interior) for Indian Affairs (AS-IA), issued a final agency decision that unequivocally states that the United States does not recognize leadership for the California Valley Miwok government. A decision by AS-IA is final for the Department, effective immediately, and unlike decisions rendered by subordinate Bureau of Indian Affairs (BIA) officials, is not automatically stayed upon appeal. Accordingly, there continues to be no California Valley Miwok Tribe government to which the Commission can make an RSTF payment.

Staff recommends that the distribution allocated to the Lipay Nation of Santa Ysabel be distributed to the Yavapai Apache Nation, pursuant to an order from Sacramento County Superior Court.

Staff recommends the distribution allocated to the Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation be distributed to Grandpoint Bank, as Escrow Agent, pursuant to an order from Inyo County Superior Court.

Staff also recommends that the distribution to the Alturas Indian Rancheria be allocated but withheld pending a decision by the Bureau of Indian Affairs (BIA) regarding who they will recognize as the lawful governing body of the Tribe for the purposes of government-to-government relations. The decision of the Northern California Agency Superintendent of the BIA was appealed on April 30, 2015 to the Regional Director of the BIA. On October 15, 2015, the Regional Director of the BIA decided the case; however, that decision has been appealed to the Interior Board of Indian Appeals.

A listing of the amount of revenue received from each Compact Tribe is attached as Exhibit 2. The receipts are equally distributed to seventy-three (73)<sup>1</sup> of the eighty-nine (89) Tribes listed in Exhibit 1 as eligible recipient Tribes (pending receipt of outstanding eligibility certification forms, if any).

At the end of the calendar quarter, the amount of outstanding payments due into the RSTF from three (3) Tribes was \$1,203,750.00. If the payments due at the end of this quarter had been deposited into the RSTF, each recipient Tribe would have received \$16,489.72 in additional RSTF money with this quarter's distribution in lieu of an equal amount of SDF transferred shortfall funds. Total outstanding payments for the quarter ended March 31, 2016, are summarized in the following Table 1:

<b>Table 1</b>		
Indian Gaming Revenue Sharing Trust Fund Payments		
Aging Schedule as of March 31, 2016		
Period(s) in Arrears <sup>2</sup>	Number of Tribes	Amount Due
One (1) Quarter (1999 Compact Section 4.3.2.3)	1	\$ 78,750.00
Two (2) Quarters (1999 Compact Section 4.3.2.3)	2	1,125,000.00
Exceeds 30 days after the calendar quarter (varies by Compact)	0	-
<b>Totals</b>	<b>3</b>	<b>\$ 1,203,750.00</b>

A fund condition statement for the RSTF through March 31, 2016, for the fiscal year 2015-16 is attached as Exhibit 3.

<sup>1</sup> Distributions to the California Valley Miwok Tribe and Alturas Indian Rancheria are withheld pending resolution of Tribal leadership disputes.

<sup>2</sup> Periods in Arrears are categorized according to the applicable Tribal Compact provisions.

**Attachments:**

- Exhibit 1 – RSTF Distribution List
- Exhibit 2 – RSTF Received From Compacted Tribes
- Exhibit 3 – RSTF Fund Condition Statement

<b>Exhibit 1</b>					
<b>Revenue Sharing Trust Fund Distribution</b>					
<b>Total Amount of Distribution for the Quarter Ended March 31, 2016</b>					
	<b>Recipient Indian Tribe</b>	<b>Quarterly Distribution from Revenue Received</b>	<b>Quarterly Shortfall</b>	<b>Total Potential Quarterly Distribution</b>	<b>Distributions Inception to March 31, 2016</b>
1	Alturas Indian Rancheria <sup>1</sup>	174,012.51	100,987.49	\$275,000.00	\$15,813,385.42
2	Augustine Band of Cahuilla Indians <sup>2</sup>	.00	.00	.00	1,238,385.42
3	Bear River Band of the Rohnerville Rancheria	174,012.51	100,987.49	275,000.00	15,813,385.42
4	Big Lagoon Rancheria	174,012.51	100,987.49	275,000.00	15,813,385.42
5	Big Pine Paiute Tribe of the Owens Valley	174,012.51	100,987.49	275,000.00	15,813,385.42
6	Big Sandy Rancheria of Western Mono Indians of California	174,012.51	100,987.49	275,000.00	15,813,385.42
7	Big Valley Band of Pomo Indians of the Big Valley Rancheria	174,012.51	100,987.49	275,000.00	8,525,000.00
8	Bishop Paiute Tribe	174,012.51	100,987.49	275,000.00	15,813,385.42
9	Blue Lake Rancheria <sup>2</sup>	.00	.00	.00	1,788,385.42
10	Bridgeport Indian Colony	174,012.51	100,987.49	275,000.00	15,813,385.42
11	Buena Vista Rancheria of Me-Wuk Indians of California	174,012.51	100,987.49	275,000.00	15,813,385.42
12	Cahto Tribe	174,012.51	100,987.49	275,000.00	15,813,385.42
13	Cahuilla Band of Mission Indians of the Cahuilla Reservation	174,012.51	100,987.49	275,000.00	15,813,385.42
14	California Valley Miwok Tribe <sup>1</sup>	174,012.51	100,987.49	275,000.00	15,813,385.42
15	Campo Band of Diegueno Mission Indians of the Campo Indian Reservation <sup>2</sup>	.00	.00	.00	538,034.21
16	Cedarville Rancheria	174,012.51	100,987.49	275,000.00	15,813,385.42
17	Chemehuevi Indian Tribe of the Chemehuevi Reservation	174,012.51	100,987.49	275,000.00	15,813,385.42
18	Cher-Ae Heights Indian Community of the Trinidad Rancheria	174,012.51	100,987.49	275,000.00	15,813,385.42
19	Chicken Ranch Rancheria of Me-Wuk Indians of California	174,012.51	100,987.49	275,000.00	15,813,385.42
20	Cloverdale Rancheria of Pomo Indians of California	174,012.51	100,987.49	275,000.00	15,813,385.42
21	Cold Springs Rancheria of Mono Indians of California	174,012.51	100,987.49	275,000.00	15,813,385.42
22	Colorado River Indian Tribes of the Colorado River Indian Reservation	174,012.51	100,987.49	275,000.00	15,813,385.42

