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 MIWOK TRIBE, THE TRIBAL COUNCIL,
 9 YAKIMA DIXIE, VELMA WHITEBEAR,
 ANTONIA LOPEZ, MICHAEL MENDIBLES,
 10 GILBERT RAMIREZ, JR., ANTOINETTE
 11 LOPEZ, and IVA SANDOVAL

12 UNITED STATES DISTRICT COURT

13 EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

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

18 Plaintiffs,)

19 v.)

20 S.M.R. JEWELL, in her official capacity as U.S.)
 Secretary of Interior, et al.,)
 21)

22 Defendants)

23 THE CALIFORNIA VALLEY MIWOK TRIBE,)
 et al.,)
 24)

25 Intervenor-Defendants)

Case No. 2:16-01345 WBS CKD

**INTERVENOR-DEFENDANTS' ANSWER
TO PLAINTIFFS' FIRST AMENDED
COMPLAINT**

Judge: Hon. William B. Shubb

1 Intervenor-Defendants The California Valley Miwok Tribe, The Tribal Council, Yakima
2 Dixie, Velma WhiteBear, Antonia Lopez, Michael Mendibles, Gilbert Ramirez, Jr., Antoinette Lopez,
3 and Iva Sandoval (Intervenors), by and through their undersigned counsel, hereby answer Plaintiffs'
4 First Amended Complaint (FAC) (ECF No. 4). Intervenors specifically deny each and every
5 allegation of the FAC not otherwise expressly admitted, qualified, or denied by this answer. The
6 responses are numbered to correspond to the numbered paragraphs in the FAC.
7

8 INTRODUCTION

9 1. Answering paragraph 1, the allegations contained in this paragraph consist of a
10 characterization of Plaintiffs' action and/or conclusions of law, to which no response is required. To
11 the extent a response is required, Intervenors deny the allegations, except that Intervenors admit that
12 this action challenges a decision by the Assistant Secretary of Interior – Indian Affairs (AS-IA)
13 regarding the California Valley Miwok Tribe (CVMT or Tribe).
14

15 AUGUST 31, 2011 AS-IA DECISION

16 2. Answering paragraph 2, Intervenors admit that Larry Echo Hawk served as AS-IA and
17 issued a decision concerning the Tribe on August 31, 2011 (AS-IA 2011 Decision). The content of
18 that decision speaks for itself and is itself the best evidence of its content. To the extent the
19 allegations contained in this paragraph augment, editorialize or deviate from the content of the
20 decision, Intervenors deny them. Intervenors also aver that the federal district court for the District of
21 Columbia (District Court) issued a decision on December 13, 2013, finding the AS-IA 2011 Decision
22 unlawful and remanding the decision to the Secretary of the Interior for reconsideration consistent
23 with its opinion. *California Valley Miwok Tribe v. Jewell*, 5 F.Supp.3d 86 (D.D.C. 2013) (*CVMT v.*
24 *Jewell*).
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U.S. DISTRICT COURT DECISION REMANDING TO AS-IA

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2 3. Answering paragraph 3, Intervenors admit that Yakima Dixie (Dixie) and other
3 plaintiffs challenged the AS-IA 2011 Decision in federal court and that the District Court granted
4 summary judgment in favor of plaintiffs and remanded the decision to the Secretary of the Interior for
5 reconsideration. Intervenors admit the 2012 deposition testimony of Yakima Dixie was not part of the
6 administrative record in *CVMT v. Jewell*. The remainder of the allegations in this paragraph consist of
7 conclusions of law, to which no response is required, and/or characterizations of the court’s decision
8 in *CVMT v. Jewell*, which speaks for itself and is itself the best evidence of its content. To the extent
9 the remaining allegations contained in this paragraph augment, editorialize or deviate from the content
10 of the decision, Intervenors deny them.
11

12 4. Answering paragraph 4, the allegations purport to quote from and characterize the
13 District Court’s decision in *CVMT v. Jewell*, which speaks for itself and is itself the best evidence of
14 its content. To the extent the allegations contained in this paragraph augment, editorialize or deviate
15 from the content of the decision, Intervenors deny them.
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17 5. Answering paragraph 5, Intervenors admit that the AS-IA made a decision on remand
18 from *CVMT v. Jewell* on December 30, 2015 (AS-IA 2015 Decision). The remaining allegations
19 contained in this paragraph consist of conclusions of law, to which no response is required, and/or
20 purport to characterize the content of the AS-IA 2015 Decision, which speaks for itself and is itself the
21 best evidence of its content. To the extent the allegations contained in this paragraph augment,
22 editorialize or deviate from the content of the decision, Intervenors deny them.
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JURISDICTION AND VENUE

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2 6. Answering paragraph 6, the allegations contained in this paragraph consist of
3 conclusions of law, to which no response is required. To the extent a response is required, the
4 allegations are denied.

5
6 7. Answering paragraph 7, Intervenor deny that the Plaintiffs Silvia Burley (Burley),
7 Rashel Renzor, Angelica Paulk and Tristian Wallace, individually or collectively, represent the Tribe
8 or have any authority to sue in the Tribe’s name or to seek any relief on behalf of the Tribe. The
9 remaining allegations contained in this paragraph consist of conclusions of law, to which no response
10 is required; to the extent a response is required, Intervenor deny them.

11
12 8. Answering paragraph 8, Intervenor admit that the Tribe is a federally-recognized tribe.
13 Intervenor aver that the Plaintiffs do not represent the Tribe and not have any authority to sue in the
14 Tribe’s name or to seek any relief on behalf of the Tribe. The remaining allegations contained in this
15 paragraph constitute conclusions of law, to which no response is required. To the extent a response is
16 required, the allegations are denied.

17
18 9. Answering paragraph 9, the allegations consist of conclusions of law to which no
19 response is required, but to the extent a response is required, the allegations are denied.

20 10. Answering paragraph 10, the first sentence consists of legal conclusions and
21 characterizations of the Administrative Procedure Act (APA), which speaks for itself and is the best
22 evidence of its contents. Intervenor admit the allegations of the second sentence.

23 11. Answering paragraph 11, the allegations contained in this paragraph constitute
24 conclusions of law, to which no response is required. To the extent a response is required, the
25 allegations are denied.
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1 12. Answering paragraph 12, Intervenors possess insufficient information to confirm the
2 accuracy of the allegations set forth in this paragraph, and on that basis deny them.

3 13. Answering paragraph 13, the allegations contained in this paragraph constitute
4 conclusions of law, to which no response is required. To the extent a response is required, the
5 allegations are denied.
6

7 14. Answering paragraph 14, Intervenors admit that the Tribe is federally-recognized.
8 Intervenors deny the remaining allegations in this paragraph.

9 15. Answering paragraph 15, Intervenors deny the allegations contained in this paragraph.

10 16. Answering paragraph 16, Intervenors admit that Yakima Dixie is a member of the
11 Tribe and not a party Plaintiff in this action. Intervenors deny the remaining allegations contained in
12 this paragraph.
13

14 17. Answering paragraph 17, Intervenors admit that Defendant S.M.R Jewell is the U.S.
15 Secretary of Interior. Intervenors possess insufficient information to confirm the accuracy of the
16 remaining allegations contained in this paragraph, and deny them on that basis.

