

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
A Limited Liability Partnership  
2 Including Professional Corporations  
ROBERT J. URAM, Cal. Bar No. 122956  
3 ruram@sheppardmullin.com  
JAMES F. RUSK, Cal. Bar No. 253976  
4 jrusk@sheppardmullin.com  
Four Embarcadero Center, 17th Floor  
5 San Francisco, California 94111-4109  
Telephone: 415.434.9100  
6 Facsimile: 415.434.3947

7 Attorneys for THE CALIFORNIA VALLEY  
MIWOK TRIBE, THE TRIBAL COUNCIL,  
8 YAKIMA DIXIE, VELMA WHITEBEAR,  
ANTONIA LOPEZ, MICHAEL MENDIBLES,  
9 GILBERT RAMIREZ, JR, ANTOINETTE  
LOPEZ AND IVA SANDOVAL  
10

11 UNITED STATES DISTRICT COURT

12 EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION  
13

14 CALIFORNIA VALLEY MIWOK TRIBE, a  
federally-recognized Indian tribe, THE  
15 GENERAL COUNCIL, SILVIA BURLEY,  
RASHEL REZNOR; ANGELICA PAULK; and  
16 TRISTIAN WALLACE,

17 Plaintiffs,

18 v.

19 SALLY JEWEL, in her official capacity as  
U.S. Secretary of Interior; LAWRENCE S.  
20 ROBERTS, in his official capacity as Acting  
Assistant Secretary of Interior - Indian Affairs;  
21 MICHAEL BLACK, in his official capacity as  
Director of the Bureau of Indian Affairs,  
22

23 Defendants.  
24  
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26  
27  
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Case No. 2:16-01345 WBS CKD

**DECLARATION OF ROBERT URAM IN  
SUPPORT OF MOTION TO INTERVENE**

Judge: Hon. William B. Shubb

DECLARATION OF ROBERT URAM

I, Robert Uram, declare as follows:

1. I am an attorney with the law firm of Sheppard, Mullin, Richter & Hampton LLP, attorneys for The California Valley Miwok Tribe (Tribe), The Tribal Council, Yakima Dixie, Velma WhiteBear, Antonia Lopez, Michael Mendibles, Antoinette Lopez, Iva (Carsoner) Sandoval and Gilbert Ramirez, Jr., proposed Intervenor-Defendants in this case.

2. This declaration is submitted in support of Intervenor-Defendants' Motion to Intervene and their Opposition to Plaintiffs' Motion for an Order Staying AS-IA's December 30, 2015 Decision.

3. Exhibit A hereto is a true and correct copy of the request for recognition of the Tribe's constitution and Tribal Council form of government adopted through an election on July 6, 2013, which I submitted to the federal Bureau of Indian Affairs (BIA) on behalf of the Tribe on April 18, 2016.

I declare under penalty of perjury that the foregoing is true and correct.

Executed August 1, 2016, at San Francisco, California.

/s/ Robert J. Uram  
ROBERT J. URAM

**Exhibit A**  
**to Declaration of Robert Uram**

**California Valley Miwok Tribe Request to BIA Regional Director  
for Recognition of 2013 Constitution (Recognition Request)**



Sheppard Mullin Richter & Hampton LLP  
Four Embarcadero Center, 17th Floor  
San Francisco, CA 94111-4109  
415.434.9100 main phone  
415.434.3947 main fax  
www.sheppardmullin.com

415.774.3285 direct  
ruram@sheppardmullin.com

April 18, 2016

File Number: 26RJ-159149

**VIA FEDEX AND E-MAIL**

Amy Dutschke  
Regional Director, Pacific Regional Office  
Bureau of Indian Affairs  
2800 Cottage Way  
Sacramento, CA 95825

Re: California Valley Miwok Tribe

Dear Director Dutschke:

I am writing on behalf of the California Valley Miwok Tribe (Tribe) to request that the Bureau of Indian Affairs recognize the government the Tribal community established in an election held on July 6, 2013 (2013 Election). The 2013 Election was the culmination of more than eight years of efforts to identify the members of the Tribal community, to develop a Tribal constitution with their participation and input, and to ensure that the entire community had the opportunity to vote on adopting the constitution. The Election resulted in ratification of a Tribal constitution (2013 Constitution, **Attachment 1**) by a vote of 90-10.