<b>Exhibit 1</b>					
<b>Revenue Sharing Trust Fund Distribution</b>					
<b>Total Amount of Distribution for the Quarter Ended March 31, 2016</b>					
	<b>Recipient Indian Tribe</b>	<b>Quarterly Distribution from Revenue Received</b>	<b>Quarterly Shortfall</b>	<b>Total Potential Quarterly Distribution</b>	<b>Distributions Inception to March 31, 2016</b>
23	Cortina Indian Rancheria	174,012.51	100,987.49	275,000.00	15,813,385.42
24	Coyote Valley Reservation	174,012.51	100,987.49	275,000.00	11,825,000.00
25	Death Valley Timbi-Sha Shoshone Tribe	174,012.51	100,987.49	275,000.00	15,813,385.42
26	Dry Creek Rancheria of Pomo Indians of California <sup>2</sup>	.00	.00	.00	1,513,385.42
27	Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria	174,012.51	100,987.49	275,000.00	15,813,385.42
28	Elk Valley Rancheria	174,012.51	100,987.49	275,000.00	15,813,385.42
29	Enterprise Rancheria of Maidu Indians of California	174,012.51	100,987.49	275,000.00	15,813,385.42
30	Ewiiapaayp Band of Kumeyaay Indians	174,012.51	100,987.49	275,000.00	15,813,385.42
31	Federated Indians of Graton Rancheria <sup>2</sup>	.00	.00	.00	12,642,594.03
32	Fort Bidwell Indian Community of the Fort Bidwell Reservation of California	174,012.51	100,987.49	275,000.00	15,813,385.42
33	Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation	174,012.51	100,987.49	275,000.00	15,813,385.42
34	Fort Mojave Indian Tribe of Arizona, California & Nevada	174,012.51	100,987.49	275,000.00	15,813,385.42
35	Greenville Rancheria	174,012.51	100,987.49	275,000.00	15,813,385.42
36	Grindstone Indian Rancheria of Wintun-Wailaki Indians of California	174,012.51	100,987.49	275,000.00	15,813,385.42
37	Guidiville Rancheria of California	174,012.51	100,987.49	275,000.00	15,813,385.42
38	Habematolel Pomo of Upper Lake	174,012.51	100,987.49	275,000.00	15,813,385.42
39	Hoopa Valley Tribe	174,012.51	100,987.49	275,000.00	15,813,385.42
40	Hopland Band of Pomo Indians of the Hopland Rancheria	174,012.51	100,987.49	275,000.00	3,741,306.53
41	Iipay Nation of Santa Ysabel	174,012.51	100,987.49	275,000.00	15,813,385.42

<b>Exhibit 1</b>					
<b>Revenue Sharing Trust Fund Distribution</b>					
<b>Total Amount of Distribution for the Quarter Ended March 31, 2016</b>					
	<b>Recipient Indian Tribe</b>	<b>Quarterly Distribution from Revenue Received</b>	<b>Quarterly Shortfall</b>	<b>Total Potential Quarterly Distribution</b>	<b>Distributions Inception to March 31, 2016</b>
42	Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation	174,012.51	100,987.49	275,000.00	15,813,385.42
43	Ione Band of Miwok Indians of California	174,012.51	100,987.49	275,000.00	15,813,385.42
44	Jamul Indian Village of California	174,012.51	100,987.49	275,000.00	15,813,385.42
45	Karuk Tribe	174,012.51	100,987.49	275,000.00	15,813,385.42
46	Kashia Band of Pomo Indians of the Stewarts Point Rancheria	174,012.51	100,987.49	275,000.00	15,813,385.42
47	Koi Nation of Northern California	174,012.51	100,987.49	275,000.00	15,392,594.03
48	La Jolla Band of Luiseno Indians	174,012.51	100,987.49	275,000.00	15,813,385.42
49	La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation	174,012.51	100,987.49	275,000.00	15,813,385.42
50	Lone Pine Paiute-Shoshone Tribe	174,012.51	100,987.49	275,000.00	15,813,385.42
51	Los Coyotes Band of Cahuilla and Cupeno Indians	174,012.51	100,987.49	275,000.00	15,813,385.42
52	Lytton Rancheria of California	174,012.51	100,987.49	275,000.00	15,813,385.42
53	Manchester Band of Pomo Indians of the Manchester Rancheria	174,012.51	100,987.49	275,000.00	15,813,385.42
54	Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation	174,012.51	100,987.49	275,000.00	15,813,385.42
55	Mechoopda Indian Tribe of Chico Rancheria	174,012.51	100,987.49	275,000.00	15,813,385.42
56	Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation	174,012.51	100,987.49	275,000.00	15,813,385.42
57	Middletown Rancheria of Pomo Indians of California <sup>2</sup>	.00	.00	.00	482,578.08
58	Northfork Rancheria of Mono Indians of California	174,012.51	100,987.49	275,000.00	15,813,385.42
59	Pala Band of Luiseno Mission Indians of the Pala Reservation <sup>2</sup>	.00	.00	.00	482,578.08



