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

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

CALIFORNIA VALLEY MIWOK TRIBE, a) Case No.: 2:16-cv-01345-WBS-CKD
federally-recognized Indian)
tribe, **THE GENERAL COUNCIL,**) **DECLARATION OF MANUEL**
SILVIA BURLEY, RASHEL REZNOR;) **CORRALES, JR. IN SUPPORT OF**
ANJELICA PAULK; and TRISTIAN) **PLAINTIFFS' MOTION FOR**
WALLACE) **SUMMARY JUDGMENT**

Plaintiffs,

vs.

SALLY JEWELL, in her official
capacity as U.S. Secretary of
Interior, et al.,

Defendants

THE CALIFORNIA VALLEY MIWOK
TRIBE, et al.

Intervenor-Defendants.

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

1. I am an attorney at law duly licensed to practice law
in the State of California, the State of New Mexico, and the
State of Utah. I am the attorney of record for Plaintiffs
CALIFORNIA VALLEY MIWOK TRIBE, THE GENERAL COUNCIL, SILVIA

1 BURLEY, RASHEL REZNOR, ANJELICA PAULK and TRISTIAN WALLACE
2 herein. I have personal knowledge of the facts set forth herein.

3 2. Attached herewith and marked as Exhibit "1" is a true
4 and correct copy of a Motion to Dismiss Appeal for Lack of
5 Jurisdiction dated February 25, 2014. (RJN "1").

6 3. Attached herewith and marked as Exhibit "2" is a true
7 and correct copy of a Stipulation of Voluntary Dismissal dated
8 March 5, 2014. (RJN "2").

9 4. Attached herewith and marked as Exhibit "3" is a true
10 and correct copy of First Amended Complaint, filed October 17,
11 2011. (AR-CVMT-2017-000023-64).

12 5. Attached herewith and marked as Exhibit "4" is a true
13 and correct copy of a Letter from BIA to Dixie dated February 4,
14 2000. (AR-CVMT-2011-000241-246).

15 6. Attached herewith and marked as Exhibit "5" is a true
16 and correct copy of a letter from the BIA to Silvia Burley dated
17 March 7, 2000. (AR-CVMT-2011-000249-254).

18 7. Attached herewith and marked as Exhibit "6" is a true
19 and correct copy of the Complaint, "Sheep Ranch Miwok Tribe v.
20 Burley, et al.," Case No. CIV.S-01-1389 MLS-DAD filed July 18,
21 2001. (RJN "3").

22 8. Attached herewith and marked as Exhibit "7" is a true
23 and correct copy of a letter from the BIA to Silvia Burley,
24 dated July 12, 2000. (AR-CVMT-2011-000257).

25 9. Attached herewith and marked as Exhibit "8" is a true
26 and correct copy of Dixie Notice of Appeal, dated October 30,
27 2003. (RJN "4").

28 10. Attached herewith and marked as Exhibit "9" is a true
and correct copy of the Resolution #GC-98-01. (AR-CVMT-2011-
000177-179).

1 11. Attached herewith and marked as Exhibit "10" is a true
2 and correct copy of a BIA letter to Dixie, dated February 11,
3 2005. (AR-CVMT-2011-000610-611).

4 12. Attached herewith and marked as Exhibit "11" is a true
5 and correct copy of Yakima Dixie Will & Testament dated May 5,
6 2004. (RJN "5").

7 13. Attached herewith and marked as Exhibit "12" is a true
8 and correct copy of the 2002 Federal Register. (RJN "6").

9 14. Attached herewith and marked as Exhibit "13" is a true
10 and correct copy of a letter from Sharon Blackwell of the BIA to
11 Silvia Burley, dated June 7, 2001. (RJN "7").

12 15. Attached herewith and marked as Exhibit "14" is a true
13 and correct copy of the relevant pages of a Statement of Points
14 and Authorities in Support of Intervenor-Defendant's Motion to
15 Dismiss, filed March 26, 2012. (RJN "8").

16 16. Attached herewith and marked as Exhibit "15" is a true
17 and correct copy of the Memorandum Opinion Denying Motion to
18 Dismiss, dated September 6, 2013. (AR-CVMT-2017-000762-778).

19 17. Attached herewith and marked as Exhibit "16" is a true
20 and correct copy of the AS-IA's August 31, 2011 Decision. (AR-
21 CVMT-2011-002049-2057).

22 18. Attached herewith and marked as Exhibit "17" is a true
23 and correct copy of California Valley Miwok Tribe v. Pacific
24 Regional Director, BIA, 51 IBIA 103, 120, dated January 28,
25 2010. (AR-CVMT-2011-001683-1705).

26 19. Attached herewith and marked as Exhibit "18" is a true
27 and correct copy of a BIA letter to Dixie, dated September 24,
28 1998. (AR-CVMT-2011-000172-176).

20. Attached herewith and marked as Exhibit "19" is a true
and correct copy of the AS-IA's December 30, 2015 Decision. (AR-
CVMT-2017-001397-1404).

1 21. Attached herewith and marked as Exhibit "20" is a true
2 and correct copy of the Original Complaint filed by the Dixie
3 Faction, dated January 24, 2011. (RJN "9").

4 22. Attached herewith and marked as Exhibit "21" is a true
5 and correct copy of the Appointment of Chadd Everone as Deputy,
6 dated December 12, 2003. (AR-CVMT-2011-000357).

7 23. Attached herewith and marked as Exhibit "22" is a true
8 and correct copy of the Dixie Bridge-Loan Agreement &
9 Prospectus, dated February 26, 2004. (RJN "10").

10 24. Attached herewith and marked as Exhibit "23" is a true
11 and correct copy of an Order, January 24, 2002, No. CIV. S-01-
12 1389 LKK/DAD. (AR-CVMT-2011-000278-288).

13 25. Attached herewith and marked as Exhibit "24" is a true
14 and correct copy of an article from the Los Angeles Times titled
15 "California's Tiniest Tribe Eyes Jackpot", dated September 28,
16 1999. (RJN "11").

17 26. Attached herewith and marked as Exhibit "25" is a true
18 and correct copy of a letter from Chadd Everone to Silvia
19 Burley, dated December 27, 2000. (RJN "12").

20 27. Attached herewith and marked as Exhibit "26" is a true
21 and correct copy of a letter from Cyrus Rickards to Chadd
22 Everone dated November 30, 2005. (RJN "13").

23 28. Attached herewith and marked as Exhibit "27" is a true
24 and correct copy of a synopsis from Chadd Everone dated July 7,
25 2006. (RJN "14").

26 29. Attached herewith and marked as Exhibit "28" is a true
27 and correct copy of a letter to Albert from Chadd Everone and
28 the "Friends of Yakima Dixie" dated July 11, 2006. (RJN "15").

 30. Attached herewith and marked as Exhibit "29" is a true
and correct copy of a synopsis from Chadd Everone dated August
16, 2006. (RJN "16").

1 31. Attached herewith and marked as Exhibit "30" is a true
2 and correct copy of an email string from Karla Bell to Silvia
3 Burley, dated August 31, 2006. (RJN "17").

4 32. Attached herewith and marked as Exhibit "31" is a true
5 and correct copy of an email from Chris Ray to Karla Bell dated
6 August 31, 2006. (RJN "18").