In his December 30, 2015 decision regarding the Tribe (2015 Decision), Assistant Secretary Washburn authorized you to receive additional submissions from the Tribe for the purpose of establishing whether the 2013 Constitution was validly ratified. We ask that you review the information provided with this letter, find the 2013 Constitution was validly ratified, and recognize the Tribal Council established under that constitution for the purpose of reestablishing government-to-government relations between the United States and the Tribe.

The Tribe has been without a federally recognized government for more than 10 years, with multiple administrative appeals and court challenges spanning that period. Silvia Burley, her two daughters, and her granddaughter (the Burley Faction) have already signaled their intent to prolong that situation by submitting a request for reconsideration of the 2015 Decision to the Assistant Secretary. To avoid unnecessary delay in restoring the federal relationship with this Tribe, we ask that the Assistant Secretary not only deny the Burley Faction's request for reconsideration, but also make your decision on the recognition of the 2013 Constitution and Tribal Council final agency action for the Bureau of Indian Affairs (BIA).

With this letter we provide a report documenting the Tribal organization process that culminated in ratification of the 2013 Constitution. The contents of the report are briefly summarized below. We are also providing, under separate cover, a genealogical history of the Tribal community members who participated in the initial organization. Because the genealogical history contains



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sensitive personal information, we ask that the BIA keep the information confidential to protect the participants' privacy.

### **The Entire Tribal Community Had the Opportunity to Participate in Organization**

Under the guidance of an initial Tribal Council and interim constitution established in 2006, the Tribe conducted extensive outreach to the Tribal community through monthly open meetings, mailings, meetings and phone calls with the local Miwok community, and participation in cultural activities and Native American gatherings. The BIA also assisted through publication of a public notice in 2007 that invited Tribal community members to participate in Tribal organization. These efforts initially focused on identifying and involving those whom the 2015 Decision refers to as members of the Eligible Groups. The Eligible Group members include (1) the individuals listed on the 1915 Terrell Census and their descendants; (2) the descendants of Rancheria resident Jeff Davis; and (3) the heirs of Mabel Dixie, as identified by OHA in 1971, and their descendants.

In 2008, the Eligible Group members recognized that the Tribal community of which they and their ancestors were a part also included Miwoks named on the 1929 Calaveras County Indian Census (1929 Census), and their descendants. The 1929 Census families are closely interrelated with the Eligible Group families and have a long history of active participation in Tribal affairs.<sup>1</sup> The Tribe proceeded to include the 1929 Census descendants in the Tribal organization process. That decision was consistent with the BIA's long-held understanding of the Tribal community make-up, and it was well within the Tribe's sovereign power to define its own membership.

The Tribal Council continued its organization efforts and, in 2012, scheduled an election to ratify a new Tribal constitution. By that time, the Tribal Council had identified approximately 200 adult members of the Tribal community (plus an approximately equal number of children). The Tribe's initial attempt to ratify the constitution, in October 2012, did not succeed, but the Tribe learned from that experience and revised its election procedures to improve voter participation by conducting automatic voter registration and allowing absentee voting.

### **The 2013 Election Provided Adequate Notice and Opportunity to Participate**

In April 2013, the Tribal Council approved the presentation of the 2013 Constitution to the Tribal community for ratification, and scheduled an election for that purpose to be held on July 6, 2013. As documented in the attached report, the Tribe:

- Mailed an election notice and voting materials to each documented adult member of the Tribal community;
- Posted notice of the election at U.S. Post Offices in West Point, California and San Andreas, California;

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<sup>1</sup> As the 2015 Decision recognized, the BIA has known for approximately 100 years that Miwok Indians living around Sheep Ranch and those living in other locations in Calaveras County were "to some extent ... interchangeable in their relations."

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- Mailed multiple election reminders to known members of the Tribal community to encourage voter turnout;
- Announced the election at each monthly Tribal meeting prior to the election;
- Posted the eligible voter list at Tribal headquarters in Sheep Ranch for review and possible challenge;
- Made the voter list available at the monthly Tribal meetings before the election; and
- Informed the BIA of the election and invited BIA representatives to observe the election.

The Tribal Council's Election Committee supervised the voting and counted the votes. Out of 200 eligible voters, more than half (104) cast ballots, and they overwhelmingly approved the 2013 Constitution by a vote of 90 to 10, with 4 abstentions. The Election Committee posted the results at the Tribe's headquarters, on the Tribe's website, and at the next Tribal meeting. There were no challenges to either the eligible voter list or the election results. The Tribe informed the BIA of the election results on July 11, 2013.