<b>Exhibit 1</b>					
<b>Revenue Sharing Trust Fund Distribution</b>					
<b>Total Amount of Distribution for the Quarter Ended March 31, 2016</b>					
	<b>Recipient Indian Tribe</b>	<b>Quarterly Distribution from Revenue Received</b>	<b>Quarterly Shortfall</b>	<b>Total Potential Quarterly Distribution</b>	<b>Distributions Inception to March 31, 2016</b>
60	Paskenta Band of Nomlaki Indians of California <sup>2</sup>	.00	.00	.00	688,385.42
61	Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation <sup>2</sup>	.00	.00	.00	482,578.08
62	Picayune Rancheria of Chukchansi Indians of California <sup>2</sup>	.00	.00	.00	1,513,385.42
63	Pinoleville Pomo Nation	174,012.51	100,987.49	275,000.00	15,813,385.42
64	Pit River Tribe (includes XL Ranch, Big Bend, Likely, Lookout, Montgomery Creek and Roaring Creek Rancherias)	174,012.51	100,987.49	275,000.00	15,813,385.42
65	Potter Valley Tribe	174,012.51	100,987.49	275,000.00	15,813,385.42
66	Quartz Valley Indian Community of the Quartz Valley Reservation of California	174,012.51	100,987.49	275,000.00	15,813,385.42
67	Quechan Tribe of the Fort Yuma Indian Reservation <sup>2</sup>	.00	.00	.00	7,838,385.42
68	Ramona Band of Cahuilla	174,012.51	100,987.49	275,000.00	15,813,385.42
69	Redwood Valley or Little River Band of Pomo Indians of the Redwood Valley Rancheria California	174,012.51	100,987.49	275,000.00	15,813,385.42
70	Resighini Rancheria	174,012.51	100,987.49	275,000.00	15,813,385.42
71	Rincon Band of Luiseno Mission Indians of the Rincon Reservation <sup>2</sup>	.00	.00	.00	441,306.53
72	Robinson Rancheria	174,012.51	100,987.49	275,000.00	1,925,000.00
73	Round Valley Indian Tribes, Round Valley Reservation	174,012.51	100,987.49	275,000.00	15,813,385.42
74	San Pasqual Band of Diegueno Mission Indians of California <sup>2</sup>	.00	.00	.00	482,578.08
75	Santa Rosa Band of Cahuilla Indians	174,012.51	100,987.49	275,000.00	15,813,385.42
76	Scotts Valley Band of Pomo Indians of California	174,012.51	100,987.49	275,000.00	15,813,385.42
77	Sherwood Valley Rancheria of Pomo Indians of California	174,012.51	100,987.49	275,000.00	15,813,385.42

<b>Exhibit 1</b>					
<b>Revenue Sharing Trust Fund Distribution</b>					
<b>Total Amount of Distribution for the Quarter Ended March 31, 2016</b>					
	<b>Recipient Indian Tribe</b>	<b>Quarterly Distribution from Revenue Received</b>	<b>Quarterly Shortfall</b>	<b>Total Potential Quarterly Distribution</b>	<b>Distributions Inception to March 31, 2016</b>
78	Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract) <sup>2</sup>	.00	.00	.00	7,563,385.42
79	Susanville Indian Rancheria	174,012.51	100,987.49	275,000.00	15,813,385.42
80	Tejon Indian Tribe	174,012.51	100,987.49	275,000.00	4,659,890.00
81	Tolowa Dee-Ni' Nation (formerly Smith River Rancheria)	174,012.51	100,987.49	275,000.00	15,813,385.42
82	Torres Martinez Desert Cahuilla Indians	174,012.51	100,987.49	275,000.00	15,813,385.42
83	Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California <sup>2</sup>	.00	.00	.00	482,578.08
84	United Auburn Indian Community of the Auburn Rancheria of California <sup>2</sup>	.00	.00	.00	1,513,385.42
85	Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation	174,012.51	100,987.49	275,000.00	15,813,385.42
86	Washoe Tribe of Nevada & California (Carson Colony, Dresslerville Colony, Woodfords Community, Stewart Community, & Washoe Ranches)	174,012.51	100,987.49	275,000.00	15,813,385.42
87	Wilton Rancheria	174,012.51	100,987.49	275,000.00	7,494,505.49
88	Wiyot Tribe	174,012.51	100,987.49	275,000.00	15,813,385.42
89	Yurok Tribe of the Yurok Reservation	174,012.51	100,987.49	275,000.00	15,813,385.42
	<b>Total</b>	<b>\$12,702,913.23</b>	<b>\$7,372,086.77</b>	<b>\$20,075,000.00</b>	<b>\$1,136,938,642.30</b>

## Footnotes:

<sup>1</sup> Distribution to the Tribe is currently pending.

<sup>2</sup> No longer an eligible recipient Tribe; however, previously received RSTF distributions.

<b>Exhibit 2</b>			
<b>Revenue Sharing Trust Fund</b>			
<b>Amount of Revenue from Each Compact Tribe Received by the Commission through the Quarter Ending March 31, 2016</b>			
	<b>Compact Tribe</b>	<b>Revenue Received Fiscal Year to Date</b>	<b>Revenue Received Inception to Date</b>
1	Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation	\$1,500,000.00	\$20,827,953.20
2	Alturas Indian Rancheria	0.00	375,000.00
3	Augustine Band of Cahuilla Indians	67,500.00	924,241.27
4	Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation	552,262.50	11,690,312.77
5	Bear River Band of the Rohnerville Rancheria	0.00	0.00
6	Berry Creek Rancheria of Maidu Indians of California	97,200.00	1,649,470.68
7	Big Sandy Rancheria of Western Mono Indians of California	0.00	0.00 <sup>1</sup>
8	Big Valley Band of Pomo Indians of the Big Valley Rancheria	33,750.00	714,421.23
9	Blue Lake Rancheria	46,350.00	730,581.63
10	Buena Vista Rancheria of Me-Wuk Indians of California	0.00	0.00 <sup>1</sup>
11	Cabazon Band of Mission Indians	1,030,612.50	18,225,769.41
12	Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria	270,000.00	2,335,808.22
13	Cahto Tribe	0.00	0.00
14	Cahuilla Band of Mission Indians of the Cahuilla Reservation	0.00	125,000.00
15	Campo Band of Diegueno Mission Indians of the Campo Indian Reservation	22,500.00	691,921.23
16	Chemehuevi Indian Tribe of the Chemehuevi Reservation	0.00	0.00 <sup>1</sup>
17	Cher-Ae Heights Indian Community of the Trinidad Rancheria	0.00	0.00
18	Chicken Ranch Rancheria of Me-Wuk Indians of California	0.00	0.00
19	Dry Creek Rancheria of Pomo Indians of California	416,250.00	19,000,746.58
20	Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria	0.00	0.00
21	Elk Valley Rancheria	0.00	62,500.00
22	Ewiiapaayp Band of Kumeyaay Indians	0.00	2,437,433.22

