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12 UNITED STATES DISTRICT COURT  
13 EASTERN DISTRICT OF CALIFORNIA

14 CALIFORNIA VALLEY MIWOK TRIBE, et al.,	) Case No.: 2:16-CV-01345-WBS-CKD
15	)
16 Plaintiffs,	) FEDERAL DEFENDANTS’ ANSWER
17	) AND AFFIRMATIVE DEFENSES TO
18 vs.	) PLAINTIFFS’ FIRST AMENDED
19	) COMPLAINT
20 S.M.R. JEWELL, in her official capacity as U.S.	)
21 Secretary of the Department of the Interior, et al.,	)
22	)
23 Defendants.	)
24	)
25	)

26 Federal Defendants, S.M.R. Jewell, in her official capacity as Secretary of the  
27 Department of the Interior, Lawrence S. Roberts, in his official capacity as Acting Assistant  
28 Secretary-Indian Affairs, and Michael Black, in his official capacity as Director of the Bureau of  
Indian Affairs (collectively “Federal Defendants”), answer the allegations in Plaintiffs’ First  
Amended Complaint (“Complaint”) (ECF No. 4). Federal Defendants deny any and all  
allegations in Plaintiffs’ Complaint, whether express or implied, that are not specifically  
admitted, denied, or qualified herein. The headings and numbered paragraphs of this Answer  
correspond to the headings and numbered paragraphs of the Complaint.

**INTRODUCTION**

1  
2 1. The allegations in the Complaint’s introduction section provide Plaintiffs’  
3 characterization of this action to which Federal Defendants need not respond. To the extent  
4 Federal Defendants must respond, they deny the allegations.

**AUGUST 31, 2011 AS-IA DECISION**

5  
6  
7 2. The allegations of paragraph 2 (a) through (d) provide Plaintiffs’ characterization  
8 of the Assistant Secretary-Indian Affairs’ (“AS-IA”) August 31, 2011, Decision, which speaks  
9 for itself and provides the best evidence of its contents. Federal Defendants deny any allegation  
10 contrary to its plain language and meaning.

**U.S. DISTRICT COURT DECISION REMANDING TO AS-IA**

11  
12  
13 3. Defendants admit the allegations of the first sentence of paragraph 3. The  
14 allegations of the second and third sentences of paragraph 3 provide Plaintiffs’ characterization  
15 of the U.S. District Court’s December 2013 Order and Opinion (“2013 Order”), which speaks for  
16 itself and provides the best evidence of its contents. Federal Defendants deny any allegations  
17 contrary to its plain language and meaning. The final sentence of paragraph 3 provides  
18 Plaintiffs’ characterization of the 2013 Order and deposition of Yakima Dixie, which speak for  
19 themselves and provide the best evidence of their contents. Federal Defendants deny any  
20 allegations contrary to their plain language and meaning.

21  
22 4. Federal Defendants admit that the 2013 Order was issued prior to the date that the  
23 deposition of Yakima Dixie was transcribed. The remaining allegations of paragraph 4 provide  
24 Plaintiffs’ characterization and legal conclusions of the 2013 Order and the Yakima Dixie  
25 deposition, which speak for themselves and provide the best evidence of their contents. Federal  
26 Defendants deny any allegations contrary to their plain language and meaning.  
27  
28

**AS-IA DECEMBER 30, 2015 DECISION**

1  
2 5. The allegations of paragraph 5 provide Plaintiffs’ characterization and legal  
3 conclusion of the AS-IA’s December 2015 Decision (“December 2015 Decision”), which speaks  
4 for itself and provides the best evidence of its contents. Federal Defendants deny any allegations  
5 contrary to its plain language and meaning.  
6

7 **JURISDICTION AND VENUE**

8 6. The allegations of paragraph 6 constitute statements of jurisdiction and  
9 conclusions of law to which no response is require, but to the extent a response is deemed  
10 required, they are denied.  
11

12 7. The allegations of paragraph 7 constitute statements of jurisdiction and  
13 conclusions of law to which no response is require, but to the extent a response is deemed  
14 required, they are denied.  
15

16 8. The allegations of paragraph 8 constitute statements of jurisdiction and  
17 conclusions of law to which no response is require, but to the extent a response is deemed  
18 required, they are denied.  
19

20 9. The allegations of paragraph 9 constitute statements of venue and conclusions of  
21 law to which no response is require, but to the extent a response is deemed required, they are  
22 denied.  
23

24 10. The first sentence of paragraph 10 provides Plaintiffs’ characterization and legal  
25 conclusions of the APA, which speaks for itself and provides the best evidence of its contents.  
26 Federal Defendants deny any allegations contrary to its plain language and meaning. Federal  
27 Defendants admit the allegations of the second sentence of paragraph 10.  
28

1           11. The allegations of paragraph 11 provide Plaintiffs’ characterization and legal  
2 conclusions of 28 U.S.C. §§ 2201-2202, which speaks for itself and provides the best evidence of  
3 its contents. Federal Defendants deny any allegations contrary to its plain language and  
4 meaning.

5           12. Federal Defendants admit the allegations of paragraph 12.

6           13. Federal Defendants admit that a case and controversy exists and deny the  
7 remaining allegations of paragraph 13.  
8

9   **PARTIES**

10           14. Federal Defendants admit that the California Valley Miwok Tribe (“Miwok  
11 Tribe” or “Tribe”) is a federally-recognized Indian Tribe. Federal Defendants deny the  
12 remaining allegations of paragraph 14.  
13

14           15. Federal Defendants deny the allegations of paragraph 15.

15           16. Federal Defendants admit the allegations of paragraph 16.

16           17. Federal Defendants admit the allegations of paragraph 17.