The notice to the Tribal community, the election procedures, levels of participation, and election results all met or exceeded the requirements for constitutional ratification found in the Tribe's own bylaws, as well as the requirements of the federal regulations in effect at that time for Secretarial elections.<sup>2</sup>

The 2013 Constitution ratified by the Tribal community recognizes both the Eligible Groups and the 1929 Census descendants as eligible for Tribal membership, and provides that anyone meeting the membership criteria may apply for membership by submitting their genealogy and other documentation to the Tribe's Enrollment Committee. (Attachment 1, Art. II.) The 2013 Constitution also ratifies the current Tribal Council and requires a Tribal election to elect a new Tribal Council within twelve months after the BIA recognizes the Tribal government. (Attachment 1, Art. VI(b).)

The Assistant Secretary's 2015 Decision included some comments on the 2013 Constitution from the BIA Regional Office and Regional Solicitor, with recommendations for revisions to clarify certain provisions of the Constitution. The Tribe appreciates the comments and intends to work with the BIA after its government is recognized to address the recommendations. We do not regard the recommendations as raising issues that would require amendment of the Tribe's Constitution prior to the BIA making a recognition decision.

### **Participants in Tribal Organization Were Overwhelmingly Eligible Group Members**

The Tribe disagrees with the Assistant Secretary's failure to include the 1929 Census descendants among the Eligible Groups, and with his statement in the 2015 Decision that the 1929 Census descendants may participate in Tribal organization "[a]t the discretion of the

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<sup>2</sup> Since the election was a Tribal election and not a Federal election, compliance with the Secretarial election procedures was not required, but the regulations are informative because they may be used as guidelines for Tribes wishing to hold constitutional elections not conducted pursuant to a Federal statute. 25 C.F.R. § 81.2(b).





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Eligible Groups." The Tribe regards the Eligible Groups and the 1929 Census descendants as equally entitled to participate.

The issue has no practical significance, however, because nearly all known members of the Tribal community are members of the Eligible Groups. Of 200 adults on the 2013 Election roster, 183 (92 percent) were members of the Eligible Groups.<sup>3</sup> The remaining 17 members were 1929 Census descendants from families that are extensively interrelated with the Eligible Groups and have always been a part of the Tribal community. The Tribe has provided the BIA, under separate cover, with information documenting the lineal descent of the 200 adults on the 2013 Election roster.

The Tribal community (mostly Eligible Group members) decided in 2008 to include the 1929 Census descendants in Tribal organization, and therefore the participation of the 1929 Census descendants in the 2013 Election was consistent with the 2015 Decision. But even if the Eligible Groups had not made that decision, it would not matter, because the participation by the 1929 Census descendants did not affect the outcome of the 2013 Election.

Of the 104 adults who cast votes in the 2013 Election, 95 (91%) were Eligible Group members, and the remaining nine were 1929 Census descendants. The voters approved the Tribal Constitution by a vote of 90 to 10 with 4 abstentions. Even assuming that all the 1929 Census descendants voted in favor of ratification, the election result without their votes still would have been 81 to 10 in favor of ratification—more than enough for approval of the 2013 Constitution.

### **The Burleys Chose to Not Participate in the Tribal Community**

The 2015 Decision unequivocally resolved one of the major issues that had delayed the recognition of a Tribal government—the claims by the Burley Faction that the Tribe consists of only five members and that a Tribal government was established in 1998. The 2015 Decision found that the Tribe's membership is not limited to five people, and that the Burley Faction's actions taken pursuant to the 1998 Resolution did not establish a Tribal government. The 2015 Decision also found that the Burley Faction does not represent the Tribe and have only the same rights as any other member of the Eligible Groups, including the *opportunity* to take part in the initial organization of the Tribe.<sup>4</sup>

The Tribe provided the Burleys with many opportunities to participate in Tribal organization. Although some of their family members participated, the Burley Faction chose not to. Instead, they sought recognition for their own, separate "tribal government," and actively opposed efforts to include the larger Tribal community in organizing. Having rejected many opportunities to

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<sup>3</sup> We provide information on the 200 adults who were included on the 2013 Election roster, because that is most relevant to the adoption of the 2013 Constitution. The current roster of enrolled members reflects some differences from the 2013 roster due to deaths, additional members who have become adults, etc., but the composition of both rosters is comparable.