7 33. Attached herewith and marked as Exhibit "32" is a true
8 and correct copy of an email string from Chadd Everone to Chris
9 Ray dated September 11, 2006. (RJN "19").

10 34. Attached herewith and marked as Exhibit "33" is a true
11 and correct copy of an email from Chadd Everone to Chris Ray
12 dated September 29, 2006. (RJN "20").

13 35. Attached herewith and marked as Exhibit "34" is a true
14 and correct copy of a letter from Yakima Dixie dated November
15 29, 2006. (RJN "21").

16 36. Attached herewith and marked as Exhibit "35" is a true
17 and correct copy of a letter from Chadd Everone and Yakima Dixie
18 to Dean Shelton dated June 7, 2007. (RJN "22").

19 37. Attached herewith and marked as Exhibit "36" is a true
20 and correct copy of a letter from Chadd Everone to Sylvia Quast
21 dated April 20, 2009. (RJN "23").

22 38. Attached herewith and marked as Exhibit "37" is a true
23 and correct copy of the relevant pages of the deposition
24 transcript of Chadd Everone dated February 8, 2012. (RJN "24").

25 39. Attached herewith and marked as Exhibit "38" is a true
26 and correct copy of the RSTF Report dated April 25, 2016. (RJN
27 "25").

28 40. Attached herewith and marked as Exhibit "39" is a true
and correct copy of a letter from Amy Dutschke to Silvia Burley
dated June 9, 2016. (RJN "26").

 41. Attached herewith and marked as Exhibit "40" is a true
and correct copy of a list of representing attorneys in the

1 federal case Paulk, et al. v. Jewell, et al. Case No. 2:16-cv-
2 01345-WBS-CKD. (RJN "27").

3 42. Attached herewith and marked as Exhibit "41" is a true
4 and correct copy of a corporate filing record of "Friends of
5 Yakima, Inc." (RJN "28").

6 43. Attached herewith and marked as Exhibit "42" is a true
7 and correct copy of a letter from Edith Blackwell of the BIA to
8 Peter Kaufman, dated December 12, 2008. (AR-CVMT-2011-001573-
9 1575).

10 44. Attached herewith and marked as Exhibit "43" is a true
11 and correct copy of the relevant pages of the deposition
12 transcript of Yakima Dixie, and select exhibits, dated February
13 7, 2012. (RJN "29").

14 45. Attached herewith and marked as Exhibit "44" is a true
15 and correct copy of a Minute Order dated August 2, 2016 in the
16 case California Valley Miwok Tribe v. California Gambling
17 Control Commission, et al., Case No. 37-2015-00031738-CU-CO-CTL.
18 (RJN "30").

19 46. Attached herewith and marked as Exhibit "45" is a true
20 and correct copy of an email string from Manuel Corrales, Jr. to
21 Kevin Washburn, dated May 17, 2014. (RJN "31").

22 47. Attached herewith and marked as Exhibit "46" is a true
23 and correct copy of a letter from Manuel Corrales, Jr. to Kevin
24 Washburn, dated June 6, 2014. (RJN "32").

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

Executed this 3 day of March 2017 at San Diego,
California.


MANUEL CORRALES, JR.

EXHIBIT “1”

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 14-5014

CALIFORNIA VALLEY MIWOK TRIBE [“Burley faction”],
Defendant-Appellant,

v.

SALLY JEWELL, in her official capacity as Secretary, UNITED
STATES DEPARTMENT OF THE INTERIOR, *et al.*,
Defendants-Appellees,

and

CALIFORNIA VALLEY MIWOK TRIBE [“Dixie faction”], *et al.*,
Plaintiffs-Appellees.

On Appeal from the United States District Court
for the District of Columbia (Hon. Barbara J. Rothstein)
No. 11-cv-00160

MOTION TO DISMISS APPEAL FOR LACK OF JURISDICTION

Defendant-appellant California Valley Miwok Tribe (the “Burley faction”) seeks to appeal a district court order remanding for further consideration a decision of the Department of the Interior’s Assistant Secretary – Indian Affairs. The United States has decided not to appeal the district court’s decision. Under this Court’s case law, it is

“axiomatic that a private party – unlike the government – may not appeal a district court’s order remanding to an agency because it is not final” within the meaning of 28 U.S.C. § 1291. *N. Air Cargo v. U.S. Postal Serv.*, 674 F.3d 852, 857 (D.C. Cir. 2012). Accordingly, this Court lacks jurisdiction, and the Burley faction’s appeal must be dismissed.

STATEMENT

This case arises out of a long-running leadership dispute between two factions that claim to speak for the California Valley Miwok Tribe. In connection with that dispute, the Assistant Secretary issued an August 31, 2011 decision finding, among other things, that the membership of the Tribe consists of five individuals and that the General Council established in 1998 “is vested with the governmental authority of the Tribe.” *See California Valley Miwok Tribe v. Jewell*, --- F. Supp. 2d ---, 2013 WL 6524636 at *9, *10 (D.D.C. 2013).

Plaintiff-appellees (the “Dixie faction”) challenged the Assistant Secretary’s decision in the district court, and the Burley faction intervened to defend the Assistant Secretary’s decision. *Id.* at *1. In a December 13, 2013 Order, the district court found that the Assistant Secretary’s decision was arbitrary and capricious because it failed to

explain the basis for certain key assumptions and failed to address certain contrary evidence in the record. *Id.* at *10-*11. The court remanded to the agency for reconsideration. *Id.* at *12.

The Burley faction then filed this appeal of the district court's Order. The United States, however, has decided to accept the remand ordered by the district court, and will be reconsidering the decision. The United States therefore has not appealed the Order, and the time for any such appeal expired on February 11, 2014. *See* FRAP 4(a)(1)(B).

ARGUMENT

The Burley faction's appeal must be dismissed, because the district court's order is not final within the meaning of 28 U.S.C. § 1291.

Under 28 U.S.C. § 1291, this Court's jurisdiction is ordinarily limited to appeals from "final decisions" by a district court. *See Pueblo of Sandia v. Babbitt*, 231 F.3d 878, 880 (D.C. Cir. 2000). This Court has construed the final judgment rule strictly, repeatedly noting that a decision is not "final" within the meaning of Section 1291 until it "ends the litigation on the merits and leaves nothing for the court to do but execute the judgment." *Ibid.* (quoting *Digital Equip. Corp. v. Desktop Direct*, 511 U.S. 863, 867 (1994) (internal quotations, citation omitted)).