<b>Exhibit 2</b>			
<b>Revenue Sharing Trust Fund</b>			
<b>Amount of Revenue from Each Compact Tribe Received by the Commission through the Quarter Ending March 31, 2016</b>			
	<b>Compact Tribe</b>	<b>Revenue Received Fiscal Year to Date</b>	<b>Revenue Received Inception to Date</b>
23	Federated Indians of Graton Rancheria	6,347,097.00	18,084,838.00
24	Hoopa Valley Tribe	0.00	0.00
25	Hopland Band of Pomo Indians of the Hopland Rancheria	0.00	3,368,042.68
26	Jackson Rancheria of Me-Wuk Indians of California	967,354.35	14,793,703.27
27	Jamul Indian Village of California	0.00	0.00
28	La Jolla Band of Luiseno Indians	0.00	0.00
29	Manchester Band of Pomo Indians of the Manchester Rancheria	0.00	0.00
30	Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation	0.00	0.00
31	Middletown Rancheria of Pomo Indians of California	0.00	437,500.00
32	Mooretown Rancheria of Maidu Indians of California	101,250.00	2,608,382.22
33	Morongo Band of Mission Indians	1,500,000.00	16,922,104.14
34	Bishop Paiute Tribe	0.00	0.00
35	Pala Band of Luiseno Mission Indians of the Pala Reservation	1,500,000.00	35,875,896.37
36	Paskenta Band of Nomlaki Indians of California	88,811.65	1,099,835.13
37	Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation	157,500.00	7,243,661.71
38	Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation	1,500,000.00	19,094,120.11
39	Picayune Rancheria of Chukchansi Indians of California	2,205,000.00	33,959,619.86
40	Pit River Tribe (includes XL Ranch, Big Bend, Likely, Lookout, Montgomery Creek and Roaring Creek Rancherias)	0.00	0.00
41	Quechan Tribe of the Fort Yuma Indian Reservation	0.00	0.00
42	Redding Rancheria	50,625.00	2,047,022.64
43	Resighini Rancheria	0.00	0.00
44	Rincon Band of Luiseno Mission Indians of the Rincon Reservation	1,851,562.50	29,502,766.96
45	Robinson Rancheria of Pomo Indians	0.00	337,500.00

<b>Exhibit 2</b>			
<b>Revenue Sharing Trust Fund</b>			
<b>Amount of Revenue from Each Compact Tribe Received by the Commission through the Quarter Ending March 31, 2016</b>			
	<b>Compact Tribe</b>	<b>Revenue Received Fiscal Year to Date</b>	<b>Revenue Received Inception to Date</b>
46	San Manuel Band of Mission Indians	1,500,000.00	23,950,240.41
47	San Pasqual Band of Diegueno Mission Indians of California	2,306,250.00	31,352,116.84
48	Santa Rosa Indian Community of the Santa Rosa Rancheria	1,908,225.00	40,393,376.51
49	Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation	657,750.00	20,556,039.04
50	Sherwood Valley Rancheria of Pomo Indians of California	0.00	0.00
51	Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract)	5,140,076.65	37,532,000.52
52	Soboba Band of Luiseno Indians	648,787.50	13,158,018.09
53	Susanville Indian Rancheria	0.00	0.00
54	Sycuan Band of the Kumeyaay Nation	1,112,715.67	36,505,350.88
55	Table Mountain Rancheria of California	876,937.50	18,563,045.03
56	Tolowa Dee-Ni' Nation (formerly Smith River Rancheria)	0.00	0.00
57	Tule River Indian Tribe of the Tule River Reservation	331,425.00	11,986,299.04
58	Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California	562,500.00	5,981,583.02
59	Twenty-Nine Palms Band of Mission Indians of California	1,033,875.00	21,885,103.77
60	United Auburn Indian Community of the Auburn Rancheria of California	1,500,000.00	28,450,312.20
61	Viejas Band of Kumeyaay Indians	1,500,000.00	25,195,189.25
62	Yocha Dehe Wintun Nation	1,500,000.00	26,637,524.18
	<b>Totals</b>	<b>\$40,884,167.82</b>	<b>\$607,312,351.31</b>
	Interest	55,658.93	9,417,470.57
	<b>Grand Totals</b>	<b>\$40,939,826.75</b>	<b>\$616,729,821.88</b>

## Footnotes:

1. Prepayment receipts were returned to payor Tribes for the return of unused putative gaming device licenses issued by Sides Accountancy Corporation. Licenses in equal number were issued by the Commission on September 5, 2002 resulting in \$2,137,500 in prepayment fees to the Fund.