17           18. Federal Defendants admit the allegations of paragraph 18 and further aver that  
18 Mr. Roberts is currently Principal Deputy Assistant Secretary.  
19

20           19. Federal Defendants admit the allegations of paragraph 19.  
21

22   **GENERAL ALLEGATIONS**

23           20. Federal Defendants admit that in 1916, the United States government purchased  
24 approximately 0.92 acres of land in Calaveras County, California, for the benefit of twelve (12)  
25 named Indians. Federal Defendants deny that the Indians resided on the Rancheria prior to its  
26 purchase. Federal Defendants further state that the allegations of the second sentence of  
27 paragraph 20 provide Plaintiffs’ characterization of a recommendation, which speaks for itself  
28

1 and provides the best evidence of its contents. Federal Defendants deny any allegations contrary  
2 to its plain language and meaning.

3 21. Federal Defendants admit that in 1934, Congress passed the IRA. The remaining  
4 allegations of the first sentence of paragraph 21 provide Plaintiffs' characterization of the IRA,  
5 which speaks for itself and provides the best evidence of its contents. Federal Defendants deny  
6 any allegations contrary to its plain language and meaning. Federal Defendants deny the  
7 allegations of the second sentence of paragraph 21 and aver that Jeff Davis was the sole eligible  
8 voter at Sheepranch<sup>1</sup> in 1935 and voted to accept the application of the IRA. Federal Defendants  
9 admit the allegations of the third sentence of paragraph 21.  
10

11 22. Federal Defendants admit that in 1958 Congress enacted the California Rancheria  
12 Act and further aver that Congress enacted an amendment in 1964. The remaining allegations of  
13 the first sentence of paragraph 22 provide Plaintiffs' characterization of the California Rancheria  
14 Act, which speaks for itself and provides the best evidence of its contents. Federal Defendants  
15 deny any allegations contrary to its plain language and meaning. Federal Defendants admit that  
16 BIA prepared a plan in 1966 to distribute the assets of the Sheep Ranch Rancheria as a prelude to  
17 termination and aver that such action was authorized by the 1964 amendment. Federal  
18 Defendants admit that at that time, Mabel Hodge Dixie was the only adult Indian living on the  
19 Rancheria (as that term is used in the California Rancheria Act) who was entitled to receive the  
20 assets of the Rancheria. Federal Defendants admit the remaining allegations of paragraph 22.  
21  
22

23 23. Federal Defendants admit the allegations of paragraph 23.  
24

25 24. Federal Defendants admit the allegations of the first sentence of paragraph 24.  
26 The remaining allegations of paragraph 24 provide Plaintiffs' characterization and legal  
27

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28 <sup>1</sup> Federal Defendants note that the Sheepranch Rancheria has also been referred to as the Sheep  
Ranch Rancheria.

1 conclusions of *Hardwick v. United States* and the *Harwick* settlement agreement, which speak  
2 for themselves and provide the best evidence of their contents. Federal Defendants deny any  
3 allegations contrary to their plain language and meaning.

4 25. Federal Defendants admit that in 1994, Yakima Dixie, son of Mabel Dixie, wrote  
5 to the BIA. The remaining allegations of the first sentence of paragraph 25 provide Plaintiffs'  
6 characterization of the letter, which speaks for itself and provides the best evidence of its  
7 contents. Federal Defendants deny any allegations contrary to its plain language and meaning.  
8 Federal Defendants lack knowledge or information sufficient to form a belief about the truth of  
9 the allegations of the second sentence of paragraph 25 and therefor deny them but aver that by  
10 1998, Yakima and Melvin Dixie were the only surviving children of Mabel Dixie, and Melvin  
11 Dixie's whereabouts were unknown. Federal Defendants admit the remaining allegations of  
12 paragraph 25.  
13  
14

15 26. Federal Defendants lack knowledge or information sufficient to form a belief  
16 about the truth of the allegations of the first sentence of paragraph 26 and therefore deny them.  
17 Federal Defendants admit the remaining allegations of paragraph 26.  
18

19 27. Federal Defendants admit the allegations of the first sentence of paragraph 27.  
20 Federal Defendants deny the remaining allegations of paragraph 27.

21 28. Federal Defendants admit that in September of 1998, Yakima Dixie and Burley  
22 met at the Rancheria with BIA staff to discuss organizing the Tribe. The remaining allegations  
23 of paragraph 28 provide Plaintiffs' characterization of the September 1998 meeting transcript,  
24 which speaks for itself and provides the best evidence of its contents. Federal Defendants deny  
25 any allegations contrary to its plain language and meaning.  
26  
27  
28

1           29. Federal Defendants admit that there was no court order restoring the Tribe. The  
2 allegations of the second sentence of paragraph 29 provide Plaintiffs' characterization and legal  
3 conclusions as to the termination and restorations process of other tribes. Federal Defendants  
4 lack knowledge and information sufficient to form a belief about the truth of the allegations and  
5 therefore deny them. Federal Defendants admit the remaining allegations of paragraph 29.  
6

7           30. Federal Defendants deny that not terminating Sheep Ranch Rancheria created a  
8 unique circumstance. The remaining allegations of paragraph 30 provide Plaintiffs'  
9 characterization of the BIA's September 24, 1998, decision, which speaks for itself and provides  
10 the best evidence of its contents. Federal Defendants deny any allegations contrary to its plain  
11 language and meaning.  
12

13           31. Federal Defendants admit the allegations of paragraph 31.