17 18. Answering paragraph 18, Intervenors admit that Lawrence S. Roberts is the acting AS-
18 IA and the head of the Bureau of Indian Affairs (BIA). Intervenors admit that Kevin Washburn was
19 formerly the AS-IA and issued an opinion on December 30, 2015 that is challenged in this action.
20 Intervenors possess insufficient information to confirm the accuracy of the remaining allegations
21 contained in this paragraph, and on that basis deny them.
22

23 19. Answering paragraph 19, Intervenors admit that Michael Black is the Director of the
24 BIA and that the BIA is a department within the Department of the Interior (Department or DOI).
25 Intervenors possess insufficient information to confirm the accuracy of the remaining allegations set
26 forth in this paragraph, and on that basis deny them.
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GENERAL ALLEGATIONS

1
2 20. Answering paragraph 20, Intervenors admit that the United States acquired land in
3 1916 for the benefit of Indians living near Sheep Ranch, California and deny the remainder of the
4 allegations in the first sentence. The second sentence of this paragraph purports to quote from and
5 characterize a letter from the Office of Indian Affairs (now the BIA) agent John Terrell, which speaks
6 for itself and is itself the best evidence of its content. To the extent the allegations contained in the
7 second sentence of this paragraph augment, editorialize or deviate from the content of the letter,
8 Intervenors deny them.
9

10 21. Answering paragraph 21, the allegations contained in the first sentence of this
11 paragraph purport to characterize the contents of the Indian Reorganization Act (IRA), a statute which
12 speaks for itself and is itself the best evidence of its content. To the extent the allegations contained in
13 the first sentence of this paragraph augment, editorialize or deviate from the IRA’s plain language,
14 meaning, or context, Intervenors deny them. As to the second sentence, on information and belief,
15 Intervenors admit that Jeff Davis voted in favor of application of the IRA to the Tribe, but deny the
16 remaining allegations. Intervenors deny the allegations contained in the third sentence of this
17 paragraph and aver that the Tribe completed organization through the ratification of a Constitution in
18 an election duly held on July 6, 2013.
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21 22. Answering paragraph 22, the allegations contained in the first sentence of this
22 paragraph purport to characterize the contents of the California Rancheria Act (CRA), a statute which
23 speaks for itself and is itself the best evidence of its content. To the extent the allegations contained in
24 the first sentence of this paragraph augment, editorialize or deviate from the CRA’s plain language,
25 meaning, or context, they are denied. The remaining allegations in the first sentence of this paragraph
26 are denied. As to the second sentence of this paragraph, Intervenors admit the BIA prepared a plan in
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1 1966 to distribute the assets of the Sheep Ranch Rancheria, but deny the remaining allegations. As to
2 the third sentence of this paragraph, Intervenors possess insufficient information to confirm the
3 accuracy of the allegations, and on that basis deny them. As to the fourth sentence of this paragraph,
4 on information and belief, Intervenors admit that Mabel Hodge Dixie voted to accept the BIA
5 distribution plan, but deny the remaining allegations.
6

7 23. Answering paragraph 23, Intervenors admit that the United States never terminated
8 recognition of the Tribe. Intervenors possess insufficient information to confirm the accuracy of the
9 remaining allegations, and on that basis deny them.

10 24. Answering paragraph 24, on information and belief, Intervenors admit that the U.S.
11 District Court case of Hardwick v. U.S. was filed and settled. The opinion in Hardwick v. U.S. and its
12 resulting settlement speak for themselves and are themselves the best evidence of their content. To
13 the extent the allegations contained in this paragraph augment, editorialize or deviate from the content
14 of the case and the settlement, Intervenors deny them. Intervenors aver that the Tribe was not a party
15 to Hardwick v. U.S.
16

17 25. Answering paragraph 25, Intervenors admit that Yakima Dixie is the son of Mabel
18 Hodge Dixie and that Yakima Dixie signed a letter to the BIA in 1994. Intervenors aver that this letter
19 was written by a BIA staff member. The content of the letter written by the BIA staff member and
20 signed by Yakima Dixie speaks for itself and is itself the best evidence of its content. To the extent
21 the allegations contained in this paragraph augment, editorialize or deviate from the content of the
22 letter, Intervenors deny them. Intervenors possess insufficient information to confirm the accuracy of
23 the allegations concerning the surviving children of Mabel Dixie and the location of Melvin Dixie in
24 1994, and on that basis deny them. As to the third sentence of this paragraph, Intervenors deny that
25 Melvin Dixie died in 2008 and aver that he died in 2009.
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1 26. Answering paragraph 26, Intervenors possess insufficient information to confirm the
2 accuracy of the allegations contained in this paragraph and on that basis deny them.

3 27. Answering paragraph 27, Intervenors admit that Yakima Dixie signed a statement that
4 purported to enroll Silvia Burley, her two daughters, and her granddaughter (Burley Family) as
5 members of the Tribe. Intervenors aver that Silvia Burley wrote the statement that Yakima Dixie
6 signed and that Yakima Dixie did not have the authority to enroll anyone as a Tribal member.
7 Intervenors deny the remaining allegations contained in this paragraph.
8

9 28. Answering paragraph 28, Intervenors admit that Yakima Dixie and Silvia Burley met
10 with BIA staff in September 1998. Intervenors deny that Melvin Dixie's whereabouts were unknown
11 at that time. The remaining allegations of this paragraph purport to characterize and describe the
12 contents of the September 1998 meeting transcript, which speaks for itself and is itself the best
13 evidence of its contents. To the extent the allegations augment, editorialize or deviate from the
14 content of the transcript, Intervenors deny them.
15

16 29. Answering paragraph 29, Intervenors admit that the United States never terminated its
17 recognition of the Tribe. Intervenors possess insufficient information to confirm the accuracy of the
18 remaining allegations in this paragraph, and on that basis Intervenors deny them.
19

20 30. Answering paragraph 30, the allegations contained in this paragraph are vague and
21 ambiguous because Plaintiffs have not defined the relevant time period in which the alleged actions
22 took place and have not identified any alleged BIA decision to which the allegations refer. Without
23 waiving their objection, Intervenors possess insufficient information to confirm the accuracy of the
24 allegations contained in this paragraph, and on that basis Intervenors deny them.
25

26 31. Answering paragraph 31, Intervenors deny that Melvin Dixie died in 2008 and aver
27 that Melvin Dixie died in 2009.
28

1 32. Answering paragraph 32, the allegations in this paragraph purport to quote from and
2 characterize a September 24, 1998 letter and its attachments allegedly sent from the BIA to Yakima
3 Dixie and Silvia Burley. The content of the letter and its attachments speak for themselves and are
4 themselves the best evidence of their content. To the extent the allegations contained in this
5 paragraph augment, editorialize or deviate from the content of the letter and its attachments,
6 Intervenor deny them.