EXHIBIT 3  
CALIFORNIA GAMBLING CONTROL COMMISSION  
0366 - INDIAN GAMING REVENUE SHARING TRUST FUND  
FUND CONDITION STATEMENT  
As of the Quarter Ended March 31, 2016  
Cash Basis

BEGINNING BALANCE	\$ 32,593,194.96
REVENUES AND TRANSFERS - Current Year	
Revenues:	
250300 Income from Surplus Money Investment Fund	55,658.93
216900 License fees held in trust	40,884,167.82
Transfer from the SDF to the RSTF for shortfall per Item 0855-111-0367, Budget Act of 2015	18,000,000.00
Totals, Revenues	58,939,826.75
Totals, Resources	91,533,021.71
EXPENDITURES	
Disbursements to Eligible Indian Recipient Tribes	58,575,000.00
Totals, Expenditures	58,575,000.00
Prior Year Adjustment	607,676.87
FUND BALANCE, prior to distribution	33,565,698.58
Pending distribution	19,525,000.00
Disbursements held on behalf of the Alturas Indian Rancheria	1,100,000.00
Disbursements held on behalf of the California Valley Miwok Tribe	12,338,001.99
Interest due to Tribes <sup>1</sup>	516,799.90
<b>FUND BALANCE, after distribution <sup>2</sup></b>	<b>\$ 85,896.69</b>

## Footnotes:

<sup>1</sup> Accrued interest on previously held distributions in the amount of \$515,381.21 for California Valley Miwok Tribe and \$1,418.69 for Alturas Indian Rancheria.

<sup>2</sup> The fund balance represents the cash basis balance as identified by the Commission since inception of the Fund. This balance may not agree with the State Controller's fund balance, which is reported on an accrual basis. Additional reconciling items may exist that have not been identified.

**EXHIBIT “4”**



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

DEC 30 2015

Ms. Silvia Burley  
c/o Robert A. Rosette, Esq.  
Rosette, LLP  
565 W. Chandler Boulevard, Suite 212  
Chandler, Arizona 85225

Dear Ms. Burley:

The California Valley Miwok Tribe (CVMT, Tribe) has been the subject of an internal leadership dispute for years. In December 2013, the U.S. District Court for the District of Columbia (District Court) vacated and remanded a 2011 decision by the Assistant Secretary – Indian Affairs (AS-IA) to review questions of tribal membership and government.

The Department of the Interior (Department) is loath to become involved in tribal membership disputes because of potential interference with tribal self-determination and inherent sovereignty. However, in many instances the Department has assisted in the initial organization of an unorganized tribe. In this case, the reorganization of the Tribe has never properly occurred, leaving questions as to the overall membership of the Tribe.

The factual and procedural history of this dispute has been described at length in decisions by the Interior Board of Indian Appeals (IBIA), the District Court, and the U.S. Court of Appeals for the District of Columbia Circuit (Circuit Court).<sup>1</sup> For purposes of this decision, I set out only the essential facts.

## Background

In 1916, the United States acquired a parcel of approximately one acre in Sheep Ranch, California, for the benefit of Mewuk<sup>2</sup> Indians living in that area of Calaveras County. The land became the Sheep Ranch Rancheria (Rancheria). The lone Indian residing on the Rancheria in 1935, Jeff Davis, was allowed to vote on whether to accept the Indian Reorganization Act (IRA). An Indian residing on the Rancheria in 1967, Mabel Hodge Dixie, was identified as the distributee of the Rancheria assets. Mabel's son, Yakima Dixie (Mr. Dixie), has been the

---

<sup>1</sup> See *CVMT v. Pacific Regional Director*, BIA, 51 IBIA 103 (IBIA 2010); *California Valley Miwok Tribe v. United States*, 424 F. Supp. 2d 197 (D.D.C. 2006) (“*CVMT P*”); *California Valley Miwok Tribe v. United States*, 515 F.3d 1262 (D.C. Cir. 2008) (“*CVMT IP*”); *California Valley Miwok Tribe v. Jewell*, 5 F. Supp. 3d 86 (D.D.C. 2013) (“*CVMT IIP*”).

<sup>2</sup> Also spelled Miwok, Mi-Wuk, or Me-Wuk. Writing in 1906, Special Agent C.E. Kelsey used “Miwak.” The former name of the federally recognized Tribe was “Sheep Ranch Rancheria of Me-Wuk Indians of California.” The current name is the “California Valley Miwok Tribe.”



only Indian resident of the Rancheria since Mabel's death. Mr. Dixie purported to enroll Silvia Burley (Ms. Burley) and her family (Burley Family)<sup>3</sup> in the Tribe in 1998. Since 1999, Mr. Dixie and Ms. Burley have competed for control of the Tribe, which has resulted in protracted litigation. In 2010, IBIA referred to AS-IA a claim by Ms. Burley that "effectively implicate[d] a tribal enrollment dispute."<sup>4</sup> In 2011, the AS-IA issued a decision stating that the Tribe had five members and was governed by a General Council comprising the adults among those five members. In 2013, the District Court vacated and remanded the AS-IA's decision, directing AS-IA to "determine whether the [Tribe's] membership had been properly limited" to just Mr. Dixie and the Burley family,<sup>5</sup> and ensure that the tribal government consists of "valid representatives of the [tribe] as a whole."<sup>6</sup>

### The Sheep Ranch Rancheria

In 1915, Special Agent John Terrell sent the Commissioner of Indian Affairs a letter with "a census of the Indians designated 'Sheepranch Indians,'" (sic), describing the group 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.'"<sup>7</sup> Importantly, Agent Terrell also noted that "to some extent the Indians of Sheepranch, Murphys, Six-Mile, Avery and Angles are interchangeable in their relations."<sup>8</sup> All of those towns are located in Calaveras County, California.

In 1916, the Federal Government purchased a one acre lot in the town of Sheep Ranch for the benefit of the Indians identified by Terrell.<sup>9</sup> Because the parcel was so small, only a few members of the group could reside on it at any one time; many Indians associated with the community did not reside on the Rancheria.

In 1929, the Bureau of Indian Affairs (BIA) conducted a census of the Indians of Calaveras County, which identified 147 Indians, mostly Miwuk, but also some Tuolumne.<sup>10</sup> The census included children of mixed Miwuk/Tuolumne, and mixed Indian/non-Indian, ancestry.