<sup>4</sup> Although the Burleys have not applied to the Tribe for membership, we believe, based on the genealogical information available to us, that the Burleys are members of the Eligible Groups.

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participate in Tribal organization, the Burley Faction cannot now blame the Tribe for their decision.

### **Conclusion**

The Tribal Council's years of outreach, inclusive policies, transparent approach to Tribal organization, and rigorous election procedures ensured that anyone wishing to participate in Tribal organization had ample notice and opportunity to do so. The process protected the interests of the Eligible Group members while also including the 1929 Census descendants, with the consent of the Eligible Group supermajority. The results of the process speak for themselves: the Tribal community overwhelmingly approved the 2013 Constitution, and no member of the community objected to the process or challenged the 2013 Election results.

Some members of the Tribal community, including the Burley Faction, chose not to participate in the organization process, as is their right. Those individuals may apply to the Tribal Council for recognition as Tribal members at any time. Under the 2013 Constitution, they will enjoy the same rights and responsibilities as any other Tribal member.

The ratification of the 2013 Constitution reflected the will of the entire Tribal community, consistent with the majoritarian principles established by multiple administrative and federal court decisions involving this Tribe. We request the BIA take final agency action to recognize the Tribe's 2013 Constitution and Tribal Council without further delay. Please contact me if you have any questions.

Very truly yours,

  
Robert J. Uram  
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SMRH:475472211.7

### **Attachments**

Attachment 1, 2013 Constitution  
Attachment 2, Report on Tribal Organization

cc: Larry Roberts, Acting Assistant Secretary – Indian Affairs  
Kevin Bearquiver, BIA  
Dale Risling, BIA  
Harley Long, BIA  
California Valley Miwok Tribal Council  
Chadd Everone  
James Rusk



**Attachment 1**

**2013 Constitution**

**THE CONSTITUTION  
OF THE  
CALIFORNIA VALLEY MIWOK TRIBE  
ALSO KNOWN AS  
SHEEP RANCH RANCHERIA OF ME-WUK INDIANS OF CALIFORNIA**

**DEDICATION**

We, the People of the California Valley Miwok Tribe (a.k.a. Sheep Ranch Rancheria of Me-Wuk Indians of California) do hereby establish this Constitution, in respect for our ancestors and future generations, in order to protect the rights of the Tribe and its Members as a sovereign nation, to preserve and advance our cultural identity, to promote the general welfare of our people and descendants, and for the conduct of the affairs of our community within this legal structure.

**HISTORY**

The California Valley Miwok Tribe a.k.a. Sheep Ranch Rancheria of Me-Wuk Indians of California is a California Indian tribe, recognized by the United States of America by Federal census on August 13, 1915 and pursuant to a land allocation Act of April 30, 1908 (35 Stat. 70-76).

In that initial Federal recognition of the Tribe of 1915, the Tribe was designated as the "Sheepranch-Indians". The twelve members in the original census were identified 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"; and their ancestors dated back, several thousand years into pre-historic times. In 1935, the government formally identified the Tribe as the "Sheep Ranch Rancheria", when the Tribe voted to become organized under the Indian Reorganization Act of 1934. In 1965, the Federal government prepared a distribution plan for the assets of the Tribe for the purposes of the Rancheria Termination Act; however, unlike other rancheria tribes, this Tribe was never terminated. The Members identified on the 1915 census, those who voted in the 1935 election, and those identified in the 1965 distribution plan (14 members in all) became known, by the Bureau of Indian Affairs, as hereditary members with their lineal descendants being the "Putative Members" of the Tribe. In addition, many other members came and went from the Sheep Ranch Rancheria over the decades after 1915; and the Tribe existed as a network of related families with regional ceremonies. These Members of the tribal community were identified in the 1929 Federal Indian Census Roll for Calaveras County, and the Tribe included the Me-wuks on that census as Members.

In 1994, the Federal government began publishing a list of federally recognized tribes in the Federal Register; and therein, the Tribe became identified as: "Sheep Ranch Rancheria of Me-Wuk Indians of California". Then, in 2002, the name was changed in the Federal Register to "California Valley Miwok Tribe (formerly the Sheep Ranch Rancheria of Me-Wuk Indians of California)".

From its earliest inception, up to this Constitution, the Tribe remained governed by Me-Wuk tradition, which is centered around the values of a shared identity, mutual support, openness, consensus

among the Members and a "*toko hyapo*" or spokesperson. These customs continue to influence the conduct of the Tribe, as implemented by these Articles of Organization.