This finality requirement is meant to promote judicial efficiency by avoiding the inconvenience and costs of multiple appeals, *e.g.*, one from the remand order and one from a later district court order reviewing compliance with the remand. *Pueblo of Sandia*, 231 F.3d at 880 (citing *In re St. Charles Preservation Investors, Ltd.*, 916 F.2d 727, 729 (D.C. Cir. 1990)); see *Coopers & Lybrand v. Livesay*, 437 U.S. 463, 471 (1978). Deferring review also allows for the possibility that an appeal might not be needed if the agency's actions on remand satisfy all parties. *Ibid.*

"It is black letter law" in this Circuit "that a district court's remand order is not normally 'final' for purposes of appeal under 28 U.S.C. § 1291." *Sierra Club v. U.S. Dept. of Agriculture*, 716 F.3d 653, 656 (D.C. Cir. 2013) (citing *Pueblo of Sandia*, 231 F.3d at 880, and *N.C. Fisheries Ass'n v. Gutierrez*, 550 F.3d 16, 19 (D.C. Cir. 2008)); accord *NAACP v. U.S. Sugar Corp.*, 84 F.3d 1432, 1436 (D.C. Cir. 1996); *N. Air Cargo v. U.S. Postal Serv.*, 674 F.3d 852, 857 (D.C. Cir. 2012). This is so because rather than resolving the dispute, a remand order "simply turns it back for further proceedings by the agency, after which it may well return [to court] again." *Am. Hawaii Cruises v. Skinner*, 893 F.2d

1400, 1403 (D.C. Cir. 1990). Consequently, remand orders generally cannot be appealed by private parties. *NAACP*, 84 F.3d at 1436.

There is a limited exception to the general rule of non-appealability that applies when the *agency* to which the case is remanded seeks to appeal, as it would have no opportunity to appeal from its own order after proceeding on remand. *Occidental Petroleum Corp. v. SEC*, 873 F.3d 325, 330 (D.C. Cir. 1989). But the Burley faction is not a federal agency, and therefore it cannot take advantage of the *Occidental Petroleum* exception. *See id.* at 331 (“a private party may not, in most cases, immediately appeal a district court order remanding a case for further agency proceedings”); *N.C. Fisheries Ass’n*, 550 F.3d at 20 (“that path is not normally available to a private party”). *Cf. NAACP*, 84 F.3d at 1436 (considering arguments by intervenor challenging remand order only because the government had also appealed).

The fact that the Burley faction intervened on the side of the Assistant Secretary and seeks to uphold the Assistant Secretary’s decision does not allow it to take advantage of the *Occidental Petroleum* exception. This Court has dismissed private-party appeals of remand

orders where the private party is aligned with the government. *See, e.g., Pueblo of Sandia*, 231 F.3d at 880; *U.S. Sugar Corp.*, 84 F.3d at 1436. That is because “the issue of appealability under § 1291 is to be determined for the entire category to which a claim belongs, without regard to the chance that litigation might be speeded, or a ‘particular injustice’ averted by a prompt appellate court decision.” *Pueblo of Sandia*, 231 F.3d at 880 (quoting *Digital Equip. Corp.*, 511 U.S. at 868). By contrast, when the government appeals a remand order, the only reason that a Court has jurisdiction to consider the arguments of an intervenor is because the government’s appeal provides the basis for jurisdiction. *See NAACP*, 84 F.3d at 1436.

CONCLUSION

The Burley faction’s appeal should be dismissed.

Respectfully submitted,

/s/Mark R. Haag
Attorney
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February 2014
DJ# 90-2-4-13338

CERTIFICATE OF PARTIES AND AMICI

The following persons and entities appeared as parties, intervenors, or amici before the district court or this court:

California Valley Miwok Tribe

Tribal Council

Yakima Dixie

Velma Whitebear

Antonia Lopez

Michael Mendibles

Evelyn Wilson

Antoine Azevedo

Larry Echo Hawk, in his official capacity as Assistant Secretary – Indian Affairs, United States Department of the Interior

Michael Black, in his official capacity as Assistant Secretary – Indian Affairs, United States Department of the Interior

Kenneth Lee Salazar, in his official capacity as Secretary, United States Department of the Interior

Sally Jewell, in her official capacity as Secretary, United States Department of the Interior

/s/Mark R. Haag

CERTIFICATE OF SERVICE

I hereby certify that on February 25, 2014, I served the forgoing Motion by electronic filing using the Court's CM/ECF system, which will send notification of such filing to all ECF-registered parties in this case.

I further certify that on February 25, 2014, a copy of the foregoing Motion was sent by U.S. Mail, postage prepaid, to the following:

Robert A. Rosette
Saba Bazazieh
565 West Chandler Blvd.
Suite 212
Chandler, AZ 85225

/s/Mark R. Haag

EXHIBIT “2”

NO 14-5014

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

CALIFORNIA VALLEY MIWOK TRIBE, et al.,

Plaintiffs-Appellees,

v.

SALLY JEWELL, in her official capacity as Secretary of the United States
Department of the Interior, et al.,

Defendants-Appellees,

CALIFORNIA VALLEY MIWOK TRIBE, a federally-recognized Indian tribe

Defendant-Appellant.

On Appeal from the United States District Court
For the District of Columbia, 1:11-cv-000160-BJR
The Honorable Barbara J Rothstein, Senior Judge

STIPULATION OF VOLUNTARY DISMISSAL

IT IS HEREBY STIPULATED AND AGREED by and between the parties
that the above-captioned appeal is voluntarily dismissed pursuant to Federal Rule
of Appellate Procedure 42(b).

...

...

...

...

Each party shall bear its own costs.

/s/ Saba Bazzazieh
Robert A. Rosette
Saba Bazzazieh
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/s/ Mark R. Haag
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Attorneys for the Defendants-Appellees

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San Francisco, California 94111-4109

Attorneys for Plaintiffs-Appellees

CERTIFICATE OF SERVICE

I hereby certify that on March 5, 2014, the foregoing Stipulation of Voluntary Dismissal was filed with the Clerk of the United States Court of Appeals for the District of Columbia Circuit using the appellate CM/ECF system and served electronically on all counsel of record.

/s/ Leigh D. Wink

Leigh D. Wink

EXHIBIT “3”

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Civil Division**

THE CALIFORNIA VALLEY MIWOK
TRIBE,
11178 Sheep Ranch Road
Mountain Ranch, CA 95246

THE TRIBAL COUNCIL,
11178 Sheep Ranch Road
Mountain Ranch, CA 95246

YAKIMA DIXIE,
11178 Sheep Ranch Road
Mountain Ranch, CA 95246

VELMA WHITEBEAR,
213 Downing Drive
Galt, CA 95632

ANTONIA LOPEZ,
P.O. Box 1432
Jackson, CA 95642

MICHAEL MENDIBLES,
P.O. Box 266
West Point, CA 95255

EVELYN WILSON,
4104 Blagen Blvd.
West Point, CA 95255

ANTONE AZEVEDO,
4001 Carriebee Ct.
North Highlands, CA 95660

v.

KEN SALAZAR, in his official capacity as
Secretary of the United States Department of the
Interior,
United States Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

LARRY ECHO HAWK, in his official capacity as
Assistant Secretary-Indian Affairs of the United
States Department of the Interior,
Department of the Interior
1849 C Street, N.W.
Washington DC 20240

MICHAEL BLACK, in his official capacity as
Director of the Bureau of Indian Affairs within the

Case No. 1:11-cv-00160-RWR

Hon. Richard W. Roberts

United States Department of the Interior,
Bureau of Indian Affairs
MS-4606
1849 C Street, N.W.
Washington, D.C. 20240

Defendants.