7
8 33. Answering paragraph 33, Intervenor admit that Yakima Dixie and Silvia Burley
9 signed a resolution on November 5, 1998 (1998 Resolution) and deny that Rashel Reznor signed the
10 1998 Resolution. The remaining allegations contained in this paragraph consist of legal conclusions
11 requiring no response and characterizations of the content of the 1998 Resolution, which speaks for
12 itself and is itself the best evidence of its content. To the extent the allegations augment, editorialize
13 or deviate from the content of the 1998 Resolution, Intervenor deny them.

14
15 34. Answering paragraph 34, the allegations of this paragraph consist of legal conclusions
16 to which no response is required, but to the extent a response is deemed required, Intervenor deny the
17 allegations.

18
19 35. Answering paragraph 35, the allegations purport to describe and characterize the
20 content of the documents attached to the FAC marked as Exhibit “2”, which speak for themselves and
21 are the best evidence of their content. To the extent the allegations augment, editorialize or deviate
22 from the content of the documents, Intervenor deny them.

23 36. Answering paragraph 36, Intervenor possess insufficient information to frame a
24 response to the vague and undefined allegations contained in the first and second sentences of this
25 paragraph, and Intervenor deny them on that basis. As to the third sentence, Intervenor deny that
26 Yakima Dixie conspired to make any false claims. Intervenor possess insufficient information to
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1 confirm the accuracy of the remaining allegations in the third sentence of this paragraph, and on that
2 basis deny them. Intervenors admit that Yakima Dixie told the BIA that he had not resigned and that
3 the document that purported to effect his resignation was forged. Intervenors admit that there exists a
4 Tribal leadership dispute, but aver that the dispute is between Silvia Burley and her purported tribal
5 council, on one hand, and the elected Tribal Council consisting of Yakima Dixie and other individual
6 Intervenors, on the other hand. Intervenors cannot frame a response to Plaintiffs' vague, ambiguous
7 and undefined allegation that such dispute has "caused havoc" within the Tribe, and Intervenors deny
8 such allegation on that basis. The allegations contained in the sixth sentence of this paragraph purport
9 to describe the contents of Yakima Dixie's February 7, 2012 deposition testimony in a California state
10 action, which speaks for itself and is itself the best evidence of its content. To the extent the
11 allegations contained in the sixth sentence augment, editorialize or deviate from the content of the
12 deposition, Intervenors deny them.

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14
15 37. Answering paragraph 37, Intervenors admit that the BIA acknowledged Silvia Burley
16 as a Tribal representative at some times between 1999 and 2005, and acted on some resolutions passed
17 by the purported General Council under Silvia Burley's control. The remaining allegations contained
18 in this paragraph are denied.

19
20 38. Answering paragraph 38, on information and belief, and relying solely on information
21 provided by Plaintiffs, Intervenors admit the BIA entered into contracts to provide federal funding to
22 the General Council controlled by the Burleys, and aver that none of the federal funds so provided
23 were delivered to the Tribe. Intervenors deny the Tribe was ever under Silvia Burley's leadership.

24
25 **PROCEDURAL SUMMARY**

26 39. Answering paragraph 39, Intervenors admit that, on December 13, 2013, the District
27 Court for the District of Columbia found unlawful the AS-IA 2011 Decision regarding the Tribe and
28

1 remanded the decision to the DOI for reconsideration. The remaining allegations of this paragraph
2 purport to characterize the District Court's order, which speaks for itself and is the best evidence of its
3 content. To the extent the allegations augment, editorialize or deviate from the content of the
4 decision, Intervenor deny them.

5
6 40. Answering paragraph 40, the allegations contained in this paragraph purport to
7 characterize the contents of the District Court's opinion in *CVMT v. Jewell*, which speaks for itself
8 and is itself the best evidence of its content. To the extent the allegations contained in this paragraph
9 augment, editorialize or deviate from the content of the decision, Intervenor deny them.

10
11 41. Answering paragraph 41, the allegations contained in this paragraph consist of
12 conclusions of law, to which no response is required. To the extent a response is required, the
13 allegations are denied.

14
15 42. Answering paragraph 42, the allegations contained in this paragraph consist of
16 conclusions of law, to which no response is required. To the extent a response is required, the
17 allegations are denied.

18
19 43. Answering paragraph 43, Intervenor deny that the Tribe's membership presently
20 consists of only five members. Intervenor admit that issues of Tribal governance, including
21 membership decisions, should be entrusted to the Tribe's governing body, but Intervenor aver that
22 Plaintiff General Council (1998 General Council or Burley-controlled General Council) is not the
23 legitimate governing body of the Tribe.

24
25 44. Answering paragraph 44, the allegations contained in the first sentence of this
26 paragraph purport to characterize the contents of the District Court's opinion in *CVMT v. Jewell*,
27 which speaks for itself and is the best evidence of its content. To the extent the allegations contained
28 in the first sentence of this paragraph augment, editorialize or deviate from the content of the decision,

1 Intervenor deny them. The allegations contained in the second sentence of this paragraph contain
2 conclusions of law, to which no response is required. To the extent that a response is required, the
3 allegations are denied.

4
5 45. Answering paragraph 45, the allegations contained in the first sentence of this
6 paragraph consist of conclusions of law, to which no response is required. To the extent a response is
7 required, the allegations are denied.

8 45a. Answering sub-paragraph 45(a), Intervenor deny the allegations contained in this sub-
9 paragraph and aver that Yakima Dixie lacked authority to enroll the Burley Family as members of the
10 Tribe.

11 45b. Answering sub-paragraph 45(b), Intervenor admit that Yakima Dixie did not consult
12 with Melvin Dixie before signing the document that purported to enroll the Burley Family into the
13 Tribe. Intervenor admit that Melvin Dixie is now deceased, but Intervenor deny that any
14 impairment of his interests while living is now moot. Intervenor cannot frame a response to
15 Plaintiffs' vague, ambiguous, and compound allegations that Melvin Dixie "had not been involved",
16 "had not been in touch", "was invited to participate", and "was encouraged to avail himself", among
17 others, and on that basis Intervenor deny the remaining allegations contained in this sub-paragraph.
18

19 45c. Answering sub-paragraph 45(c), Intervenor deny the allegations contained in this sub-
20 paragraph.
21

22 45d. Answering sub-paragraph 45(d), Intervenor deny the allegations contained in the first
23 and second sentences of this sub-paragraph. As to the third sentence, Intervenor admit that the
24 Department contracted with the 1998 General Council for a period between 1999 and 2005, but
25 Intervenor deny the remaining allegations contained in the third sentence of this sub-paragraph.
26 Intervenor deny the remaining allegations contained in this sub-paragraph.
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1 48c. Answering sub-paragraph 48(c), Intervenors admit that Burley sought to join the Tribe
2 and provided documents to Yakima Dixie, and that Yakima Dixie was imprisoned. Intervenors aver
3 that Yakima Dixie did not have authority to make a “membership decision” regarding the Burley
4 Family.

5
6 48d. Answering sub-paragraph 48(d), Intervenors deny the allegations contained in the first
7 sentence of this sub-paragraph and aver that the federal government does not determine membership
8 in the Tribe. Intervenors possess insufficient information to confirm the accuracy of the allegations
9 contained in the second sentence, and on that basis deny them.