In 1935, pursuant to the mandate of the Indian Reorganization Act (IRA),<sup>11</sup> BIA held referendum elections in which the adult Indians of reservations voted on whether to reject the application of the IRA. The BIA found only one eligible adult Indian, Jeff Davis, to be residing on the Rancheria.

---

<sup>3</sup> Silvia Burley, her daughters Rashel Reznor and Anjelica Paulk, and Rashel's daughter Tristian Wallace.

<sup>4</sup> 51 IBIA 103, 105 (IBIA 2010).

<sup>5</sup> *CVMT III* at 99.

<sup>6</sup> *Id.* at 100, quoting *Seminole Nation v. Norton*, 223 F. Supp. 2d 122, 140 (D.D.C. 2002).

<sup>7</sup> Attachment A: 1915 Terrell Census

<sup>8</sup> Presumably "Angles" referred to Angel's Camp, about 5 miles southwest of Murphys and 15 miles southwest of Sheep Ranch.

<sup>9</sup> In 2006, the District Court suggested that the Sheep Ranch Rancheria was the same parcel occupied by Peter Hodge and his family in 1915. *CVMT I* at 197-98 (D.D.C. 2006). The record shows that Hodge resided two and a half miles north of Sheep Ranch, while the parcel acquired by the United States was within the town itself.

<sup>10</sup> Attachment B: 1929 Census.

<sup>11</sup> 48 Stat. 984 (1934).

The California Rancheria Act of 1958, amended in 1964,<sup>12</sup> authorized the termination of Federal recognition of California Rancherias by distributing each rancheria's assets to the Indians of the rancheria. The process required the development of a distribution plan identifying the distributees. At that time, the Rancheria was occupied by Mr. Dixie's mother, Mabel Hodge Dixie, along with Merle Butler.<sup>13</sup> On February 9, 1967, Mabel Dixie, as the sole eligible Indian resident, voted to terminate the Rancheria. The BIA transferred title of the Rancheria's land to Mabel in April or May of 1967. In September of 1967, however, the BIA asked Mabel to quitclaim the parcel back to the United States, apparently to ensure that all of BIA's duties under the California Rancheria Act were completed before BIA transferred title to Mabel. Mabel executed the quitclaim on September 6, 1967, but no other action was taken with respect to the title prior to Mabel's death on July 1, 1971. The Tribe was never terminated.<sup>14</sup>

On November 1, 1971, the Office of Hearings and Appeals (OHA) issued its "Determination of Heirs" of Mabel Dixie.<sup>15</sup> The OHA determined that Merle Butler, as Mabel's husband, inherited 2/6 of Mabel's trust or restricted estate, and each of her 4 sons inherited 1/6. Accordingly, the title to the Rancheria land is held in trust by the United States for Mabel Dixie's heirs, who have an undivided, inheritable, beneficial interest in the land.

#### **Membership in CVMT is not limited to five people.**

All of the Federal court decisions examining the CVMT dispute make clear that the Tribe is not limited to five individuals. The BIA decision under review in *CVMT I* plainly rejected the 1998 CVMT Constitution offered by Ms. Burley as controlling the Tribe's organization because it had not been ratified by the "whole tribal community."<sup>16</sup> This conclusion necessarily reflected the court's consideration and rejection of the contention that the Tribe consisted solely of five people.

In affirming *CVMT I*, the Circuit Court in *CVMT II* emphasized that the Tribe had more than five people:

This case involves an attempt by a small cluster of people within the California Valley Miwok tribe ("CVM") to organize a tribal government under the Act. CVM's chairwoman, Silvia Burley, and a group of her supporters adopted a constitution to govern the tribe without so much as consulting its membership.<sup>17</sup>

---

<sup>12</sup> 72 Stat. 619 (1958). 78 Stat. 390 (1964).

<sup>13</sup> The record indicates that Merle Butler was the common-law husband of Mabel Dixie. According to a memorandum dated January 5, 1966, signed by the BIA Tribal Operations Officer, Mr. Butler agreed that Mabel Dixie should receive title to the Rancheria. Attachment D.

<sup>14</sup> "The Sheep Ranch Rancheria of Me-Wuk Indians of California" was included on every list of federally recognized tribes published in the Federal Register from the first such publication in 1979, at 44 Fed. Reg. 7235. Silvia Burley and Rashel Reznor, as the Tribal Council, adopted a Resolution changing the name of the Tribe to the California Valley Miwok Tribe on March 6, 2000. The BIA began using the new name no later than October 31, 2001. The list published in 2002 noted that the Tribe had changed its name to California Valley Miwok Tribe, and it has been identified as such in every subsequent list of federally recognized tribes.

<sup>15</sup> Attachment C.

<sup>16</sup> March 26, 2004, letter, Superintendent to Burley; cited in *CVMT I* at 200 - 203; quoted in *CVMT II* at 1265-66; and quoted in *CVMT III* at 93.

<sup>17</sup> *CVMT II* at 1263.

Lastly, in *CVMT III*, the District Court vacated the AS-IA's 2011 determination that the Tribe comprised just five people. It is true that the District Court remanded to the AS-IA the question of tribal membership, but only after noting that "the record is replete with evidence that the Tribe's membership is potentially significantly larger than just these five individuals."<sup>18</sup> As suggested by the District Court in *CVMT III*, and held by *CVMT I and II*, the record shows that there are far more than five people eligible to take part in the organization of the Tribe.

The term "rancheria" has been used to refer both to the land itself, and to the Indians residing thereon; which is to say, "rancheria" is synonymous with both "reservation" and "tribe." Few rancherias organized under the IRA prior to passage of the California Rancheria Act in 1958. In most instances, lands were acquired for the benefit of a band of Indians identified by Indian Agents C.E. Kelsey and John Terrell. In many instances, as in the circumstance for Sheep Ranch, a rancheria was not large enough for all members of the band to take up residence. Nonetheless, BIA field officials remained cognizant of the Indians of a band associated with, but not residing upon, each rancheria.<sup>19</sup> When a parcel on a rancheria came available, BIA would assign the land to such a non-resident Indian who was associated with the band, if possible. Thus, such associated band Indians who were non-residents were potential residents. And since membership in an unorganized rancheria was tied to residence, potential residents equated to potential members.