**PLAINTIFFS' FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF**

Plaintiffs ask the Court to vacate an erroneous decision of the Assistant Secretary – Indian Affairs for the United States Department of the Interior ("Department") that arbitrarily limits the membership of a federally recognized Indian tribe to five people and disenfranchises 242 adult members of the tribe plus their children, without due process and in violation of the Department's trust responsibilities to Indian tribes and their members. Because the decision knowingly recognizes a tribal government based on a tribal document adopted without the knowledge, participation or consent of the vast majority of the tribe's members, it violates federal law and must be reversed.

Plaintiffs Yakima Dixie, the California Valley Miwok Tribe ("Tribe"), and Tribe members Velma Whitebear, Antonia Lopez, Michael Mendibles, Evelyn Wilson and Antone Azevedo, individually and as members of the Tribal Council ("Council"), therefore submit this First Amended Complaint against the Defendants, Ken Salazar, Secretary of the Department, Larry Echo Hawk, Assistant Secretary– Indian Affairs ("AS-IA") of the Department, and Michael Black, Director of the Bureau of Indian Affairs ("BIA") within the Department, and state and allege as follows:

INTRODUCTION AND SUMMARY

1. The Tribe is a federally recognized Indian tribe that was recognized around 1915 when the United States purchased the Sheep Ranch Rancheria for the benefit of a small band of Miwok Indians living near Sheep Ranch, California. Today the Tribe has approximately 242 adult members,

and approximately 350 members under the age of 18, who are lineal descendants of the original 1915 members.

2. In 1935, the Tribe voted to accept the Indian Reorganization Act of 1934 ("IRA"), which allowed tribes to assume the responsibility of self-government by adopting governing documents and establishing a tribal government. The process of creating a tribal government is known as "organization," or sometimes "reorganization." For tribes that have accepted the IRA, organization must comply with the substantive and procedural requirements of the IRA.

3. Despite accepting the IRA, the Tribe has never organized itself. For many years its members maintained only an informal Tribal community, although many lived on the Rancheria at various times or in the surrounding area and maintained familial and community ties.

4. In 1998, at the BIA's urging, a woman named Silvia Burley approached Yakima Dixie, whom the BIA recognized as a Tribal spokesperson at that time. Ms. Burley, a resident of a neighboring Indian community, asked to be enrolled into the Tribe along with her two daughters and her granddaughter (collectively, the "Burleys"). The BIA erroneously told Mr. Dixie that he had the authority to enroll the Burleys into the Tribe, and he agreed to do so. The BIA thereafter treated the Burleys as Tribal members, although their enrollment was invalid without Tribal consent.

5. Around September 1998, Mr. Dixie and Ms. Burley began discussions with the BIA about organizing the Tribe. The BIA erroneously told Mr. Dixie that the people entitled to participate in the initial organization of the Tribe were determined by a plan for distribution of tribal assets that had been approved in 1966 as part of an unsuccessful attempt to "terminate" the Tribe under the California Rancheria Act. The BIA concluded that these people included Mr. Dixie, his brother Melvin Dixie, and the Burleys (by virtue of their purported enrollment), and that those individuals were entitled to decide who else might participate in Tribal organization. This conclusion was and is incorrect.

6. Contrary to the BIA's conclusion, all lineal descendants of the Tribe's original members (circa 1915) were members of the Tribe in 1998 and were entitled to participate in any organization effort. Of the Tribe's current members, at least 83 were alive and over the age of 18 in 1998 and were entitled to participate in any organization of the Tribe (the "1998 Adult Members"). Other, now-deceased members were also alive in 1998 and entitled to participate.

7. The BIA suggested to Mr. Dixie that the Tribe form a general council as an interim step in order to manage itself until it had adopted a constitution and completed the organization process as defined in the IRA. A general council is a form of government consisting of all of a tribe's members. The BIA supplied a resolution purporting to create such a general council, and Mr. Dixie and Ms. Burley signed the resolution on November 5, 1998 (the "1998 Resolution"). The adoption of the 1998 Resolution was invalid.

8. The Tribe never completed the organization process that the 1998 Resolution was intended to facilitate. A dispute erupted between Ms. Burley and Mr. Dixie over control of the organization process, with both sides pursuing organization under separate documents.

9. The BIA rejected constitutions that Ms. Burley submitted in the name of the Tribe in 1999, 2000, 2001 and 2004, which essentially would have limited Tribal membership to Mr. Dixie, the Burleys and their descendants. The BIA, reversing the erroneous advice it provided Mr. Dixie in 1999, informed Ms. Burley that organization must involve the entire Tribal community, and it identified a number of other people who must be allowed to participate, including the lineal descendants of historical Tribe members. Ms. Burley responded by filing a series of administrative appeals and federal court challenges seeking to compel the BIA to recognize the Tribe as organized under her constitution and with her as its leader.

10. Ms. Burley's appeals culminated in a 2006 decision by the federal district court for the District of Columbia, which upheld the BIA's rejection of Ms. Burley's 2004 constitution. The court

held that the IRA imposes fundamental requirements on tribal organization, including notice, a defined process, and minimum levels of participation. *California Valley Miwok Tribe v. United States*, 424 F.Supp.2d 197 (D.D.C. Mar. 31, 2006). The federal government argued that the BIA has a "duty to ensure that the interests of all tribe members are protected during organization and that governing documents reflect the will of a majority of the Tribe's members," and the court agreed. Because the BIA estimated that the Tribal community entitled to participate in organization "may exceed 250 members," while Ms. Burley had involved only herself and her daughters, rejection of the Burley constitution was consistent with the BIA's duty.

11. The Court of Appeals for the District of Columbia Circuit affirmed in a published opinion, holding that, "Although [the Tribe], by its own admission, has a potential membership of 250, only Burley and her small group of supporters had a hand in adopting her proposed constitution. This antimajoritarian gambit deserves no stamp of approval from the Secretary." *California Valley Miwok Tribe v. United States*, 515 F.3d 1262, 1267 (D.C. Cir. 2008).

12. Following the district court's decision, in 2006, the BIA attempted to assist the Tribe in identifying its entire membership by asking descendants of the 1915 members to submit genealogies showing their status as lineal descendants of historical Tribe members. Once the lineal descendants were identified, the BIA planned to arrange a meeting so the members could proceed with Tribal organization if they wished to do so. Ms. Burley filed administrative appeals, essentially attempting to re-litigate her previous position that the Tribe was already organized under her leadership. Those appeals eventually led to a decision on August 31, 2011 by the AS-IA (Exhibit "A") (the "August 31 Decision").

13. In the August 31 Decision, the AS-IA found, without any explanation or support, that the membership of the Tribe is limited to five people. In doing so, he ignored the overwhelming

evidence before him that the Tribe's membership currently includes 242 adult members and their children, who are lineal descendants of historical Tribe members.

14. In the August 31 Decision, the AS-IA found that those five people had established a valid Tribal government under the 1998 Resolution. The 1998 Resolution was void *ab initio* as a Tribal action and could not be a valid governing document because it was adopted without notice to, or consent of, a vast majority of the Tribe and did not comply with the IRA.

15. In the August 31 Decision, the AS-IA explicitly repudiated and failed to carry out the BIA's duty to ensure that the interests of all Tribal members are protected during organization, and that the governing documents for the Tribe reflect the will of a majority of the members, as required by the IRA and binding decisional law of this Circuit. The AS-IA has no authority to do so.