10 48e. Answering sub-paragraph 48(e), Intervenors possess insufficient information to
11 confirm the accuracy of the allegations contained in the first, second and third sentences of this sub-
12 paragraph, and on that basis deny them. Intervenors admit that Silvia Burley contacted Yakima Dixie
13 in 1998, but deny the remaining allegations in this sub-paragraph.

14
15 48f. Answering sub-paragraph 48(f), Intervenors admit that Yakima Dixie signed a
16 document drafted by Silvia Burley purporting to enroll the Burley Family as Tribal members.
17 Intervenors deny the remaining allegations in this sub-paragraph and aver that Yakima Dixie did not
18 have the authority to enroll the Burley Family into the Tribe.

19
20 48g. Answering sub-paragraph 48(g), the allegations contained in this sub-paragraph
21 purport to characterize the content of and quote from a September 24, 1998 letter from the BIA, which
22 speaks for itself and is itself the best evidence of its content. To the extent the allegations contained in
23 this sub-paragraph augment, editorialize or deviate from the content of the letter, Intervenors deny
24 them.

1 48h. Answering sub-paragraph 48(h), Intervenors admit that Yakima Dixie and Silvia
2 Burley signed the 1998 Resolution and deny the remaining allegations contained in this sub-
3 paragraph.

4 48i. Answering sub-paragraph 48(i), Intervenors deny the allegations contained in the first
5 sentence of this sub-paragraph. On information and belief, and relying on information provided by
6 Plaintiffs, Intervenors admit that the BIA entered into contracts with the Burley-controlled General
7 Council. The remaining allegations in this sub-paragraph are denied.

8 49. Answering paragraph 49, Intervenors deny the allegations in this paragraph and aver
9 that membership in the Tribe was established by lineal descent from known Tribal members and
10 affiliation with the Tribal community.

11 50. Answering paragraph 50, Intervenors deny that a General Council form of Tribal
12 government existed or was created by the 1998 Resolution and that Yakima Dixie led such a
13 government. Intervenors admit the allegations contained in the second sentence of this paragraph.
14 The allegations contained in the third sentence purport to characterize the contents of and quote from a
15 document dated April 21, 1999, which speaks for itself and is itself the best evidence of its content.
16 To the extent the allegations contained in the third sentence of this paragraph augment, editorialize or
17 deviate from the content of that document, Intervenors deny them. Intervenors deny the allegations
18 contained in the fourth sentence of this paragraph.

19 51. Answering paragraph 51, Intervenors admit that Yakima Dixie was deposed in a 2012
20 California state case. The allegations contained in the second sentence of this paragraph purport to
21 characterize the contents of and describe Yakima Dixie's deposition testimony, which speaks for itself
22 and is itself the best evidence of its content. To the extent the allegations contained in this paragraph
23 augment, editorialize or deviate from the content of that deposition testimony, Intervenors deny them.
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1 52. Answering paragraph 52, the allegations contained in this paragraph purport to
2 characterize the 1998 Resolution, which speaks for itself and is the best evidence of its contents.
3 Intervenor deny any allegations contrary to its plain language and meaning. Intervenor aver that the
4 1998 Resolution was not valid as a Tribal governing document.
5

6 53. Answering paragraph 53, the allegations in the first sentence of this paragraph purport
7 to characterize the 1998 Resolution, which speaks for itself and is the best evidence of its contents.
8 Intervenor deny any allegations contrary to its plain language and meaning. The remaining
9 allegations in this paragraph consist of legal conclusions to which no response is required, but to the
10 extent a response is deemed required, Intervenor deny them.
11

12 54. Answering paragraph 54, Intervenor deny the allegations contained in the first
13 sentence of this paragraph. As to the remaining allegations, Intervenor admit that Yakima Dixie
14 stated that his intent in signing the Burleys' enrollment document was only to help them qualify for
15 education and welfare benefits. Intervenor otherwise cannot frame a response to the vague and
16 ambiguous allegations, which do not identify the time period in question or the documents referenced
17 in the allegations, and on this basis deny them.
18

19 55. Answering paragraph 55, Intervenor admit that the BIA interacted with the Burley-
20 controlled General Council between 1999 and 2004. Intervenor aver that the 1998 General Council
21 was not a legitimate Tribal government and was not authorized to act on behalf of the Tribe and deny
22 the allegations of the final sentence on that basis. Intervenor possess insufficient information to
23 confirm the accuracy of the remaining allegations, and on that basis deny them.
24

25 56. Answering paragraph 56, Intervenor cannot frame a response to the vague,
26 ambiguous, and compound allegations which fail to identify the terms "purported membership
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1 dispute,” “District Court opinion,” “leadership disagreement,” and “gaming developers,” among
2 others, and on that basis deny them.

3 57. Answering paragraph 57, Intervenors deny the allegations contained in the first
4 sentence of this paragraph. The allegations contained in the second sentence purport to characterize
5 and describe the contents of the decision in *California Valley Miwok Tribe v. United States*, 424
6 F.Supp.2d 197 (D.D.C. 2006) (*CVMT I*), which speaks for itself and is itself the best evidence of its
7 content. To the extent the allegations contained in the first sentence of this paragraph augment,
8 editorialize or deviate from the content of the decision, Intervenors deny them. The allegations
9 contained in the third and fourth sentences purport to characterize and describe the contents of the
10 briefs submitted in *CVMT I*, which speak for themselves and are the best evidence of their content.
11 To the extent the allegations contained in the third and fourth sentences of this paragraph augment,
12 editorialize or deviate from the content of those briefs, Intervenors deny them.
13
14

15 58. Answering paragraph 58, Intervenors deny the allegations contained in the first
16 sentence and Intervenors aver that, in 2007, the BIA sought to facilitate a meeting of the entire Tribal
17 community for the purpose of discussing Tribal organization. Intervenors admit that Silvia Burley
18 filed an appeal with the Interior Board of Indian Appeals (IBIA), challenging the BIA’s attempt to
19 assist the Tribe’s organization efforts. The remaining allegations in this paragraph purport to
20 characterize and describe the contents of the IBIA order deciding that appeal, which speaks for itself
21 and is itself the best evidence of its content. To the extent the remaining augment, editorialize or
22 deviate from the content of that order, Intervenors deny them.
23

24 59. Answering paragraph 59, the allegations in this paragraph purport to characterize the
25 content of the AS-IA 2011 Decision, which speaks for itself and is itself the best evidence of its
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1 content. To the extent the allegations contained in this paragraph augment, editorialize or deviate
2 from the content of that decision, Intervenors deny them.

3 60. Answering paragraph 60, the allegations in this paragraph purport to characterize the
4 content of the AS-IA 2011 Decision and briefs filed by the federal government in *CVMT v. Jewell*,
5 which documents speak for themselves and are the best evidence of their contents. To the extent the
6 allegations contained in this paragraph augment, editorialize or deviate from the contents of those
7 documents, Intervenors deny them.

8 61. Answering paragraph 61, Intervenors admit that the AS-IA 2011 Decision was
9 challenged in *CVMT v. Jewell*. The remaining the allegations in this paragraph purport to characterize
10 the content of the District Court's decision in *CVMT v. Jewell*, which speaks for itself and is itself the
11 best evidence of its content. To the extent the remaining allegations contained in this paragraph
12 augment, editorialize or deviate from the content of that decision, Intervenors deny them.