With this understanding of the Department's dealings with the California Rancherias and in light of the rulings in *CVMT I, II and III*, I conclude that the Tribe's membership is not properly limited to Mr. Dixie and the Burley family. Given Agent Terrell's 1915 census of the "Indians designated 'Sheepranch Indians,'" and the 1916 acquisition of land by the United States for the benefit of the Mewuk Indians residing in the Sheep Ranch area of Calaveras County, California, I find that for purposes of reorganization, the Tribe's membership is properly drawn from the Mewuk Indians for whom the Rancheria was acquired and their descendants. The history of the Rancheria, supported by the administrative record, demonstrates that this group consists of: (1) the individuals listed on the 1915 Terrell Census and their descendants; (2) the descendants of Rancheria resident Jeff Davis (who was the only person on the 1935 IRA voters list for the Rancheria); and (3) the heirs of Mabel Dixie (the sole Indian resident of the Rancheria eligible to vote on its termination in 1967) as identified by OHA in 1971 and their descendants (Dixie Heirs) (all three groups collectively identified herein as the Eligible Groups).<sup>20</sup>

---

<sup>18</sup> *CVMT III* at 98.

<sup>19</sup> A January 3, 1935, memorandum from the Indian Office provided population information for many Rancherias. It listed the "total population" at Sheep Ranch as 16. Attachment E. Yet the following June, only one adult Indian was found to be *residing on* the Reservation and thus eligible to vote in the IRA referendum.

<sup>20</sup> As one of the Dixie Heirs, Mr. Dixie is part of the group of individuals from whom the Tribe's membership is drawn. He would also be eligible for membership given that for years, he has been the only Indian residing on the Rancheria. See 25 U.S.C. § 479 (IRA's defining "tribe" as, inter alia, "the Indians residing on one reservation"). The *CVMT III* court expressed concern that the enrollment of the Burley family prejudiced the interests of Mr. Dixie's brother Melvin. The BIA's decision to strengthen a dwindling tribe by facilitating the enrollment of a family of relatives was an appropriate step to the benefit of Mr. Dixie and Melvin as well as to the Burley family. The ensuing difficulties were unforeseeable, and do not convert a reasonable agency decision into a lapse of trust duty. Melvin passed away in 2009 without issue. Attachment F.

The record also indicates that the Indians named on the 1915 Terrell Census had relatives in other Calaveras County communities.<sup>21</sup> In 1929, the BIA conducted a census (1929 Census) of the Indians of Calaveras County, which identified 147 Indians – mostly Miwok, but also some Tuolumne. The census included children of mixed Miwok/Tuolumne, and mixed Indian/non-Indian ancestry. Accordingly, including the descendants of the Miwok Indians identified on the 1929 Census as eligible to take part in the organization of the Tribe may be of proper in light of Agent Terrell’s conclusion that “to some extent the Indians of Sheepranch, Murphys, Six-Mile, Avery and Angles are interchangeable in their relations.”<sup>22</sup> Whether the descendants of the Miwoks identified in the 1929 Census shall be included in the organization of the CVMT is an internal tribal decision that shall be made by the individuals who make up the Eligible Groups.

To the extent the Burley Family is among the individuals who make up the Eligible Groups, I encourage them to participate in the Tribe’s reorganization efforts as discussed below.<sup>23</sup> If the Burley Family cannot demonstrate that they are part of the Eligible Groups, I leave to the Tribe, as a matter of self-governance and self-determination to clarify the membership status of the Burley Family.

**The United States does not recognize leadership for the CVMT government.**

For purposes of administering the Department’s statutory responsibilities to Indians and Indian tribes, I must ensure that CVMT leadership consists of valid representatives of the Tribe as a whole. Both parties point to documents supporting their claim to be valid representatives of the Tribe. I find I cannot accept either party’s claims.

Ms. Burley points to the 1998 Resolution as the basis for her leadership.<sup>24</sup> At the time of its enactment, the 1998 Resolution undoubtedly seemed a reasonable, practical mechanism for establishing a tribal body to *manage the process* of reorganizing the Tribe. But the actual reorganization of the Tribe can be accomplished only via a process open to the whole tribal community.<sup>25</sup> Federal courts have established, and my review of the record confirms, the people who approved the 1998 Resolution (Mr. Dixie, Ms. Burley, and possibly Ms. Burley’s daughter Rashel Reznor) are not a majority of those eligible to take part in the reorganization of the Tribe.<sup>26</sup> Accordingly, I cannot recognize the actions to establish a tribal governing structure taken pursuant to the 1998 Resolution. Ms. Burley and her family do not represent the CVMT.

---

<sup>21</sup> Attachment A.

<sup>22</sup> Attachment A.

<sup>23</sup> The district court expressed concerns about Mr. Dixie’s 1998 enrollment of the Burley family. *CVMT III* at 99. Testimony evidence in the record shows that Mr. Dixie required evidence of Ms. Burley’s connection to the Miwok Indians of Sheep Ranch and suggests that the Burley family qualifies for inclusion in the Eligible Groups. In a 2004 deposition, Ms. Burley testified that “it was confirmed that his grandma and my grandpa were brother and sister.” Attachment G, at 106. If documentary evidence supports Ms. Burley’s testimony, the Burley family must be accorded the same right to take part in the reorganization of the Tribe as all other persons in the Eligible Groups.

<sup>24</sup> Attachment I.

<sup>25</sup> *CVMT II* at 44; *CVMT III* at 97.