## SYNOPSIS OF THE CONSTITUTION

With the exception of the rights that are retained by the individual Members (Article XIV), and the powers that are embedded in the Electorate (Article IV), and the independence of the Court (Article VII), all authority and powers to conduct the affairs of the Tribe reside in the Tribal Council (Articles V & VI) as constituted by its elected representatives and implemented by properly enacted By-laws (Articles V(I)).

In this Constitution, the Territory of the Tribe is defined for the purposes of its Jurisdiction (Article I). Membership in the Tribe is through inherent right and by lineal descent from an established member (Article II). The Governance (Article III) includes: the Electorate (Article IV); the Tribal Council (Articles V & VI); and the Court (Article VII).

The Constitution describes procedures for the Tribal Administration (Article VIII), Elections (Article IX), Removal of Officers from the Tribal Council and the filling of Vacancies (Article X), for Initiatives and Referenda (Article XI), Land (Article XII), Sovereign Immunity (Article XIII), Civil Rights of its Members (Article XIV), and for making Amendments to this Constitution (Article XVI), among other provisions.

In case of any conflict between this Synopsis and the Articles of Organization, the Articles shall govern.

## ARTICLES OF ORGANIZATION

### ARTICLE I - TERRITORY & JURISDICTION

**§ I(a) - TERRITORY.** The territory of the Tribe shall include, to the fullest extent possible and consistent with federal law, all lands, water, property, airspace, surface and subsurface rights, and other natural resources in which the Tribe now has or in the future will have any interest including without limitation all lands located within the historic Rancheria, all lands owned by the Tribe in fee, and all lands which are owned by the United States for the exclusive or non-exclusive benefit of the Tribe, or for individuals as tribal members, excepting any rights-of-way.

**§ I(b) - JURISDICTION.** Except as prohibited by federal law and this Constitution, the Tribe shall have jurisdiction over all tribal Members and all persons, subjects, property, and activities which occur within its territory, as defined above in this Article. Apart from the limitations that are imposed herein, there shall be no other limits on the Tribe to exercise its jurisdiction according to its inherent sovereignty.



The Constitution of the California Valley Miwok Tribe  
(also known as the Sheep Ranch Rancheria Of Me-wuk Indians of California)

**§ I(c) - HEADQUARTERS LOCATION.** The traditional and cultural headquarters of the Tribe is the site of the Tribe's historic Rancheria at Sheep Ranch, California. In addition, the Tribal Council may designate the Tribe's administrative headquarters and reservation property as being at another location owned by the Tribe in fee or owned by the United States in trust on behalf of the Tribe.

## ARTICLE II – MEMBERSHIP

### § II(a) - MEMBERSHIP BY INHERENT RIGHT.

**§ II(a)1 - The Putative Members.** A person can be a Member of the Tribe if one is a lineal descendant of one of the 14 persons with whom the Federal government conducted official business with the Tribe between 1915 and 1967. These are:

Peter Hodge	Tom Hodge	Mrs. Limpey (Rose Davis)	Mamy Duncan
Annie Hodge	Andy Hodge	John Tecumchey	Jeff Davis
Malinda Hodge	Jeff Davis	Pinkey Tecumchey	Mabel Hodge Dixie
Lena Hodge	Betsey Davis		

**§ II(a)2 - Census of 1929.** Any person or the lineal descendant of that person, who is identified as Me-wuk in the "Indian Census Roll" for the County of Calaveras (dated June 30, 1929 and taken by L.A. Dorrington, Superintendent of the Bureau of Indian Affairs) can be a Member of the Tribe. These are:

Barry, Lizzie	Eaph, Wilbur	Jack, Lyda	Shelton, John
Butler, Daisy	Fuchs, Elmira	Jeff, Hempie	Shelton, Lena J.
Butler, Earl	Fuchs, Paul F.	Jeff, John	Shelton, Stephen
Butler, Frank	Geto, Alice	Jeff, Lennie	Shrum, Emma
Butler, Gus	Geto, Florence	Jeff, Manuel	Shrum, Georgia
Carlton, Lucile	Geto, Frank	Jeff, Ray	Shrum, James E.
Carsoner, Dan	Geto, Jeanette	Jeff, Susner	Sissel, Abbie
Carsoner, Mary	Geto, Laura	Jeff, Tessie	Sissel, Jesse
Carsoner, Tom	Geto, Louis	Jeff, Tillie	Sissel, Mayme
Cartega, Billy	Geto, Mary	Jeff, Walter	Swanson, Adeline D.
Cartega, Mary	Gold, Bernal E.	Learned, Albert	Swanson, Irene
Cassella, Charles	Gold, Sherwood D.	Learned, Oscar	T(F)ecumseh, John
Cassella, Ellwood	Hunter, Annie	Lincoln, Abraham	T(F)ecumseh, Pinky
Cassella, Eugene	Hunter, James	McBath, Thomas J.	Vallencia, Charles
Cassella, Lawrence	Hunter, Nettie	Mose, Alva	Vallencia, Gertrude
Crosby, Edith	Hern(m)andez, Hattie	Mose, Angie	Vallencia, Joseph
Crosby, Helen	Herzer, Andrew C.	Mose, Dewey	Vallencia, William
Crosby, Nora	Herzer, Clarence	Mose, Eva	Weirich, Clara
Crosby, Raymond	Herzer, Eleanor	Mose, Irene	Wilson, Charles
Crosby, Stanley	Herzer, Larence F.	Mose, Lester	Wilson, Ella
Davis, Betsy	Herzer, Louis F.	Mose, Lulu	Wilson, George
Davis, Jeff	Herzer, Lula	Mose, Violet	Wilson, George W.
Davis, Limpy	Herzer, Phillip	O'Connor, Lillie	Wilson, Harry
Davis, Margaret	Herzer, Vernon G.	O'Connor, Pedro	Wilson, Henry
Davis, May	Hodge, Mabel	Ross, Charlotte	Wilson, Lillie

The Constitution of the California Valley Miwok Tribe  
(also known as the Sheep Ranch Rancheria Of Me-wuk Indians of California)

Dixie, Joe	Hodge, Tex	Ross, Ida	Wilson, Luther
Dixie, Mary	Hodges, Andrew	Ross, Juanita	Wilson, Steve
Eaph, Andy	Hodges, Inez	Ross, Robert	Wilson, Viola
Eaph, Edna	Hodges, Patterson	Ross, Vincent	Yale, Alta C.
Eaph, John	Hodges, Thomas	Sawyer, Maggie	Yale, Edmund S.
Eaph, Lillie	Jack, Charles	Shelton, Charlie	Yale, Juline
Eaph, Mallinnie	Jack, Edna	Shelton, Charlotte	Yale, Tyler S.
Eaph, Rowena	Jack, James	Shelton, Dora	
Eaph, Virginia	Jack, Lavina	Shelton, Elsie	

In addition to the above individuals, any other Me-wuk Indian who was indigeneous to Calaveras County at the time of the 1929 census and who is certified to be such by the Tribal Council.

**§ II(a)3 - Lineal Descent Of An Established Member.** Any person who is born to an existing Member (as verified by birth certificate or other acceptable affidavit) is, by lineal descent, eligible to be enrolled as a Member of the Tribe.

**§ II(a)4 - The Current Members.** The existing Members of the Tribe are those persons who are listed as Enrolled Members on the Tribal Roster as of the date of the adoption of this Constitution.

**§ II(b) - ACCEPTANCE OF MEMBERSHIP.** Any new Member shall become such by submitting one's genealogy and documents in proof of the criteria cited above, §§ IIa(1-4), to the Tribe's Enrollment Committee as prescribed in the Enrollment By-laws. Upon verification, the new member's identification shall be placed on the Tribal Roster; and the new member shall be issued a tribal enrollment number and inducted into the Tribe by prescribed ceremony.

**§ II(c) - RIGHTS OF MEMBERS.** There is only one class of membership; and any person who is a Member under §§ IIa(1-4) of this Article shall have full and equal rights as any other Member under this Constitution.

**§ II(d) - LOSS OF MEMBERSHIP AND SANCTIONS.**

**§ II(d)1 - Invalidation Of Membership.** A Member of the Tribe may not lose one's Membership involuntarily nor be dis-enrolled for any reason other than providing erroneous facts about the person's lineage during the Enrollment process or having membership in another Federally Recognized tribe.

**§ II(d)2 - Sanctions Against Members.** On a case-by-case basis, the Tribal Council, by majority vote (51%), may sanction a Member for a justifiable cause by withdrawing or suspending tribal benefits and privileges. Such sanctioning shall be