13 62. Answering paragraph 62, the allegations in this paragraph purport to characterize the
14 content of the District Court's decision in *CVMT v. Jewell*, which speaks for itself and is itself the best
15 evidence of its content. To the extent the remaining allegations contained in this paragraph augment,
16 editorialize or deviate from the content of that decision, Intervenors deny them.

17 63. Answering paragraph 63, the allegations in this paragraph consist of legal conclusions
18 to which no response is required. To the extent a response is deemed required, Intervenors deny the
19 allegations.

20 64. Answering paragraph 64, Intervenors deny the allegations contained in this paragraph.

21 65. Answering paragraph 65, the first sentence of the paragraph purports to characterize
22 the content of the District Court's decision in *CVMT v. Jewell*, which speaks for itself and is itself the
23 best evidence of its content. To the extent the allegations contained in the first sentence of this
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1 paragraph augment, editorialize or deviate from the content of that decision, Intervenors deny them.
2 The remaining allegations contained in this paragraph consist of conclusions of law, to which no
3 response is required, and/or Plaintiffs' characterization of the content of the AS-IA 2011 decision,
4 which speaks for itself and is itself the best evidence of its content. To the extent the remaining
5 allegations augment, editorialize or deviate from the content of that decision, Intervenors deny them.
6 To the extent a response is required, the allegations are denied.
7

8 66. Answering paragraph 66, the allegations in the first sentence of this paragraph purport
9 to characterize the content of the District Court's decision in *CVMT v. Jewell*, which speaks for itself
10 and is itself the best evidence of its content. To the extent the allegations contained in the first
11 sentence augment, editorialize or deviate from the content of that decision, Intervenors deny them.
12 The remaining allegations contained in this paragraph consist of legal conclusions to which no
13 response is required. To the extent a response is required, Intervenors deny the allegations.
14

15 67. Answering paragraph 67, Intervenors possess insufficient information to confirm the
16 accuracy of the allegations contained in the first sentence, and on that basis deny them. Intervenors
17 admit that Yakima Dixie went to jail in 1995 and deny the remaining allegations in the second
18 sentence. Intervenors admit the allegations contained in the third sentence. As to the fourth sentence,
19 Intervenors possess insufficient information to confirm the accuracy of the allegations contained in the
20 fourth sentence as to what the BIA advised Silvia Burley, and on that basis deny them. Intervenors
21 admit that Silvia Burley contacted Yakima Dixie about enrolling the Burley Family as Tribal
22 members, but deny the remaining allegations contained in this sentence.
23

24 68. Answering paragraph 68, the allegations in the first sentence of this paragraph purport
25 to characterize the content of the District Court's decision in *CVMT v. Jewell*, which speaks for itself
26 and is itself the best evidence of its content. To the extent the allegations contained in this paragraph
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1 augment, editorialize or deviate from the content of that decision, Intervenor deny them. Intervenor
2 admit that Burleys enrolled the Burleys into the Tribe in 1995 and deny any implication that Yakima
3 Dixie enrolled the Burley Family in 1998. Intervenor deny the allegations contained in the third
4 sentence. The allegations contained in the fourth sentence of this paragraph are vague and ambiguous
5 and fail to identify the source of the quoted material, and Intervenor deny them on that basis.
6 Intervenor deny the allegations in the fifth sentence.
7

8 69. Answering paragraph 69, the allegations contained in this paragraph purport to
9 characterize and describe the contents of a transcript of a meeting between Yakima Dixie, Silvia
10 Burley and BIA staff, which speaks for itself and is itself the best evidence of its contents. To the
11 extent the allegations contained in this paragraph augment, editorialize or deviate from the content of
12 that transcript, Intervenor deny them.
13

14 70. Answering paragraph 70, Intervenor deny the allegations contained in the first
15 sentence of the paragraph. As to the second sentence, Intervenor admit Yakima Dixie signed a
16 statement that purported to enroll the Burley Family as members of the Tribe, but Intervenor aver
17 Yakima Dixie did not have the authority to enroll anyone as a Tribal member and that any purported
18 enrollment of the Burley Family was ineffective, and Intervenor deny the remaining allegations
19 contained in the second sentence. The allegations contained in the third sentence of this paragraph
20 purport to characterize the content of the BIA's decision regarding the Tribal membership of the
21 Burley Family, which speaks for itself and is itself the best evidence of its content. To the extent the
22 allegations contained in this paragraph augment, editorialize or deviate from the content of that
23 decision, Intervenor deny them.
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25 71. Answering paragraph 71, the allegations in the first two sentences of this paragraph
26 purport to characterize the content of the District Court's decision in *CVMT v. Jewell*, which speaks
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1 for itself and is itself the best evidence of its content. To the extent the allegations contained in this
2 paragraph augment, editorialize or deviate from the content of that decision, Intervenors deny them.
3 The allegations contained in the third sentence of this paragraph consist of Plaintiffs' characterization
4 of the District Court's decision in *CVMT v. Jewell* and/or conclusions of law, to which no response is
5 required. To the extent a response is required, the allegations are denied.
6

7 72. Answering paragraph 72, Intervenors possess insufficient information to confirm the
8 accuracy of the allegations contained in the first sentence, and on that basis deny them. The
9 allegations contained in the second sentence of this paragraph consist Plaintiffs' characterization of
10 Melvin Dixie's interests and/or conclusions of law, to which no response is required. To the extent a
11 response is required, the allegations are denied. Intervenors deny the allegations contained in the third
12 sentence of this paragraph. The allegations contained in the fourth sentence of this paragraph purport
13 to characterize the content of the a transcript of a September 1998 BIA meeting, which speaks for
14 itself and is itself the best evidence of its content. To the extent the allegations contained in the fourth
15 sentence of this paragraph augment, editorialize or deviate from the content of that transcript,
16 Intervenors deny them.
17

18 73. Answering paragraph 73, the allegations contained in this paragraph purport to
19 characterize the content of the transcript of a September 1998 BIA meeting, which speaks for itself
20 and is itself the best evidence of its content. To the extent the allegations contained in this paragraph
21 augment, editorialize or deviate from the content of that transcript, Intervenors deny them.
22

23 74. Answering paragraph 74, Intervenors possess insufficient information to confirm the
24 accuracy of the allegations in this paragraph, and on that basis deny them.

25 75. Answering paragraph 75, the allegations consist of conclusions of law to which no
26 response is required. To the extent a response is required, the allegations are denied.
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1 76. Answering paragraph 76, Intervenor admits that Melvin Dixie is currently deceased.
2 The remaining allegations contained in this paragraph consist of Plaintiffs' conclusions of law, to
3 which no response is required. To the extent a response is required, the allegations are denied.
4

5 77. Answering paragraph 77, the allegations in this paragraph purport to characterize the
6 content of the AS-IA 2011 Decision, which speaks for itself and is itself the best evidence of its
7 content. To the extent the allegations contained in this paragraph augment, editorialize or deviate
8 from the content of that decision, Intervenor denies them.