14           32. The allegations of paragraph 32 provide Plaintiffs' characterization of the BIA  
15 September 24, 1998, letter, which speaks for itself and provides the best evidence of its contents.  
16 Federal Defendants deny any allegations contrary to its plain language and meaning.  
17

18           33. Federal Defendants admit that Dixie and Burley signed a resolution on November  
19 5, 1998 ("1998 Resolution"), which Plaintiffs have attached as Exhibit "1" to their Complaint.  
20 Federal Defendants deny that Rashel Reznor signed the 1998 Resolution. The remaining  
21 allegations of paragraph 33 provide Plaintiffs' characterization and legal conclusions of the 1998  
22 Resolution, which speaks for itself and provides the best evidence of its contents. Federal  
23 Defendants deny any allegations contrary to its plain language and meaning.  
24

25           34. Federal Defendants lack knowledge or information sufficient to form a belief  
26 about the truth of the allegations of paragraph 34 and therefore deny them.  
27  
28

1 35. Federal Defendants admit that Plaintiffs attached an April 20, 1999, notice of  
2 resignation as Exhibit “2” to their Complaint. The remaining allegations of the first two  
3 sentences of paragraph 35 provide Plaintiffs’ characterization of the notice of resignation, which  
4 speaks for itself and provides the best evidence of its contents. Federal Defendants deny any  
5 allegations contrary to its plain language and meaning. The remaining allegations of paragraph  
6 35 provide Plaintiffs’ characterization of a resignation document, which speaks for itself and  
7 provides the best evidence of its contents. Federal Defendants deny any allegations contrary to  
8 its plain language and meaning.  
9

10 36. Federal Defendants lack knowledge or information sufficient to form a belief  
11 about the truth of the allegations of the first three sentences of paragraph 36 and therefore deny  
12 them. Federal Defendants admit that Yakima Dixie told the BIA that he never resigned and that  
13 his resignation was forged. Federal Defendants admit that there has been a tribal leadership  
14 dispute since 1999 and that the dispute has been harmful for the Tribe. The remaining  
15 allegations of paragraph 36 provide Plaintiffs’ characterization of Yakima Dixie’s testimony in a  
16 California state action, which speaks for itself and provides the best evidence of its contents.  
17 Federal Defendants deny any allegations contrary to its plain language or meaning.  
18  
19

20 37. Federal Defendants admit that the BIA acknowledged Burley as Tribal  
21 Representative and that it accepted and honored some Tribal resolutions passed by the General  
22 Council under Burley’s leadership from 1999 through July 2005. Federal Defendants deny the  
23 remaining allegations of paragraph 37.  
24

25 38. Federal Defendants admit the allegations of paragraph 38.

26 **PROCEDURAL SUMMARY**

27 39. Federal Defendants admit that on December 13, 2013, the District Court for the  
28



1 District of Columbia remanded this matter to the Department. The remaining allegations of  
2 paragraph 39 provide Plaintiffs' characterization of the 2013 Order, which speaks for itself and  
3 provides the best evidence of its contents. Federal Defendants deny any allegations contrary to  
4 its plain language and meaning.

5 40. The allegations of paragraph 40 provide Plaintiffs' characterization and legal  
6 conclusions of the 2013 Order, which speaks for itself and provides the best evidence of its  
7 contents. Federal Defendants deny any allegations contrary to its plain language and meaning.  
8

9 41. Federal Defendants admit that Yakima Dixie enrolled the Burleys. Federal  
10 Defendants deny the remaining allegations of paragraph 41.

11 42. Federal Defendants deny the allegations of paragraph 42.

12 43. Federal Defendants deny the allegations of paragraph 43.

13 44. The allegations of the first sentence of paragraph 44 provide Plaintiffs'  
14 characterization of the 2013 Order, which speaks for itself and provides the best evidence of its  
15 contents. Federal Defendants deny any allegations contrary to its plain language and meaning.  
16 Federal Defendants deny the remaining allegations of paragraph 44.  
17

18 45. Federal Defendants deny the allegations of paragraph 45.

19 a. Federal Defendants admit the allegations of paragraph 45(a).

20 b. Federal Defendants deny the allegations of the first sentence of paragraph  
21 45(b). Federal Defendants admit the allegations of the second sentence of paragraph 45(b).  
22

23 Federal Defendants lack knowledge or information sufficient to form a belief about the truth of  
24 the allegations of the third sentence of paragraph 45(b) and therefore deny them. Federal  
25

26 Defendants admit the allegations of the fourth and fifth sentence of paragraph 45(b). Federal  
27

28 Defendants admit that Melvin Dixie is deceased and deny the remaining allegations of paragraph

1 45(b).

2 c. Federal Defendants deny the allegations of the first sentence of paragraph  
3 45(c). The allegations of the second sentence of paragraph 45(c) provide Plaintiffs'  
4 characterization of the 2013 Order, which speaks for itself and provides the best evidence of its  
5 contents. Federal Defendants deny any allegations contrary to its plain language and meaning.  
6 Federal Defendants lack knowledge or information sufficient to form a belief as to the truth  
7 about the allegations of the third through fifth sentence of paragraph 45(c) and therefore deny  
8 them. Federal Defendants deny the remaining allegations of paragraph 45(c).  
9

10 d. Federal Defendants admit the allegations of the second sentence of  
11 paragraph 45(d). Federal Defendants deny the remaining allegations of paragraph 45(d).  
12

13 46. Federal Defendants deny the allegations of paragraph 46.

14 **MATERIAL FACTUAL BACKGROUND**

15 47. Federal Defendants deny the allegations of the first sentence of paragraph 47.  
16 Federal Defendants admit that the Burley researched her Indian roots, sought guidance from the  
17 BIA and applied to join the Tribe but lack knowledge or information sufficient to form a belief  
18 about the truth of the remaining allegations of the second sentence of paragraph 47 and therefore  
19 deny them. Federal Defendants admit that Dixie signed enrollment documents for the Burley  
20 family in 1998. Federal Defendants admit that Dixie and Burley signed the 1998 Resolution but  
21 deny the remaining allegation of the fourth sentence of paragraph 47. Federal Defendants admit  
22 the remaining allegations of paragraph 47.  
23  
24

25 **I.**

26 **YAKIMA DIXIE APPROPRIATELY ENROLLED THE BURLEY FAMILY IN THE**  
27 **TRIBE IN 1998**

28 48. The allegations of paragraph 48 constitute Plaintiffs' introduction to the

1 allegations in paragraphs 48 (a) through (i) to which no response is required, but to an extent a  
2 response is required, the allegations are denied.