16. The August 31 Decision cedes complete control of the Tribe to the Burleys and deprives Plaintiffs and the Tribe's other members of fundamental rights in violation of the U.S. Constitution, the Indian Civil Rights Act, the IRA, the Department's trust responsibility to the Tribe and its members, and other federal laws.

JURISDICTION AND VENUE

17. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 because the asserted claims arise under the Constitution and laws of the United States.

18. This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1361 in that the Tribe seeks to compel officers and employees of the United States and its agencies to perform duties owed to the Tribe.

19. This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1362 because the Tribe is an Indian tribe duly recognized by the Secretary of the Interior, and the matter in controversy arises under the Constitution, laws or treaties of the United States.

20. Venue is proper in this Court under 28 U.S.C. § 1391(e) because the Secretary, the AS-IA, the Director of the BIA, and the Department are located in this district.

21. Judicial review of the agency action is authorized by the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 702, 704 and 706. The AS-IA's decision is final agency action under the APA and 25 C.F.R. § 2.6(c).

22. The requested declaratory and injunctive relief is authorized by 28 U.S.C. §§ 2201-2202.

23. Plaintiffs have exhausted their administrative remedies and are not required to pursue additional administrative remedies before seeking and obtaining judicial relief.

24. An actual case and controversy has arisen and now exists between the parties with regard to the AS-IA's violations of the constitutional provisions, statutes and regulations cited herein.

PARTIES

25. Plaintiff California Valley Miwok Tribe, also known as the "Sheep Ranch Rancheria," the "Sheep Ranch Rancheria of Me-Wuk Indians of California," and the "Sheep Ranch Band of Me-wuk Indians of the Sheep Ranch Rancheria," is a federally recognized Indian tribe situated in Sheep Ranch, California, in Calaveras County. The Tribe consists of Indian members and their descendants, and/or their Indian successors in interest, for whose benefit the United States acquired and created the Sheep Ranch Rancheria. As of April 30, 2011, the membership of the Tribe consisted of 242 adult members and their children ("Current Members"). At least 83 members of the Tribe were alive and at least 18 years old on November 5, 1998 ("1998 Adult Members").

26. Plaintiff Yakima Dixie is the Traditional Spokesperson, and the historical Chairperson, of the California Valley Miwok Tribe and a member of its Tribal Council. Miwok tribes use the term "spokesperson" rather than "chief" to describe their traditional leaders, reflecting the Miwok tradition of consensus-based government.

27. Plaintiff Tribal Council is the legitimate governing body of the Tribe as recognized by a majority of Tribal members. The Council consists of Mr. Dixie and Tribe members Velma Whitebear, Antonia Lopez, Michael Mendibles, Evelyn Wilson, Antone Azevedo, Shirley Wilson and Iva Carsoner.

28. Plaintiffs Velma WhiteBear, Antonia Lopez, Michael Mendibles, Evelyn Wilson and Antone Azevedo are members of the Tribe and of the Tribal Council. Each is a lineal descendant of a historical member or members of the Tribe.

29. Defendant Ken Salazar is the Secretary of the United States Department of the Interior. Mr. Salazar is responsible for the supervision of the various federal agencies and bureaus within the Department, including the BIA. Mr. Salazar is an officer or employee of the United States and has a direct statutory duty to carry out the provisions of the IRA and other relevant laws. Mr. Salazar is sued in his official capacity only.

30. Defendant Larry Echo Hawk is the AS-IA of the Department and head of the Bureau of Indian Affairs. Mr. Echo Hawk issued the August 31 Decision that is challenged in this action. Mr. Echo Hawk is sued in his official capacity only.

31. Michael Black is the Director of the Bureau of Indian Affairs within the Department. Mr. Black is responsible for the day-to-day operations of the BIA, including its relations with federally recognized Indian tribes. Mr. Black is sued in his official capacity only.

RELEVANT FACTS

Tribal History and Membership

32. In 1915, a United States Indian Service official discovered a small cluster of Miwok Indians living in or near Sheep Ranch, California, which was a remnant of a once-larger band. In 1916 the United States purchased approximately one acre of land near Sheep Ranch and created the Sheep

Ranch Rancheria for the benefit of those Indians. The United States subsequently recognized the Sheep Ranch Band of Me-wuk Indians as a federal Indian tribe.

33. The initial members of the Tribe were those listed in the 1915 Sheep Ranch Indian census. Their names were: Peter Hodge, Annie Hodge, Malida Hodge, Lena Hodge, Tom Hodge, Andy Hodge, Jeff Davis, Betsey Davis, Mrs. Limpey, John Tecumchey, Pinkey Tecumchey and Mamy Duncan. Peter Hodge was their leader.

34. In 1935, the United States held an election in which Tribal members voted on whether to accept or reject the application of the IRA to the Tribe. The United States' 1935 IRA approved voter list for the Tribe listed one Tribe member: Jeff Davis.

35. The individuals listed in the 1915 Sheep Ranch Indian census and in the 1935 IRA approved voter list for the Tribe were members of the Tribe.

36. The lineal descendants of the individuals listed in the 1915 Sheep Ranch Indian census and in the 1935 IRA approved voter list for the Tribe were, and are, members of the Tribe at all times relevant to this litigation.

The Indian Reorganization Act

37. The Tribe voted to accept the IRA in 1935.

38. The IRA allows Indian tribes to "organize," or form a tribal government, by adopting a written constitution or other governing documents. Successful organization allows a tribe to establish government-to-government relations with the United States and with state and local governments.

39. For Tribes that have accepted it, the IRA establishes procedural and substantive requirements for organization. These requirements include notice, a defined process, and minimum levels of participation by a tribe's members.

40. Under the IRA, the Secretary has a duty to ensure that the Department recognizes only a legitimate tribal government that reflects the participation and consent of a majority of the Tribe's

membership. This duty is informed and strengthened by the United States' trust obligations to Indian tribes and their members.

The California Rancheria Act and Failure to Terminate the Tribe

41. In 1958, Congress enacted the California Rancheria Act, which authorized the Secretary to terminate the lands and trust status of enumerated Indian tribes on California Rancherias under certain conditions.

42. The Tribe was never terminated pursuant to the California Rancheria Act. The United States has recognized the Tribe as an Indian Tribe since its inception and continues to do so.

The Invalid 1998 Resolution

43. The 1998 Resolution recites that it was signed by a majority of the Tribe's adult members. That is incorrect. A "majority" means more than one-half. Only two people signed the 1998 Resolution.

44. The 1998 Resolution identified four Tribal members who were adults in 1998: Yakima Dixie, Melvin Dixie, Silvia Burley and Rashel Reznor. The 1998 Resolution did not state that these were the only members of the Tribe. It recited that that Tribe consisted of "at least" those members. The identification of the Burleys as members was incorrect because Yakima Dixie did not have the authority to enroll them into the Tribe without the consent of the Tribe's existing members.

45. The 1998 Adult Members were also members of the Tribe in November 1998. There were also many other members in 1998 who have died since then. Except for Yakima Dixie, none of the 1998 Adult members or the now-deceased members signed the 1998 Resolution.