<sup>26</sup> *CVMT II* at 44; *CVMT III* at 98.

In 2006, Mr. Dixie and others purported to ratify a Constitution, Attachment J, which set out membership criteria (Part 6) and a list of twelve people (including Ms. Burley) as the “Base Enrollment of the Tribe” (Part 7). The last section of the 2006 Constitution, “Part 11, Ratification and Confirmation,” lists thirteen people, twelve of whom signed the document. There is no other text in Part 11 to explain the significance of the signatures or to shed light on whether or how the 2006 Constitution was ratified. Thus, there is nothing in the text of the 2006 Constitution that shows it was ratified via a process that provided broad notice to persons eligible to take part in the Tribe’s organization. I cannot, therefore, find the 2006 Constitution to be validly enacted.

In July 2013, Mr. Dixie and others purported to ratify a new Constitution.<sup>27</sup> Under the 2013 Constitution, tribal membership eligibility criteria included anyone whose name appeared on, or anyone descended from someone whose name appeared on: the Terrell Census, the list of Miwok Indians on the 1929 Census, the 1935 IRA voters list for the Rancheria, or the list of Dixie Heirs. However, the record is silent on the effort to notify all those eligible to take part in the organization of the Tribe to ratify the 2013 Constitution.<sup>28</sup> For purposes of this decision, I find that Mr. Dixie has not demonstrated that the 2013 Constitution was validly ratified.<sup>29</sup> But I do not foreclose the possibility that Mr. Dixie may provide additional evidence that could demonstrate adequate notice for BIA’s acceptance of the 2013 Constitution.

## Conclusion

Responding to the court’s remand, I conclude that the Tribe’s membership is more than five people, and that the 1998 General Council does not consist of valid representatives of the Tribe. I further conclude that the individuals who make up the Eligible Groups must be given opportunity to take part in the reorganization of CVMT. At the discretion of the Eligible Groups, the Miwok Indians named on the 1929 Census and their descendants may be given that opportunity to participate in the reorganization of CVMT.

I find that Mr. Dixie has not proven that the 2013 Constitution was validly ratified. I authorize the BIA Pacific Regional Director (RD) to receive additional submissions from Mr. Dixie for the purpose of establishing whether the 2013 Constitution was validly ratified. As an alternative, I encourage the Tribe to petition for a Secretarial election under 25 C.F.R. Part 81 within 90 days of this decision.

Pursuant to today’s decision, the RD will work with the Eligible Groups to help the Tribe attain its manifest goal of reorganizing. This is a role that BIA has undertaken in other situations involving California Rancherias.

---

<sup>27</sup> Attachment K.

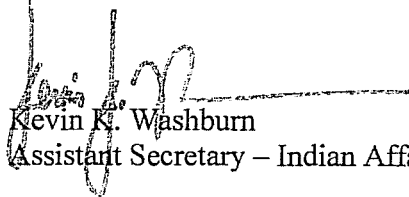
<sup>28</sup> Mr. Dixie did not provide evidence that outreach to the greater tribal community was part of the drafting or ratification of the Constitution. Rather, the text of the Constitution itself indicates that the organizers had established a tribal membership roll *prior* to ratifying the Constitution (Section II(a); II(e)), had defined the “electorate” as adults on the membership roll (Section IV(a)), and had purported to ratify the Constitution via a vote of the electorate (Section XVIII(a)).

<sup>29</sup> The “Certificate of Results of Election” within Article XIII, “Adoption of Constitution,” suggests that the adoption of the 2013 Constitution was “pursuant to the 2006 Constitution.” Having rejected the 2006 Constitution, I cannot accept that the 2013 Constitution was validated by a process in the 2006 Constitution.

The Pacific Regional Office has suggested a number of revisions to the 2013 Constitution submitted by Mr. Dixie.<sup>30</sup> If the RD concludes that the 2013 Constitution was validly ratified, I urge the Tribe to work with BIA to revise and amend its Constitution, as appropriate.

This decision is a final agency action.

Sincerely,



Kevin K. Washburn  
Assistant Secretary – Indian Affairs

Attachments:

- A. 1915 Terrell Census
- B. 1929 Census
- C. 1971 OHA determination of heirs
- D. 1966 BIA memo re Mabel and Merle
- E. 1935 Indian Office Memo with Rancheria censuses
- F. 2009 Melvin Dixie Death Index
- G. 2004 Burley deposition, selection
- H. 2015 Wilmer Hale letter
- I. 1998 GC resolution
- J. 2006 Dixie Constitution
- K. 2013 Dixie Constitution
- L. 2013 BIA comments on Dixie 2013 Constitution

---

<sup>30</sup> Attachment L.

Distribution list:

Representing Silvia Burley:

Jacqueline De Armas, Esq.  
Wilmer Cutler Pickering Hale and Dorr  
1875 Pennsylvania Avenue, NW  
Washington, D.C. 20006

Thomas L. Strickland, Esq.  
Wilmer Cutler Pickering Hale and Dorr  
1875 Pennsylvania Avenue, NW  
Washington, D.C. 20006

Robert A. Rosette, Esq.  
Rosette, LLP  
565 W. Chandler Boulevard, Suite 212  
Chandler, Arizona 85225

Saba Bazzazieh, Esq.  
Rosette, LLP  
1100 H Street N.W.  
Suite 400  
Washington, D.C. 20005

Representing Yakima Dixie:

Robert Uram, Esq.  
Sheppard Mullin Richter & Hampton LLP  
Four Embarcadero Center, 17th Floor  
San Francisco, California 94111-4109

James Rusk, Esq.  
Sheppard Mullin Richter & Hampton LLP  
Four Embarcadero Center, 17th Floor  
San Francisco, California 94111-4109

Director, BIA

Regional Director, Pacific Regional Office

Regional Solicitor, Pacific Southwest Regional Office

---