9 78. Answering paragraph 78, the allegations in the first two sentences of this paragraph
10 purport to characterize the content of the District Court's decision in *CVMT v. Jewell*, which speaks
11 for itself and is itself the best evidence of its content. To the extent the allegations contained in the
12 first two sentences of this paragraph augment, editorialize or deviate from the content of that decision,
13 Intervenor denies them. Intervenor denies that Silvia Burley's prior acknowledgment of additional
14 Tribal members did not refer to members of the Tribe. The allegations in the fifth and sixth sentences
15 consist of conclusions of law to which no response is required. To the extent a response is required,
16 Intervenor denies the allegations.
17

18 79. Answering paragraph 79, Intervenor denies the allegations contained in the first
19 sentence of this paragraph. The remaining allegations contained in this paragraph are conclusions of
20 law to which no response is required. To the extent a response is required, Intervenor denies the
21 allegations.
22

23 80. Answering paragraph 80, Intervenor possesses insufficient information to confirm the
24 accuracy of the allegations contained in this paragraph, and on that basis denies them.

25 81. Answering paragraph 81, Intervenor denies the allegations of this paragraph.
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1 82. Answering paragraph 82, Intervenors deny the allegations of this paragraph and aver
2 that the proceedings related to preparation of a distribution plan for Tribal assets did not, and were not
3 intended to, determine Tribal membership.

4 83. Answering paragraph 83, Intervenors deny the allegations of this paragraph.

5 84. Answering paragraph 84, the allegations contained in the first sentence of this
6 paragraph consist of Plaintiffs' conclusions of law, to which no response is required. To the extent a
7 response is required, the allegations are denied. Intervenors aver that Yakima Dixie did not have the
8 authority to enroll the Burley Family as Tribal members. Intervenors admit that the Tribe was never
9 formerly terminated and that the Tribe has the authority to determine its own membership, but
10 Intervenors deny that the 1998 General Council was duly constituted and authorized to represent and
11 act on behalf of the Tribe. The remaining allegations contained in this paragraph are denied.

12 85. Answering paragraph 85, the allegations in this paragraph purport to characterize the
13 content of the District Court's decision in *CVMT v. Jewell*, which speaks for itself and is itself the best
14 evidence of its content. To the extent the allegations contained in this paragraph augment, editorialize
15 or deviate from the content of that decision, Intervenors deny them.

16 86. Answering paragraph 86, Intervenors deny the allegations of this paragraph.

17 87. Answering paragraph 87, the allegations contained in the first and second sentences of
18 this paragraph constitute conclusions of law to which no response is required. To the extent a response
19 is required, Intervenors deny them. The allegations contained in the third sentence of this paragraph
20 consist of Plaintiffs' characterization of certain alleged actions of Yakima Dixie as "ironic", to which
21 no response is required. To the extent a response is required, the allegations are denied. The
22 allegations contained in the fourth sentence of this paragraph purport to characterize the contents of a
23 transcript of a September 1998 BIA meeting, which speaks for itself and is itself the best evidence of
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1 its content. To the extent the allegations contained in this sentence augment, editorialize or deviate
2 from the content of that transcript, Intervenor deny them.

3 88. Answering paragraph 88, Intervenor possess insufficient information to confirm the
4 accuracy of the allegations regarding whether the “potential members” referred to in the FAC ever
5 applied to the Burley-controlled General Council for membership, and on that basis deny them. The
6 remaining allegations contained in this paragraph consist of Plaintiffs’ characterizations and/or
7 conclusions of law, to which no response is required. To the extent a response is required, the
8 allegations are denied.

9
10 89. Answering paragraph 89, the allegations of this paragraph purport to characterize the
11 content of the District Court’s decision in *CVMT v. Jewell*, which speaks for itself and is itself the best
12 evidence of its content. To the extent the allegations contained in this paragraph augment, editorialize
13 or deviate from the content of that decision, Intervenor deny them.

14
15 90. Answering paragraph 90, Intervenor deny the allegations contained in this paragraph.

16 91. Answering paragraph 91, Intervenor admit that Silvia Burley and Yakima Dixie
17 signed the 1998 Resolution and deny the remaining allegations contained in this paragraph.

18
19 92. Answering paragraph 92, the allegations contained in the first sentence of this
20 paragraph purport to characterize the content of the District Court’s decision in *CVMT v. Jewell*, but
21 that decision speaks for itself and is itself the best evidence of its content. To the extent the
22 allegations augment, editorialize or deviate from the content of that decision, Intervenor deny them.
23 Intervenor deny the remaining allegations contained in this paragraph.

24
25 93. Answering paragraph 93, the allegations contained in the first sentence of this
26 paragraph purport to characterize the content of the District Court’s decision in *CVMT v. Jewell*, but
27 that decision speaks for itself and is itself the best evidence of its content. To the extent the
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1 allegations augment, editorialize or deviate from the content of that decision, Intervenor deny them.
2 Intervenor possess insufficient information to confirm the accuracy of the allegations contained in the
3 second and third sentences of this paragraph, and on that basis deny them. Intervenor deny the
4 allegations of the fourth sentence.
5

6 94. Answering paragraph 94, Intervenor deny the allegations in the first and second
7 sentences. On information and belief, and relying solely on information provided by Plaintiffs,
8 Intervenor admit the BIA entered into contracts with the Burley-controlled General Council.

9 95. Answering paragraph 95, the allegations contained in this paragraph purport to
10 characterize the content of the District Court's decision in *CVMT v. Jewell* and certain unidentified
11 documents relied upon by the District Court in coming to its decision, but that decision and those
12 documents speak for themselves and are the best evidence of their content. To the extent the
13 allegations contained in this paragraph augment, editorialize or deviate from the content of that
14 decision and those documents, Intervenor deny them.
15

16 96. Answering paragraph 96, Intervenor admit that Yakima Dixie has contended that
17 Silvia Burley obtained the Tribal chairmanship through fraud. Intervenor deny the remaining
18 allegations contained in the first sentence and each allegation contained in the second sentence.
19 Intervenor deny that the 1998 Resolution created a valid governing body of the Tribe or that Yakima
20 Dixie was the chair of such a body. The allegations contained in the fourth sentence purport to
21 characterize the content of a document dated April 21, 1999, which speaks for itself and is itself the
22 best evidence of its content. To the extent the allegations contained in this paragraph augment,
23 editorialize or deviate from the content of that document, Intervenor deny them.
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25 97. Answering paragraph 97, Intervenor deny the allegations contained in the first
26 sentence. Intervenor possess insufficient information to confirm the accuracy of the allegations
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1 contained in the second and third sentences, and on that basis deny them. Intervenors deny the
2 allegations contained in the fourth sentence.

3 98. Answering paragraph 98, the allegations contained in this paragraph purport to
4 characterize the content of the District Court’s decision in *CVMT v. Jewell*, which speaks for itself and
5 is itself the best evidence of its content. To the extent the remaining allegations contained in this
6 paragraph augment, editorialize or deviate from the content of that decision, Intervenors deny them.

7 99. Answering paragraph 99, the allegations contained in this paragraph consist of
8 conclusions of law, to which no response is required. To the extent a response is required, the
9 allegations are denied.