46. Neither Melvin Dixie nor any of the 1998 Adult Members (except for Yakima Dixie) or the now-deceased members received actual or constructive notice of the 1998 Resolution prior to its adoption or were provided with an opportunity to participate in the process of drafting or voting on the 1998 Resolution. Most or all of these members were living in the vicinity of the Sheep Ranch

Rancheria in 1998, were readily identifiable as Tribal members, and were known or should have been known to the BIA.

47. The 1998 Resolution was invalid and of no force and effect because it was adopted without notice to, participation by, or consent of a majority of the Tribe's adult members.

Burley Seeks Control of the Tribe

48. Shortly after her purported enrollment, Ms. Burley sought to take control of the Tribe. The 1998 Resolution named Mr. Dixie as the Tribe's chairperson. But in April 1999, Burley claimed that she was the Chairperson. That claim was and is false.

49. Burley submitted proposed Tribal constitutions to the BIA in 1999, 2000 and 2001. The constitutions would have limited Tribal membership to the Burleys, their descendants and, in some cases, Mr. Dixie. No Tribal member except for the Burleys had any part in the development or ratification of these constitutions.

50. The BIA did not approve any of the constitutions that Burley submitted.

The BIA Rejects Burley's 2004 Constitution

51. Burley submitted another proposed constitution to the BIA in February 2004, purportedly to demonstrate that the Tribe was already organized with Ms. Burley as its leader.

52. Although Burley had acknowledged in federal court in 2002 that the Tribe had a potential citizenship of "nearly 250 people," her proposed constitution recognized only five members.

53. In a March 26, 2004 letter to Burley, the BIA declined to approve her latest constitution. The BIA explained that efforts to organize a Tribe must reflect the involvement of the whole tribal community:

Where a tribe that has not previously organized seeks to do so, BIA also has a responsibility to determine that the organizational efforts reflect the involvement of the whole tribal community. We have not seen evidence that such general involvement was attempted or has occurred with the purported organization of your tribe. . . . To our knowledge, the only persons of Indian descent involved in the tribe's organization

efforts, were you and your two daughters . . . It is only after the greater tribal community is initially identified that governing documents should be drafted and the Tribe's base roll and membership criteria identified.

The BIA's letter identified several groups of Tribe members and segments of the tribal community who should be involved in the initial organization efforts.

54. The BIA's letter stated that "the BIA does not yet view [the Tribe] to be an 'organized' Indian Tribe" and that, because the Tribe was unorganized, the BIA could not recognize Burley as the Tribe's chairperson.

55. On February 11, 2005, the AS-IA sent a letter to Mr. Dixie and Burley in which he reiterated many of the decisions made in the BIA's March 26, 2004 letter. The AS-IA stated:

In that [2004] letter, the BIA made clear that the Federal government did not recognize Ms. Burley as the tribal Chairman. . . . Until such time as the Tribe has organized, the Federal government can recognize no one, including yourself, as the tribal Chairman. I encourage you . . . to continue your efforts to organize the Tribe along the lines outlined in the March 26, 2004 letter so that the Tribe can become organized and enjoy the full benefits of Federal recognition. The first step in organizing the Tribe is identifying putative tribal members.

56. The AS-IA's 2005 letter made clear that the BIA's rejection of Ms. Burley's constitution implicitly encompassed any and all tribal governing documents submitted prior to that date, and any purported Tribal government created by any such documents: "In light of the BIA's letter of March 26, 2004 . . . the BIA does not recognize *any Tribal government* . . ." (emphasis added).

57. After the AS-IA's 2005 determination, the BIA sought to work with Mr. Dixie's Tribal Council and the Tribe to complete the organization process. Mr. Dixie and the BIA invited Burley to participate, but she again refused and instead filed suit challenging the AS-IA's decision.

The District Court and Court of Appeals Uphold the BIA's Decision

58. In April 2005, Burley filed suit in the federal district court for the District of Columbia, in the name of the Tribe. The suit challenged the BIA's rejection of the constitution submitted by Burley and its refusal to recognize any governing documents or governing body of the Tribe. Burley

sought a judgment that the Tribe had the inherent sovereign authority to adopt governing documents outside of the IRA and that the Tribe was lawfully organized pursuant to that authority. Burley did not contest the BIA's specific decision not to recognize her as the Tribal Chairperson.

59. The district court dismissed Burley's claims in March 2006. The court noted that the Burleys had submitted a constitution that "conferred tribal membership only upon them and their descendants . . . [but] the government estimates that the greater tribal community, which should be included in the organization process, may exceed 250 members." The court found that the Secretary has "a responsibility to ensure that [she] deals only with a tribal government that actually represents the members of a tribe" and that the BIA has a "duty to ensure that the interests of all tribe members are protected during organization and that governing documents reflect the will of a majority of the Tribe's members." *California Valley Miwok Tribe, supra*, 424 F.Supp.2d 197. This is true "whether or not [a tribe] choose[s] to organize under the IRA procedures [of section 476(a)]." The court found the BIA's decisions consistent with that duty.

60. Burley challenged the district court's decision, and the Court of Appeals for the District of Columbia Circuit affirmed. *California Valley Miwok Tribe, supra*, 515 F.3d 1262. According to the Court of Appeals, the rejection of the Burley government and constitution fulfilled a cornerstone of the United States' trust obligation to Indian tribes: to "promote a tribe's political integrity, which includes ensuring that the will of tribal members is not thwarted by rogue leaders when it comes to decisions affecting federal benefits."

61. The Court of Appeals further explained:

In Burley's view, the Secretary has no role in determining whether a tribe has properly organized itself That cannot be. . . . [T]he Secretary has the power to manage "*all* Indian affairs and *all* matters *arising out of Indian relations*." . . . The exercise of this authority is especially vital when, as is the case here, the government is determining whether a tribe is organized, and the receipt of significant federal benefits turns on the decision. The Secretary suggests that her authority . . . includes the power to reject a proposed constitution that does not enjoy sufficient support from a tribe's membership. Her suggestion is reasonable, particularly in light of the federal government's unique trust obligation to Indian tribes. (Emphasis in original.)

The court concluded:

Although [the Tribe], by its own admission, has a potential membership of 250, only Burley and her small group of supporters had a hand in adopting her proposed constitution. This antimajoritarian gambit deserves no stamp of approval from the Secretary.

The Department's Representations in Federal Court

62. In its brief to the D.C. Circuit, the United States Department of Justice, on behalf of the Department of the Interior, stated, *inter alia*:

[T]he Burley Government does not dispute that the vast majority of the potential membership of the Tribe did not have an opportunity to participate in the election of Burley as chairperson or in the adoption of the government documents. Instead, the Burley Government argues that BIA was required, under 25 U.S.C. § 476(h), to recognize the Tribe as organized, and to recognize the Burley Government and its proffered governing documents, notwithstanding this lack of participation. The district court properly rejected this argument, reasoning that while Section 476(h) recognizes the "inherent sovereign power" of "each Indian tribe" to "adopt governing documents under procedures other than those specified in" the IRA, Section 476(h) does not eliminate the IRA's requirements that governing documents be ratified by a majority vote of the adult members of the tribe.

