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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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

Plaintiff,

v.

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

Defendants.

CIV. NO. 2:16-01345 WBS CKD

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STATUS (PRETRIAL SCHEDULING) ORDER

After reviewing the parties' Joint Status Report, the
court hereby vacates the Status (Pretrial Scheduling) Conference

1 scheduled for November 21, 2016, and makes the following findings
2 and orders without needing to consult with the parties any
3 further.

4 I. SERVICE OF PROCESS

5 The named defendants have been served, and no further
6 service is permitted without leave of court, good cause having
7 been shown under Federal Rule of Civil Procedure 16(b).

8 II. JOINDER OF PARTIES/AMENDMENTS

9 No further joinder of parties or amendments to
10 pleadings will be permitted by any party except with leave of
11 court, good cause having been shown under Federal Rule of Civil
12 Procedure 16(b). See Johnson v. Mammoth Recreations, Inc., 975
13 F.2d 604 (9th Cir. 1992).

14 III. JURISDICTION/VENUE

15 Jurisdiction is predicated upon federal question
16 jurisdiction, 28 U.S.C. §§ 1331, 1362, because plaintiff's claims
17 arise under the Administrative Procedures Act ("APA"), 5 U.S.C. §
18 701, et seq. Venue is undisputed and is hereby found to be
19 proper.

20 IV. DISCOVERY

21 The parties agree that plaintiff's APA claims present a
22 "record review" case that does not require ordinary discovery or
23 discovery deadlines. Defendants agree to lodge the
24 administrative record by January 13, 2017. The parties agree
25 that no discovery is necessary in this APA challenge to final
26 agency action.

27 V. MOTION HEARING SCHEDULE

28 The parties shall file any motion to augment the record

1 by February 6, 2017. The parties shall file their motions for
2 summary judgment no later than March 6, 2017. The parties shall
3 file their oppositions to summary judgment no later than April 3,
4 2017. The parties shall file their reply to oppositions to their
5 motions for summary judgment no later than May 8, 2017. The
6 court will hear oral arguments for the cross-motions for summary
7 judgment on May 30, 2017 at 1:30 p.m. in Courtroom No. 5.

8 Because the aforementioned briefing schedule differs
9 from the Local Rules, the parties must state the briefing
10 schedule, with the applicable deadlines, in their notices of
11 motion for summary judgment. The parties are granted relief from
12 Local Rule 260(a), which requires that a motion for summary
13 judgment be accompanied by a "Statement of Undisputed Facts."

14 Instead of lodging hard copies of the administrative
15 record with the court, defendants may lodge an electronic, word-
16 searchable version of the record (in PDF format) on a USB flash
17 drive as well as a joint appendix including hard copies of
18 excerpts of those portions of the record cited in any pleadings
19 filed in support of the parties' cross-motions for summary
20 judgment. The parties shall lodge the joint appendix with the
21 court no later than May 8, 2017.

22 All other motions, except motions for continuances,
23 temporary restraining orders, or other emergency applications,
24 shall be filed on or before April 7, 2017. All motions shall be
25 noticed for the next available hearing date. Counsel are
26 cautioned to refer to the local rules regarding the requirements
27 for noticing and opposing such motions on the court's regularly
28 scheduled law and motion calendar.

1 VI. FINAL PRETRIAL CONFERENCE & TRIAL SETTING

2 Because the parties contend that the court can resolve
3 the entire dispute via cross-motions for summary judgment, the
4 court need not set a final pretrial conference or trial date.
5 See Occidental Eng'g Co. v. INS, 753 F.2d 766, 769 (9th Cir.
6 1985) ("Th[e district] court is not required to resolve any facts
7 in a review of an administrative proceeding. Certainly, there
8 may be issues of fact before the administrative agency. However,
9 the function of the district court is to determine whether or not
10 as a matter of law the evidence in the administrative record
11 permitted the agency to make the decision it did.").

12 VII. SETTLEMENT CONFERENCE

13 A Settlement Conference is not set at this time. The
14 parties agree that they will notify the court if they request a
15 Settlement Conference. Counsel are instructed to have a
16 principal with full settlement authority present at the
17 Settlement Conference or to be fully authorized to settle the
18 matter on any terms. At least seven calendar days before the
19 Settlement Conference counsel for each party shall submit a
20 confidential Settlement Conference Statement for review by the
21 settlement judge. If the settlement judge is not the trial
22 judge, the Settlement Conference Statements shall not be filed
23 and will not otherwise be disclosed to the trial judge.

24 VIII. MODIFICATIONS TO SCHEDULING ORDER

25 Any requests to modify the dates or terms of this
26 Scheduling Order, except requests to change the date of the
27 trial, may be heard and decided by the assigned Magistrate Judge.
28 All requests to change the trial date shall be heard and decided

1 only by the undersigned judge.

2 Dated: November 14, 2016

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4 WILLIAM B. SHUBB
5 UNITED STATES DISTRICT JUDGE
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