10 100. Answering paragraph 100, Intervenors deny the allegations contained in this paragraph.

11 101. Answering paragraph 101, the allegations contained in the first sentence of this
12 paragraph purport to characterize the content of the District Court’s decision in *CVMT v. Jewell*,
13 which speaks for itself and is itself the best evidence of its content. To the extent the allegations
14 augment, editorialize or deviate from the content of that decision, Intervenors deny them. The
15 remaining allegations of this paragraph are vague and ambiguous as to the Department of the
16 Interior’s purported “long held . . . consistent position” and are denied on that basis.

17 102. Answering paragraph 102, Intervenors admit that the Department of the Interior
18 regularly interacted with the Burley-controlled General Council between 1999 and 2004, but aver that
19 the Burley-controlled General Council did not have authority to act on behalf of and represent the
20 Tribe. Intervenors deny the allegations contained in the second sentence of this paragraph. On
21 information and belief, Intervenors admit that the Burley-controlled General Council entered into
22 contracts with the federal government but lack sufficient information to form a belief regarding the
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1 remaining allegations of actions by the Burley-controlled General Council and on that basis deny
2 them.

3 103. Answering paragraph 103, the allegations contained in the first and fourth sentences
4 consist of Plaintiffs' characterization of the legal interests of certain unidentified "potential members",
5 to which no response is required. To the extent a response is required, the allegations are denied.
6 Intervenor's lack sufficient information to formulate a belief regarding the Department's positions and
7 actions alleged in the second and third sentences of this paragraph and on that basis deny them. The
8 allegations contained in the fourth sentence consist of Plaintiffs' characterization of the legal interests
9 of certain unidentified "potential members," to which no response is required. To the extent a
10 response is required, the allegations are denied.
11

12 104. Answering paragraph 104, the allegations contained in this paragraph consist of
13 Plaintiffs' conclusions of law, to which no response is required. To the extent a response is required,
14 the allegations are denied.
15

16 105. Answering paragraph 105, Intervenor's possess insufficient information to confirm the
17 accuracy of the allegations contained in the first sentence of this paragraph, and on that basis deny
18 them. Intervenor's deny the remaining allegations contained in this paragraph.
19

20 106. Answering paragraph 106, the allegations contained in this paragraph purport to
21 characterize the content of the AS-IA 2011 Decision, but the content of the decision speaks for itself
22 and is itself the best evidence of its content. To the extent the allegations contained in this paragraph
23 augment, editorialize or deviate from the content of that decision, Intervenor's deny them.
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25 107. Answering paragraph 107, the allegations in this paragraph constitute conclusions of
26 law to which no response is required. To the extent a response is required, Intervenor's deny the
27 allegations.
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ANSWER IN RESPONSE TO FIRST CAUSE OF ACTION

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

108. Answering paragraph 108, Intervenors incorporate by reference, repeat, and respond as if fully set forth in this place, each and every response contained in paragraphs 1 through 107, inclusive.

109. Answering paragraph 109, the allegations in this paragraph purport to characterize the content of portions of the APA, a statute that speaks for itself and is itself the best evidence of its content. To the extent the allegations contained in this paragraph augment, editorialize or deviate from the content of the APA, Intervenors deny them.

110. Answering paragraph 110, the allegations contained in this paragraph consist of conclusions of law, to which no response is required. To the extent a response is required, the allegations are admitted.

111. Answering paragraph 111, the allegations contained in this paragraph consist of conclusions of law, to which no response is required. To the extent a response is required, the allegations are denied.

112. Answering paragraph 112, the allegations contained in the first sentence of this paragraph consist of conclusions of law, to which no response is required. To the extent a response is required, the allegations are denied. The remaining allegations of this paragraph purport to characterize the content of the District Court's decision in *CVMT v. Jewell*, which speaks for itself and is itself the best evidence of its content. To the extent the allegations augment, editorialize or deviate from the content of that decision, Intervenors deny them.

1 113. Answering paragraph 113, the allegations contained in this paragraph purport to
2 characterize the content of the District Court’s decision in *CVMT v. Jewell*, which speaks for itself and
3 is itself the best evidence of its content. To the extent the allegations contained in this paragraph
4 augment, editorialize or deviate from the content of that decision, Intervenors deny them.
5

6 114. Answering paragraph 114, the allegations contained in this paragraph purport to
7 characterize the content of the District Court’s decision in *CVMT v. Jewell*, which speaks for itself and
8 is itself the best evidence of its content. To the extent the allegations contained in this paragraph
9 augment, editorialize or deviate from the content of that decision, Intervenors deny them.
10

11 115. Answering paragraph 115, the allegations contained in this paragraph purport to
12 characterize the content of a decision by the IBIA, which speaks for itself and is itself the best
13 evidence of its content. To the extent the allegations contained in this paragraph augment, editorialize
14 or deviate from the content of that decision, Intervenors deny them.

15 116. Answering paragraph 116, the allegations contained in this paragraph purport to
16 characterize the content of a decision by the IBIA, which speaks for itself and is itself the best
17 evidence of its content. To the extent the allegations contained in this paragraph augment, editorialize
18 or deviate from the content of that decision, Intervenors deny them.
19

20 117. Answering paragraph 117, the allegations contained in this paragraph consist of
21 conclusions of law, to which no response is required, or purport to characterize the content of a
22 decision by the IBIA, which speaks for itself and is itself the best evidence of its content. To the
23 extent the allegations contained in this paragraph augment, editorialize or deviate from the content of
24 that decision, Intervenors deny them. To the extent a response is required, Intervenors deny the
25 allegations.
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1 118. Answering paragraph 118, Intervenors deny the allegations contained in the first
2 sentence. Intervenors possess insufficient information to confirm the accuracy of the remaining
3 allegations contained in this paragraph, and on that basis deny them.

4 119. Answering paragraph 119, Intervenors admit that the Tribe is federally-recognized.
5 The remaining allegations contained in this paragraph consist of a characterization of Plaintiffs'
6 claims and/or conclusions of law, to which no response is required. To the extent a response is
7 required, the allegations are denied.

8 120. Answering paragraph 120, Intervenors admit that Yakima Dixie signed the 1998
9 Resolution. The remaining allegations contained in the first sentence purport to characterize the
10 content of the 1998 Resolution, which speaks for itself and is itself the best evidence of its content.
11 To the extent the allegations contained in the first sentence augment, editorialize or deviate from the
12 content of the 1998 Resolution, Intervenors deny them. The remaining allegations contained in this
13 paragraph consist of a characterization of Plaintiffs' claims and/or conclusions of law, to which no
14 response is required. To the extent a response is required, the allegations are denied.

15 121. Answering paragraph 121, Intervenors possess insufficient information to confirm the
16 accuracy of the allegations contained in the first sentence of this paragraph, and on that basis deny
17 them. The remaining allegations contained in this paragraph consist of conclusions of law, to which
18 no response is required. To the extent a response is required, the allegations are denied.