3 a. Federal Defendants admit the allegations of paragraph 48(a).

4 b. Federal Defendants admit the allegations of paragraph 48 (b).

5 c. Federal Defendants admit that Burley and her family sought to join the Tribe and  
6 provided the BIA documentation to Dixie, and that Dixie went to prison. Federal Defendants  
7 lack knowledge of information sufficient to form a belief about the truth of the remaining  
8 allegations of paragraph 48(c) and therefore deny them.

9  
10 d. The allegations of paragraph 48(d) provide Plaintiffs' characterization of a 1998  
11 BIA letter, which speaks for itself and provides the best evidence of its contents. Federal  
12 Defendants deny any allegations contrary to its plain language and meaning.

13  
14 e. Federal Defendants admit the allegations of the first three sentences of paragraph  
15 48 (e). Defendants lack knowledge or information sufficient to form a belief about the truth of  
16 the remaining allegations and therefore deny them.

17 f. Federal Defendants admit the allegations of paragraph 48(f).

18  
19 g. The allegations of paragraph 48(g) provide Plaintiffs' characterization of a  
20 September 24, 1998, BIA letter, which speaks for itself and provides the best evidence of its  
21 contents. Federal Defendants deny any allegations contrary to its plain language and meaning.

22 h. Federal Defendants admit that Dixie and Burley signed the 1998 Resolution.  
23 Federal Defendants deny the remaining allegations of paragraph 48(h).

24  
25 i. Federal Defendants deny the allegations of the first sentence of paragraph 48(i).  
26 Federal Defendants admit that the BIA entered into 10 compacts with the Tribe under Pub. L. 93-  
27 638, which funded the Tribe through 2008.  
28

1 49. Federal Defendants lack knowledge or information sufficient to form a belief  
2 about the allegations of paragraph 49 and therefore deny them.

3 **II.**

4 **ALTHOUGH A LEADERSHIP DISPUTE BEGAN IN 1999 AND CONTINUES TODAY,**  
5 **THE TRIBE'S GOVERNANCE STRUCTURE PERMITS DIRECT OVERSIGHT OF**  
6 **THE TRIBE BY THE GENERAL COUNCIL**

7 50. Federal Defendants admit the allegations of paragraph 50.

8 51. Federal Defendants admit the allegations of the first sentence of paragraph 51.

9 The remaining allegations provide Plaintiffs' characterization of Dixie's deposition testimony,  
10 which speaks for itself and provides the best evidence of its contents. Federal Defendants deny  
11 any allegations contrary to its plain language and meaning.

12 52. The allegations of paragraph 52 provide Plaintiffs' characterization of the 1998  
13 Resolution, which speaks for itself and provides the best evidence of its contents. Federal  
14 Defendants deny any allegations contrary to its plain language and meaning. Federal Defendants  
15 further deny that the individuals identified in the 1998 Resolution are the Tribe's General  
16 Council.  
17

18 53. The allegations of the first sentence of paragraph 53 provide Plaintiffs'  
19 characterization of the 1998 Resolution, which speaks for itself and provides the best evidence of  
20 its contents. The remaining allegations of paragraph 53 constitute legal conclusions to which no  
21 response is required but to the extent a response is deemed required, the allegations are denied.  
22

23 **III.**

24 **THE LEADERSHIP DISPUTE EVOLVED INTO A MEMBERSHIP DISPUTE, AS**  
25 **DIXIE SOUGHT TO CIRCUMVENT THE 1998 GENERAL COUNCIL**

26 54. Federal Defendants admit that Dixie sought to limit the scope of the Burley  
27 family's membership in the Tribe and the BIA rejected his claim, concluding that the evidence  
28

1 on which he relied did not support his position; that contemporaneous enrollment documentation  
2 did not purport to limit the Burleys' tribal membership; and that Burley and Reznor had  
3 participated with Dixie in tribal governance for many months before Dixie first claimed that their  
4 membership was limited to the receipt of benefits. Federal Defendants deny the remaining  
5 allegations of paragraph 54.

6  
7 55. Federal Defendants admit that from 1999 to 2004, BIA interacted with the Tribe  
8 through Burley as Chairperson or Tribal representative of the General Council, that it referred  
9 membership questions to the General Council, and entered into PL-638 compacts with Burley as  
10 Chairperson. Federal Defendants lack knowledge or information sufficient to form a belief about  
11 the truth of the remaining allegations of paragraph 55 because Plaintiffs fail to attribute  
12 quotations to any source, and therefore deny them.  
13

14 56. Federal Defendants lack knowledge or information sufficient to form a belief  
15 about the truth of the allegations of paragraph 56 and therefore deny them.  
16

17 57. Federal Defendants admit that in 2004, the BIA informed the Tribe that  
18 organization required the participation of potential members and deny the remaining allegations  
19 of the first sentence of paragraph 57. The remaining allegations of paragraph 57 provide  
20 Plaintiffs' characterization of briefs filed by the government in the 2006 district court litigation,  
21 which speak for themselves and provide the best evidence of their contents. Federal Defendants  
22 deny any allegations contrary to their plain language and meaning.  
23