63. The United States further stated in its brief:

Section 476(h) does not impose a duty on BIA to recognize a tribal government or governing documents where, as here, they are adopted without the consent or participation of a majority of the tribal community. Nothing in Section 476(h) suggests that Congress intended to alter the substantive standards that apply when a tribe seeks to organize, including Section 476(a)(1)'s requirement that governing documents be "ratified by a majority of adult members of the tribe." In addition, for an "Indian tribe" to organize under the IRA, action by the tribe as a whole is required; action by an unrepresentative faction is insufficient.

The government added that "nothing in Section 476(h) limits the Secretary's broad authority – *independent of the IRA* – to ensure the legitimacy of any purported tribal government that seeks to engage in that government-to-government relationship with the United States" (emphasis added).

64. The government also stated in its brief that "the Burley Government [cannot] speak[] for the Tribe in the exercise of [the Tribe's] sovereign power . . . because the undisputed facts show

that the Burley Government was elected, and its governing documents adopted, by just three people and without the participation of the vast majority of the potential members of the Tribe."

Mr. Dixie's Efforts to Organize the Tribe

65. While the Burleys were attempting to limit the Tribe to their immediate family, Mr. Dixie and other Tribal members began to identify and bring together all of the Tribe's members. Beginning in 2003, they held open meetings of the Tribe's membership each month, which have been held ever since. They also formed the Tribal Council.

66. The Council met with the BIA in September 2003 and requested that the BIA call an election pursuant to the IRA to adopt a Tribal constitution and establish government-to-government relations with the United States. The BIA did not act on the Council's request but continued to meet regularly with Mr. Dixie and the Council to discuss efforts to organize the Tribe.

67. With the support and participation of the Tribe's members, the Tribal Council has met approximately every other month since its formation to discuss Tribal policy, enact resolutions, and conduct other Tribal business. The Council has made great strides in rebuilding a functioning Tribal community. Since at least 2004, the Tribe and its members have engaged in a variety of cultural, religious, economic and social activities that benefit the full Tribal membership, strengthen the Tribal community and restore historic ties with the larger Indian community. Tribal activities include:

a. The Tribe intervenes in child custody proceedings under the Indian Child Welfare Act, on behalf of children of Tribe members. In those cases where a child is removed from its family, the Tribe seeks to have the child placed with an Indian family or a family with ties to Indian traditions, so that the child is not deprived of its cultural heritage and place in the Indian community. Burley has opposed the Tribe's efforts in these cases.

b. The California Native American Heritage Commission has recognized the Tribe's Cultural Preservation Committee. Several Tribe members have been trained to serve as

cultural monitors on behalf of the Tribe and have performed monitoring at construction sites that may affect Native American cultural and religious artifacts.

c. The Tribe participates, with other Miwok tribes, in an intertribal Miwok Language Restoration Group that teaches the Miwok language to younger tribe members so that the language and the tribal traditions are not lost. Plaintiff Evelyn Wilson is the senior Miwok member who still speaks the Miwok language.

d. The Sheep Ranch Rancheria Me-wuk Dancers ("Me-wuk Dancers"), a ceremonial Indian dance and cultural preservation group, represent the Tribe at native American events throughout California. Tribe members Gilbert Ramirez and his son Pete Ramirez organized the Me-wuk Dancers group at the request of Tribal elders. The Me-wuk Dancers play an important role in preserving the language, cultural identity and religious traditions of the Tribe.

e. The Tribe has been negotiating with the United States Forest Service ("USFS") regarding construction of a traditional Indian "brush house" on USFS land near the Tribe's ancestral village. A brush house is an open-roofed building for conducting dances and other traditional ceremonies. It is a key element in Indian cultural and religious traditions, equivalent to a tribe's church.

f. Since 2004, the Tribe has been participating in the Calaveras Healthy Impact Products Solutions project ("CHIPS"), a community supported project that seeks to reduce wildfire hazards to local communities while providing economic opportunity for local workers. CHIPS received a grant from the United States Department of Agriculture in 2007 to support retraining for workers to participate in new jobs within the forestry and vegetation control industry. Among other things, CHIPS has trained Native American workers, including Tribe members, to perform restoration work on federal lands that contain sensitive Native American heritage resources.

g. Through CHIPS and the Amador-Calaveras Consensus Group ("ACCG"), a community coalition, the Tribe has been engaged in efforts to participate in the USFS Collaborative Forest Landscape Restoration Program ("CFLRP"). Participation in the CFLRP would allow local workers to work with the USFS and Bureau of Land Management ("BLM") on landscape restoration and forest stewardship projects. In particular, the USFS is seeking Native American crews (such as those trained by CHIPS) to participate in programs to reintroduce fire as a management technique on federal lands with sensitive Native American heritage resources. The participation of the Tribe is important to the success of the community's CFLRP proposal.

h. Tribe members gather certain materials, such as raptor feathers, that are needed for cultural and religious ceremonies. Only members of Indian tribes can legally possess these materials. Tribe members also gather materials, such as native plants and willow roots, used in traditional crafts such as basket weaving, and offer classes in those crafts to ensure that the skills are not lost.

i. The Tribe participates in the annual Salmon Distribution Project in which it obtains several tons of fresh salmon from the Oroville Dam hatchery and distributes it to Tribe members.

j. The Tribe is involved in Indian health services, emergency services and food distribution programs, including the MACT Indian health services program, that benefit members of the Tribe and other Indian tribes.

68. In 2006, the Tribal Council adopted a Tribal constitution, which established that the Tribe's first priority was to identify and enroll all Tribal members—i.e., those who are lineal descendants of one or more historical members of the Tribe, as documented by personal genealogies, birth records and other documents. Under the Council's leadership, the Tribe has identified several hundred members who wish to participate in the organization of the Tribe. The Tribal roster as of

April 30, 2011, consists of 242 adult members and approximately 350 children under the age of 18. Each of these members is a lineal descendant of one or more historical members of the Tribe, as documented by personal genealogies, birth records and other records.

69. Since 2006, the members of the Tribe have devoted countless hours to drafting a revised constitution through an open and transparent process. The contents of the constitution have been read and debated in many Tribal meetings, including special meetings called specifically for that purpose. All such meetings were open to the entire Tribal community. The Tribe has provided the Burleys with notice and an opportunity to participate, but they refused to do so.

70. On July 26, 2011, the Tribe adopted Resolution 2011-07-16(b), establishing an Election Committee and providing for voter registration in order to facilitate a Tribal election to adopt and ratify the revised constitution. The Tribe provided the Assistant Secretary and the BIA with notice of Resolution 2011-07-16(b) and of its intent to hold an election. The only action that remains to complete the Tribal organization process is final ratification and adoption of the constitution by the entire Tribal membership. The Tribe plans on holding an election for that purpose, consistent with the IRA.

The BIA Attempts to Assist the Tribe In Organizing

71. On November 6, 2006, after the district court had dismissed Burley's claims, the BIA informed Ms. Burley that it would assist the Tribe in organizing according to majoritarian principles, consistent with the decisions upheld by the court.

72. Ms. Burley appealed the Superintendent's November 6, 2006 decision to the BIA's Pacific Regional Director. On April 2, 2007, the Regional Director affirmed the decision and remanded the matter back to the Superintendent to implement the actions mentioned in the November 6, 2006 decision. The Regional Director wrote, "We believe the main purpose [of the November 6, 2006 decision] was to assist the Tribe in identifying the whole community, the 'putative'

group, who would be entitled to participate in the Tribe's efforts to organize a government that will represent the Tribe as a whole. . . . It is our belief that until the Tribe has identified the 'putative' group, the Tribe will not have a solid foundation upon which to build a stable government."