19 122. Answering paragraph 122, Intervenors admit that Intervenors in this action, including
20 Yakima Dixie, challenged the AS-IA 2011 Decision in court and asserted in that action that the 1998
21 Resolution was invalid from its inception. The remaining allegations contained in this paragraph
22 consist of conclusions of law, to which no response is required. To the extent a response is required,
23 the allegations are denied.

1 123. Answering paragraph 123, the allegations contained in this paragraph consist of
2 conclusions of law, to which no response is required. To the extent a response is required, the
3 allegations are denied.

4 124. Answering paragraph 124, the allegations contained in this paragraph purport to
5 characterize the content of the Indian Claims Commission Act (ICCA), which speaks for itself and is
6 itself the best evidence of its content. To the extent the allegations contained in this paragraph
7 augment, editorialize or deviate from the content of the ICCA, Intervenor deny them.

8 125. Answering paragraph 125, Intervenor admit that Yakima Dixie has acknowledged
9 executing the 1998 Resolution but deny that the 1998 Resolution was effective to establish a Tribal
10 government. Intervenor deny the allegations contained in the fourth sentence. The remaining
11 allegations contained in this paragraph consist of conclusions of law, to which no response is required.
12 To the extent a response is required, the allegations are denied.

13 126. Answering paragraph 126, the allegations contained in this paragraph consist of
14 conclusions of law, to which no response is required. To the extent a response is required, the
15 allegations are denied.

16 127. Answering paragraph 127, the allegations contained in the first and second sentences of
17 this paragraph contain characterizations of the content of Plaintiffs' claims, to which no response is
18 required. To the extent a response is required, the allegations are denied. Intervenor admit that the
19 Plaintiffs in *CVMT v. Jewell* included the California Valley Miwok Tribe and admit that the Tribe was
20 formerly known as the Sheep Ranch Rancheria of Me-Wuk Indians of California. Intervenor deny
21 the allegations contained in the third sentence. Intervenor admit the BIA accepted a resolution from
22 the Burley-controlled General Council purporting to change the name of the Tribe to the California
23 Valley Miwok Tribe.

1 128. Answering paragraph 128, Intervenor admits that Intervenor, among other plaintiffs,
2 filed suit in *CVMT v. Jewell* under the name of the California Valley Miwok Tribe. The remaining
3 allegations contained in this paragraph consist of Plaintiffs' characterizations and/or conclusions of
4 law, to which no response is required. To the extent a response is required, the allegations are denied.
5

6 129. Answering paragraph 129, the allegations contained in this paragraph consist of
7 characterizations of Plaintiffs' claims and/or conclusions of law, to which no response is required. To
8 the extent a response is required, the allegations are denied.

9 130. Answering paragraph 130, the allegations contained in this paragraph consist of
10 characterizations of Plaintiffs' claims and/or conclusions of law, to which no response is required. To
11 the extent a response is required, the allegations are denied.
12

13 **ANSWER IN RESPONSE TO SECOND CAUSE OF ACTION**

14 **(Declaratory Relief)**

15 131. Answering paragraph 131, Intervenor incorporates by reference, repeat, and respond as
16 if fully set forth in this place, each and every response contained in paragraphs 1 through 130,
17 inclusive.
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19 132. Answering paragraph 132, the allegations contained in this paragraph consist of
20 characterizations of Plaintiffs' claims, to which no response is required. To the extent a response is
21 required, the allegations are denied.

22 **ANSWER IN RESPONSE TO THIRD CAUSE OF ACTION**

23 **(Injunctive Relief)**

24 133. Answering paragraph 133, Intervenor incorporates by reference, repeat, and respond as
25 if fully set forth in this place, each and every response contained in paragraphs 1 through 132,
26 inclusive.
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REQUEST FOR IMMEDIATE STAY

141. Answering paragraph 141, Intervenors admit that the AS-IA 2011 Decision was stayed. The remaining allegations contained in this paragraph consist of conclusions of law, to which no response is required. To the extent a response is required, the allegations are denied.

142. Answering paragraph 142, Intervenors admit the allegations contained in this paragraph.

143. Answering paragraph 143, Intervenors admit the allegations contained in this paragraph.

144. Answering paragraph 144, Intervenors admit that the attached document marked as “Exhibit 5” is a partial copy of the AS-IA 2015 Decision and Intervenors aver that “Exhibit 5” does not include the attachments that were part of that decision.

PRAYER FOR RELIEF

The remaining allegations contained in the FAC constitute Plaintiffs’ prayer for relief, to which no response is required. To the extent a response is required, Intervenors deny that Plaintiffs are entitled to the relief requested in Plaintiffs’ prayer for relief, including sub-parts 1 through 7, or to any relief whatsoever.

AFFIRMATIVE DEFENSES

Without waiving the preceding responses, allegations and averments allege the following affirmative defenses to the claims pled in the FAC:

FIRST SEPARATE AND AFFIRMATIVE DEFENSE

(Res Judicata/Collateral Estoppel)

1. As a separate and affirmative defense, Intervenors allege that some or all of Plaintiffs’ claims are barred by the doctrines of *res judicata* and/or collateral estoppel because they

1 were addressed and resolved by the District Court for the District of Columbia and/or the District of
2 Columbia Court of Appeals. Such claims include, but are not limited to, Plaintiffs' claim that the AS-
3 IA was limited to considering issues referred to him by the Interior Board of Indian Appeals,
4 Plaintiffs' claim that the Tribe's objection to the validity of the 1998 General Council was barred by
5 the statute of limitations, Plaintiffs' claim that the AS-IA's 2011 Decision should have been upheld by
6 the District Court in *CVMT v. Jewell*, and Plaintiffs' claim that the court's decision in *CVMT v. Jewell*
7 was erroneous. See *California Valley Miwok Tribe v. United States*, 424 F. Supp. 2d 197 (D.D.C.
8 2006); *California Valley Miwok Tribe v. Interior*, 515 F. 3d 1262 (D.C. Cir. 2008); *California Valley*
9 *Miwok Tribe v. Jewell*, 5 F. Supp. 3d 86 (D.D.C. 2013).

11 **SECOND SEPARATE AND AFFIRMATIVE DEFENSE**

12 (Failure to Exhaust Administrative Remedies)

13
14 2. As a separate and affirmative defense, Intervenor's allege that the FAC, and each cause
15 of action alleged therein, is barred to the extent that Plaintiffs failed to timely invoke and/or fully
16 exhaust administrative remedies available to them, and, accordingly, this Court lacks jurisdiction over
17 most, if not all, of Plaintiffs' claims.

18
19 WHEREFORE, Intervenor's pray that this Court enter judgment in favor of Federal Defendants
20 and Intervenor's and against Plaintiffs, dismiss the FAC with prejudice, deny all of Plaintiffs' claims
21 for relief and costs, and grant such other relief to Defendants and Intervenor's as the Court may deem
22 just and proper.

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September 16, 2016

Respectfully submitted,

Robert J. Uram
James F. Rusk
Zachary D. Welsh
SHEPPARD, MULLIN, RICHTER
& HAMPTON LLP

Attorneys for Intervenor-Defendants

By: /s/ James F. Rusk
James F. Rusk

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CERTIFICATE OF SERVICE

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

/s/ James F. Rusk
JAMES F. RUSK

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