24 58. Federal Defendants deny the allegations of the first sentence of paragraph 58 and  
25 aver that on November 6, 2006, the Superintendent wrote to Dixie and Burley to announce an  
26 organizational meeting to which all potential members would be invited. Federal Defendants  
27 deny the allegations of the second sentence of paragraph 58 and aver that Burley appealed the  
28

1 Superintendent's letter to the Regional Director on November 10, 2006. The Regional Director  
2 affirmed the Superintendent's letter on April 2, 2007. Burley appealed the Regional Director's  
3 decision to the Interior Board of Indian Appeals ("IBIA") on April 16, 2007. Federal Defendants  
4 admit that the IBIA referred the membership issue to the AS-IA, who ultimately rejected the  
5 BIA's plan in August 2011. The remaining allegations of paragraph 58 provide Plaintiffs'  
6 characterization of the AS-IA's August 2011 Decision, which speaks for itself and provides the  
7 best evidence of its contents. Federal Defendants deny any allegations contrary to its plain  
8 language and meaning.  
9

10 **IV.**

11 **THE DEPARTMENT'S AUGUST 2011 DECISION RESTORED THE DEPARTMENT'S**  
12 **PRIOR RECOGNITION OF THE 1998 GENERAL COUNCIL**

13 59. The allegations of paragraph 59 provide Plaintiffs' characterization of the August  
14 2011 Decision, which speaks for itself and provides the best evidence of its contents. Federal  
15 Defendants deny any allegations contrary to its plain language and meaning.  
16

17 60. The allegations of the first sentence of paragraph 60 provide Plaintiffs'  
18 characterization of the August 2011 Decision, which speaks for itself and provides the best  
19 evidence of its contents. Federal Defendants deny any allegations contrary to its plain language  
20 and meaning. The allegations of the second sentence of paragraph 60 provide Plaintiffs'  
21 characterization of government briefs filed in district court litigation, which speak for themselves  
22 and provide the best evidence of their contents. Federal Defendants deny any allegations  
23 contrary to their plain language and meaning.  
24

25 61. Federal Defendants admit the allegations of the first sentence of paragraph 61.  
26 The remaining allegations of paragraph 61 provide Plaintiffs' characterization of the district  
27 court's order, which speaks for itself and provides the best evidence of its contents. Federal  
28

1 Defendants deny any allegations contrary to its plain language and meaning.

2 **GENERAL ALLEGATIONS**

3 62. The first sentence of paragraph 62 provides Plaintiffs' characterization and legal  
4 conclusions of the district court's order, which speaks for itself and provides the best evidence of  
5 its contents. Federal Defendants deny any allegations contrary to its plain language and  
6 meaning. The remaining allegations of paragraph 62 provide Plaintiffs' characterization and  
7 legal conclusions of *Seminole Nation of Oklahoma v. Norton*, which speaks for itself and  
8 provides the best evidence of its contents. Federal Defendants deny any allegations contrary to  
9 its plain language and meaning.  
10

11 63. The allegations of paragraph 63 constitute legal conclusions to which no response  
12 is required, but to the extent a response is required, the allegations are denied.  
13

14 64. Federal Defendants admit that Dixie properly enrolled the Burley family but deny  
15 the remaining allegations of paragraph 64.  
16

17 **I.**

18 **THE CALIFORNIA VALLEY MIWOK TRIBE'S CURRENT MEMBERSHIP IS**  
19 **PROPERLY COMPRISED OF YAKIMA DIXIE, SILVIA BURLEY, RASHEL REZNOR,**  
20 **ANGELICA PAULK, AND TRISTIAN WALLACE**

21 65. Federal Defendants admit the allegations of the first sentence of paragraph 65.  
22 Federal Defendants admit that the enrollment of the Burley family was not induced by fraud.  
23 Federal Defendants deny the remaining allegations of paragraph 65.

24 **A. *Dixie Properly Enrolled the Burley Family in the Tribe***

25 66. The first sentence of paragraph 66 provides Plaintiffs' characterization of the  
26 district court order, which speaks for itself and provides the best evidence of its contents.  
27 Federal Defendants deny any allegations contrary to its plain language and meaning. Federal  
28

1 Defendants admit the remaining allegations of paragraph 66.

2 67. Federal Defendants lack knowledge or information sufficient to form a belief  
3 about the truth of the allegations of the first three sentences of paragraph 67 and therefore deny  
4 them. Federal Defendants admit the remaining allegations of paragraph 67.

5 68. Federal Defendants admit the allegations of paragraph 68. The allegations of  
6 footnote 5 to paragraph 68 provide Plaintiffs' characterization of a July 2003 article, which  
7 speaks for itself and provides the best evidence of its contents. Federal Defendants deny any  
8 allegations contrary to its plain language and meaning.

9  
10 69. Federal Defendants admit that Dixie's decision to enroll the Burleys was  
11 deliberate and deny the remaining allegations of the first sentence of paragraph 69. The  
12 remaining allegations of paragraph 69 provide Plaintiffs' characterization of a transcript of a  
13 September 8, 1998, meeting, which speaks for itself and provides the best evidence of its  
14 contents. Federal Defendants deny any allegations contrary to its plain language and meaning.

15  
16 70. Federal Defendants admit the allegations of the first sentence of paragraph 70.  
17 Federal Defendants lack knowledge or information sufficient about the truth of the remaining  
18 allegations of paragraph 70 because they are vague and unspecified and therefore deny them.

19  
20 **B. *Enrollment of the Burleys in the CVMT Did Not Compromise Melvin Dixie's Interests***

21  
22 71. The allegations of paragraph 71 provide Plaintiffs' characterization of the district  
23 court order, which speaks for itself and is the best evidence of its contents. Federal Defendants  
24 deny any allegations contrary to its plain language and meaning.

25 72. Federal Defendants lack knowledge or information sufficient to form a belief  
26 about the truth of the allegations of the first sentence of paragraph 72 and therefore deny them.  
27 Federal Defendants deny the allegations of the second sentence of paragraph 72. Federal  
28



1 Defendants admit the remaining allegations of paragraph 72.

2 73. Federal Defendants admit that at the time of the meeting, the location of Melvin  
3 Dixie was unknown. Federal Defendants deny the remaining allegations of paragraph 73.

4 74. Federal Defendants admit that BIA contacted Melvin Dixie in 2000, that Burley  
5 sought and received Melvin Dixie's contact information from BIA. Federal Defendants lack  
6 knowledge and information sufficient to form a belief about the truth of the remaining  
7 allegations of paragraph 74 and therefore deny them.

8  
9 75. The allegations of paragraph 75 constitute legal conclusions to which no response  
10 is required but to the extent a response is deemed required, the allegations are denied.

11 76. Federal Defendants admit that Melvin is deceased. The remaining allegations of  
12 paragraph 76 constitute legal conclusions to which no response is required but to the extent a  
13 response is deemed required, the allegations are denied.

14  
15 **C. *Potential Tribal Members Are Not Entitled to the Same Consideration as Enrolled***  
16 ***Members of the Tribe***

17 77. The allegations of paragraph 77 provide Plaintiffs' characterization of the August  
18 2011 Decision, which speaks for itself and provides the best evidence of its contents. Federal  
19 Defendants deny any allegations contrary to its plain language and meaning.

20 78. The first two sentences of paragraph 78 provide Plaintiffs' characterization of the  
21 district court order, which speaks for itself and provides the best evidence of its contents.  
22 Federal Defendants deny any allegations contrary to its plain language and meaning. Federal  
23 Defendants admit that Plaintiffs agree that that there are additional potential members of the  
24 Tribe. Federal Defendants deny the remaining allegations of paragraph 78.

25 79. Federal Defendants admit that the Burleys were properly enrolled in the Tribe.  
26  
27 Federal Defendants deny the remaining allegations of paragraph 79.  
28

1           80.       Federal Defendants lack knowledge or information sufficient to form a belief  
2 about the truth of the allegations of paragraph 80 and therefore deny them.

3           **(1)       As the Only Active Tribal Member and the BIA-Recognized Tribal**  
4 **Spokesperson in 1998, Yakima Dixie Properly Enrolled the Burley Family.**

5           81.       Federal Defendants deny the allegations of the first sentence of paragraph 81.  
6 Federal Defendants admit the allegations of the second sentence of paragraph 81 but aver that  
7 although Indian Agent Terrell stated that there were 13 Indians around Sheepranch, he listed  
8 only 12. Federal Defendants further aver that evidence does not show that all the Indians on the  
9 census resided on the 160 acres. Federal Defendants admit that Jeff Davis was the adult Indian  
10 residing on the Rancheria in 1935, that there is no evidence that Indians on the 1915 census  
11 objected to the IRA voters list of 1935, and that Mabel Dixie was the only “adult Indian of an  
12 unorganized Rancheria” as that term is used in the Rancheria Act regulations (25 CFR 242.3(a)  
13 (1965) (30 FR 10099) residing on the Rancheria in 1965. Federal Defendants admit that BIA  
14 published the distribution plan in 1966 pursuant to applicable regulations, but deny the remaining  
15 allegations of paragraph 81.  
16  
17

18           82.       Federal Defendants admit the allegations of the first sentence of paragraph 82.  
19 Federal Defendants admit that BIA denied Mata’s request. Federal Defendants deny the  
20 remaining allegations of paragraph 82.  
21

22           83.       Federal Defendants admit the allegations of paragraph 83.

23           84.       Federal Defendants lack knowledge or information sufficient to form a belief  
24 about the allegations of the first sentence of paragraph 84 because the term “other residents” is  
25 vague and ambiguous and therefore deny them. Federal Defendants deny the remaining  
26 allegations of paragraph 84.  
27  
28



1 meaning. Federal Defendants deny the remaining allegations of paragraph 92.

2 93. Federal Defendants admit the allegations of the first sentence of paragraph 93.  
3 Federal Defendants lack knowledge or information sufficient to form a belief about the truth of  
4 the allegations of the second and third sentence of paragraph 93 and therefore deny them.  
5 Federal Defendants admit the allegations of the fourth sentence of paragraph 93.

6 94. Federal Defendants deny the allegations of the first sentence of paragraph 94.  
7 Federal Defendants admit that the BIA recognized the authority of the General Council from  
8 1998 to 2005 and deny the remaining allegations of the second sentence of paragraph 94.  
9 Federal Defendants admit the allegations of the third sentence of paragraph 94.

10 95. The allegations of the first sentence of paragraph 95 provide Plaintiffs'  
11 characterizations of the district court order, which speaks for itself and provides the best  
12 evidence of its contents. Federal Defendants deny any allegations contrary to its plain language  
13 and meaning. Federal Defendants deny the remaining allegations of paragraph 95.

14 96. Federal Defendants admit the allegations of the first, third, and fourth sentences of  
15 paragraph 96. Federal Defendants deny the allegations of the second sentence of paragraph 96.

16 97. Federal Defendants deny the allegations of the first through third sentences of  
17 paragraph 97. Federal Defendants admit that the last undisputed General Council is the 1998  
18 General Council established by the 1998 Resolution but aver that it has been disputed and  
19 rejected by the BIA since 2005.

20  
21 **B. *Recognizing the Authority of the 1998 General Council Would Not Improperly***  
22 ***Undermine Potential Members' Interests***

23  
24 98. The allegations of paragraph 98 provide Plaintiffs' characterization of the district  
25 court order, which speaks for itself and provides the best evidence of its contents. Federal  
26 Defendants dispute any allegation contrary to its plain language and meaning.  
27  
28

1 99. Federal Defendants deny the allegations of paragraph 99.

2 100. Federal Defendants deny the allegations of paragraph 100.

3 101. Federal Defendants deny the allegations of paragraph 101 but admit that the  
4 Department has held a consistent position on the propriety of Dixie enrolling the Burleys.

5 102. Federal Defendants admit the allegations of the first sentence of paragraph 102.  
6 Federal Defendants deny the allegations of the second sentence of paragraph 102. Federal  
7 Defendants admit that in the years after formation of the 1998 General Council, the Tribe  
8 compacted with the federal government and sought to prepare a constitution but lack knowledge  
9 or information sufficient to form a belief about the truth about the remaining allegations of  
10 paragraph 102 and therefore deny them.  
11

12 103. Federal Defendants deny the allegations of the first and fourth sentences of  
13 paragraph 103. Federal Defendants admit the allegations of the second and third sentences of  
14 paragraph 103.  
15

16 104. Federal Defendants deny the allegations of paragraph 104.

17 **C. *Enrollment of Potential Members of the Tribe Must Be Entrusted to the General***  
18 ***Council***

19 105. Federal Defendants deny the allegations of paragraph 105.

20 106. Federal Defendants deny that the August 2011 Decision was consistent with  
21 longstanding judicial and Department precedent and policy. The remaining allegations of  
22 paragraph 106 provide Plaintiffs' characterization of the August 2011 Decision, which speaks for  
23 itself and provides the best evidence of its contents. Federal Defendants deny any allegations  
24 contrary to its plain language or meaning.  
25

26 107. Federal Defendants deny the allegations of paragraph 107.  
27  
28

**FIRST CAUSE OF ACTION**

**(Arbitrary and Capricious Agency Action in Violation of the Administrative Procedures Act, as against all Defendants)**

1  
2  
3 108. Federal Defendants incorporate by reference their responses to paragraphs 1  
4 through 107 above.

5  
6 109. Paragraph 109 provides Plaintiffs' characterization of the APA, which speaks for  
7 itself and provides the best evidence of its contents. Federal Defendants deny any allegations  
8 contrary to its plain language and meaning.

9  
10 110. Federal Defendants admit the allegations of paragraph 110.

11 111. Federal Defendants deny the allegations of paragraph 111.

12 **THE AS-IA FAILED TO CONSIDER ON REMAND DIXIE'S DEPOSITION**  
13 **TESTIMONY**

14 112. Federal Defendants deny the allegations of paragraph 112.

15 113. Paragraph 113 provides Plaintiffs' characterization of the district court order,  
16 which speaks for itself and provides the best evidence of its contents. Federal Defendants deny  
17 any allegations contrary to its plain language and meaning.

18 114. Paragraph 114 provides Plaintiffs' characterization of the district court order,  
19 which speaks for itself and provides the best evidence of its contents. Federal Defendants deny  
20 any allegations contrary to its plain language and meaning.

21  
22 **THE VALIDITY OF THE ESTABLISHMENT OF THE GENERAL COUNCIL IN 1998**  
23 **WAS NEVER REFERRED TO THE AS-IA FOR RESOLUTION**

24 115. Paragraph 113 provides Plaintiffs' characterization of the IBIA decision, which  
25 speaks for itself and provides the best evidence of its contents. Federal Defendants deny any  
26 allegations contrary to its plain language and meaning.

1           116. Paragraph 116 provides Plaintiffs' characterization of the IBIA decision, which  
2 speaks for itself and provides the best evidence of its contents. Federal Defendants deny any  
3 allegations contrary to its plain language and meaning.

4           117. Federal Defendants deny the allegations of paragraph 117.

5           118. Federal Defendants admit the allegations of paragraph 118.

6           119. Federal Defendants admit the allegations of the first sentence of paragraph 119.  
7 Federal Defendants lack knowledge or information sufficient to form a belief about the truth of  
8 the remaining allegations of paragraph 119 and therefore deny them.  
9

10           **DIXIE IS ESTOPPED FROM OBJECTING TO THE VALIDITY OF THE 1998**  
11           **GENERAL COUNCIL**

12           120. The allegations of paragraph 120 constitute conclusions of law to which no  
13 response is required, but to the extent a response is deemed required, the allegations are denied.

14           121. The allegations of paragraph 121 constitute conclusions of law to which no  
15 response is required, but to the extent a response is deemed required, the allegations are denied.  
16

17           **DIXIE'S OBJECTIONS TO THE VALIDITY OF THE GENERAL COUNCIL IS**  
18           **BARRED BY THE STATUTE OF LIMITATIONS**

19           122. The allegations of paragraph 122 constitute conclusions of law to which no  
20 response is required, but to the extent a response is deemed required, the allegations are denied.

21           123. The allegations of paragraph 123 constitute conclusions of law to which no  
22 response is required, but to the extent a response is deemed required, the allegations are denied.  
23

24           124. Paragraph 124 provides Plaintiffs' characterization of the Indian Claims  
25 Commission Act, which speaks for itself and provides the best evidence of its contents. Federal  
26 Defendants deny any allegations contrary to its plain language and meaning.

27           125. The allegations of paragraph 125 constitute conclusions of law to which no  
28 response is required, but to the extent a response is deemed required, the allegations are denied.

1 126. The allegations of paragraph 126 constitute conclusions of law to which no  
2 response is required, but to the extent a response is deemed required, the allegations are denied.

3 **CLAIMING TO BE THE CALIFORNIA VALLEY MIWOK TRIBE AND THEN SUING**  
4 **IN THAT NAME REFUTES THE ASSERTION THAT THE GENERAL COUNCIL WAS**  
5 **INVALID AT THE OUTSET**

6 127. Federal Defendants deny the allegations of the first sentence of paragraph 127 and  
7 aver that Dixie filed suit in January 2011, challenging the December 2010 Decision as Plaintiff  
8 California Valley Miwok Tribe. Federal Defendants admit the remaining allegations of  
9 paragraph 127.

10 128. Federal Defendants deny the allegations of paragraph 128.

11 129. Federal Defendants deny the allegations of paragraph 129.

12 130. Federal Defendants deny the allegations of paragraph 130.

13 **SECOND CAUSE OF ACTION**

14 **(Declaratory Relief)**

15 131. Federal Defendants incorporate by reference their responses to paragraphs 1  
16 through 130 above.

17 132. Federal Defendants admit that an actual controversy has arisen and now exists  
18 between Plaintiffs and the Defendants concerning the validity and scope of the AS-IA's  
19 December 30, 2015 decision. Federal Defendants deny the remaining allegations of paragraph  
20 132.  
21

22 **THIRD CAUSE OF ACTION**

23 **(Injunctive Relief)**

24 133. Federal Defendants incorporate by reference their responses to paragraphs 1  
25 through 132 above.

26 134. The allegations of paragraph 134 constitute conclusions of law to which no  
27 response is required, but to the extent a response is deemed required, the allegations are denied.  
28



1 135. The allegations of paragraph 135 constitute conclusions of law to which no  
2 response is required, but to the extent a response is deemed required, the allegations are denied.

3 136. Federal Defendants deny that Plaintiffs are entitled to the relief requested in  
4 paragraph 136.

5 **FOURTH CAUSE OF ACTION**

6 **(Violation of Substantive and Procedural Due process)**

7 137. Federal Defendants incorporate by reference their responses to paragraphs 1  
8 through 136 above.

9 138. The allegations of paragraph 138 constitute conclusions of law to which no  
10 response is required, but to the extent a response is deemed required, the allegations are denied.

11 139. Federal Defendants deny the allegations of paragraph 139.

12 140. Federal Defendants deny the allegations of paragraph 140.

13 **REQUEST FOR IMMEDIATE STAY**

14 141. Federal Defendants admit that the August 2011 Decision was stayed in light of  
15 the fact that there was an active lawsuit challenging AS-IA's December 2010 decision. Federal  
16 Defendants deny the remaining allegations of paragraph 141 and deny that the Plaintiffs are  
17 entitled to an immediate stay of the December 2015 Decision pending resolution of their lawsuit.

18 142. Federal Defendants admit that attached as Exhibit "3" to Plaintiffs' Complaint is a  
19 copy of the August 2011 Decision, which speaks for itself and provides the best evidence of its  
20 contents.

21 143. Federal Defendants admit that attached as Exhibit "4" to Plaintiffs' Complaint is a  
22 copy of the U.S. District Court Decision dated December 13, 2013, which speaks for itself and  
23 provides the best evidence of its contents.  
24  
25  
26  
27  
28

1 144. Federal Defendants admit that attached as Exhibit “5” to Plaintiffs’ Complaint is a  
2 copy of the December 2015 Decision, which speaks for itself and provides the best evidence of  
3 its contents.

4 **PRAYER FOR RELIEF**

5 The balance of the Complaint provides Plaintiffs’ prayer for relief to which no answer is  
6 required. To the extent a response is deemed required, Federal Defendants deny that Plaintiffs  
7 are entitled to be requested relief or to any relief whatsoever.

8 **AFFIRMATIVE DEFENSES**

9  
10 In further response to Plaintiffs’ Complaint, Federal Defendants allege, state, and aver the  
11 following affirmative defenses, which may be expanded as the case proceeds:

12  
13 1. Plaintiffs assert claims that are barred, in whole or in part, by the doctrine of *res*  
14 *judicata*, collateral estoppel, or both, as those claims were already addressed and resolved by the  
15 District Court for the District of Columbia and the District of Columbia Court of Appeals. *See*  
16 *California Valley Miwok Tribe v. United States*, 424 F. Supp. 2d 197 (D.D.C. 2006); *California*  
17 *Valley Miwok Tribe v. Interior*, 515 F. 3d 1262 (D.C. Cir. 2008); *California Valley Miwok Tribe*  
18 *v. Jewell*, 5 F. Supp. 3d 86 (D.D.C. 2013).

19  
20 2. Plaintiffs lack standing to assert certain claims or represent certain interests.

21 3. Plaintiffs assert certain claims over which this Court lacks jurisdiction.

22 4. Plaintiffs fail to state a claim upon which relief may be granted.

23  
24 WHEREFORE, Federal Defendants respectfully request that this Court dismiss Plaintiffs’  
25 Complaint with prejudice, that judgment be entered for them, and that they be allowed such  
26 further relief as the Court may allow.  
27  
28

1 Respectfully submitted this 16th day of September, 2016.

2  
3 JOHN C. CRUDEN  
4 Assistant Attorney General

5 /s/ Jody H. Schwarz  
6 JODY H. SCHWARZ  
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8 Environment and Natural Resources  
9 Division  
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16 *Attorneys for Federal Defendants*

17 Of Counsel:

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19 Office of the Solicitor  
20 United States Department of the Interior  
21 Washington, DC 20240  
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**CERTIFICATE OF SERVICE**

I hereby certify that on September 16, 2016, I electronically filed the foregoing Federal Defendants' Answer and Affirmative Defenses to Plaintiffs' First Amended Complaint by using the CM/ECF system, which will send notification of such filings to the parties entitled to receive notice.

/s/ Jody H. Schwarz  
Jody H. Schwarz

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