73. On April 10 and April 17, 2007, the BIA published public notice of an upcoming meeting to organize the Tribe. The notice requested that Putative Members submit documentation of their membership claim to the BIA (e.g., personal genealogies). The public notice defined the Putative Members as lineal descendants of: (1) individuals listed on the 1915 Indian Census of Sheep-ranch Indians; (2) individuals listed as eligible voters on the federal government's 1935 IRA voting list for the Rancheria; and (3) individuals listed on the plan for distribution of the assets of Sheep Ranch Rancheria (which included only Mabel Hodge Dixie).

74. According to the BIA, approximately 580 persons submitted personal genealogies to the BIA in response to the April 2007 public notices. Plaintiffs Velma Whitebear, Antonia Lopez, Michael Mendibles, Evelyn Wilson and Antone Azevedo each submitted genealogies and other documentation to the BIA in response to the public notices. None of the Burleys submitted documentation in response to the public notices. The BIA has not released the genealogies or the results of its analysis of the information submitted. The Tribe has separately obtained genealogies from each of its members.

Burley Attempts to Re-Litigate Her Claims Before the Board

75. Burley appealed the Regional Director's April 2, 2007 decision to the Interior Board of Indian Appeals.

76. In January 2010, the Board decided Burley's appeal. The Board recognized that the AS-IA's February 11, 2005 decision and the ensuing federal litigation had already finally determined the following issues: (1) that the BIA did not recognize the Tribe as being organized; (2) that the BIA did not recognize any tribal government that represents the Tribe; (3) that the Tribe's membership was

not necessarily limited to the Burleys and Yakima Dixie; and (4) that the BIA had an obligation to ensure that a “greater tribal community” was allowed to participate in organizing the Tribe. The Board recognized that, to the extent Burley's appeal attempted to relitigate those issues, it had no jurisdiction over her claims. Accordingly, the Board dismissed all of Burley's claims (including those claims not discussed here), except for a single, narrow issue.

77. According to the Board, the Burley appeal raised a solitary issue that had not already been decided by the AS-IA: the process for deciding “who BIA will recognize, individually and collectively, as members of the ‘greater tribal community’ that BIA believes must be allowed to participate in the general council meeting of the Tribe for organizational purposes.” The Board erroneously characterized this as a “tribal enrollment dispute,” because it failed to recognize that the lineal descendants of historical Tribal members are *already* Tribal members and therefore that the BIA’s 2007 proposed assistance with Tribal organization would not confer membership on these people. Because it lacks jurisdiction over “enrollment disputes,” the Board referred the issue to the AS-IA for resolution.

The AS-IA’s August 31 Decision

78. The AS-IA issued his initial decision in the Burley appeal on December 22, 2010. Plaintiffs challenged the December 22 Decision before this Court, and the AS-IA withdrew the decision on April 1, 2011. The AS-IA stated in his April 1 letter that he planned to issue a new decision.

79. On April 6, 2011, in a related California state court proceeding, attorneys for Ms. Burley stated in open court that they had been informed that the AS-IA planned to issue a new decision reaffirming the substance of the December 22 Decision and making that decision invulnerable to legal challenge.

80. After briefing by Ms. Burley and the Plaintiffs, the AS-IA issued his August 31 Decision on August 31, 2011.

81. In the August 31 Decision, the AS-IA reached substantially the same conclusions as he had in his December 22 Decision, again purporting to decide issues long settled and not subject to further appeal. Contrary to the Court of Appeals ruling, the AS-IA declared that the Tribe can organize itself without complying with the IRA; that the Tribe has already established a valid government under the 1998 Resolution, which was signed by only two people; and that the United States must carry on government-to-government relations with Burley's anti-majoritarian council. In addition, the AS-IA grossly exceeded his authority over Tribal matters by purporting to determine that the membership of the Tribe is limited to five people, and by erroneously characterizing the other 242 members of the Tribe as "potential," rather than actual, members.

Consequences of the Secretary's Unlawful Decision

82. As a result of the AS-IA's unlawful August 31 Decision, the Plaintiffs have suffered and will continue to suffer great injury, including but not limited to the following:

83. Plaintiffs have been and will be denied the benefits of Tribe membership.

a. The August 31 Decision finds that "the citizenship of the [Tribe] consists solely of Yakima Dixie, Silvia Burley, Rashel Reznor, Anjelica Paulk, and Tristian Wallace.¹" Thus, individual Plaintiffs (except for Mr. Dixie) are denied membership in the Tribe by the decision. Denial of Tribal membership is a violation of fundamental rights.

b. The August 31 Decision gives the Burleys complete control over Tribal membership and governance, including the power to exclude Mr. Dixie from membership. The Burleys have already purported to disenroll Mr. Dixie once, in 2005, although it purported to re-enroll him in 2009 for litigation purposes.

¹ Reznor, Paulk and Wallace are Burley's daughters and granddaughter, respectively.

84. As a result of the August 31 Decision, Plaintiffs are denied their rightful place in the larger Indian community and culture.

85. As a result of the August 31 Decision, Plaintiffs are not and will not be eligible to receive federal health, education and other benefits provided to members of recognized Indian Tribes.

86. As a result of the August 31 Decision, Plaintiffs have been and will be denied the opportunity to participate in the organization and governance of the Tribe.

a. Because the August 31 Decision erroneously finds that individual Plaintiffs (except for Mr. Dixie) are not members of the Tribe, it denies deny them any role in the organization of the Tribe. Indeed, the August 31 Decision specifically finds that none of the Tribe's members except for the Burleys and Mr. Dixie have any citizenship rights, including the right to participate in the Tribe's government.

b. The August 31 Decision finds that the Tribe "is not required to 'organize' in accord with the procedures of the IRA" and that its general council as defined under the 1998 Resolution is "vested with the full authority of the Tribe, and may conduct the full range of government-to-government relations with the United States." Because the Decision disavows any requirement that the Tribe form a government that is representative of its entire membership, neither Plaintiffs nor any of the Tribe's other members will ever have the opportunity to participate in the Tribe's self-government.

87. By denying Plaintiffs' membership in the Tribe and recognizing the Burley government under the 1998 Resolution, the August 31 Decision strips the Tribal Council of legitimacy and interferes with the vital programs that the Council has established to benefit the Tribe and its members, strengthen Tribal culture and traditions, and restore Tribal ties with the larger Native American community.

88. The August 31 Decision, if upheld by the Court, could provide a basis for allowing Burley to divert funds held in trust for the Tribe by the State of California. Beginning in 1999, Burley represented to the California Gambling Control Commission (“Commission”) that she was the authorized representative of the Tribe and entitled to collect funds paid by the state to tribes that do not operate casinos or gaming devices. Burley received millions of dollars from the Commission, which were meant for the Tribe, between 1999 and 2005 (the “State Funds”).

a. None of the Plaintiffs received any of the State Funds. The Plaintiffs do not know of any members of the Tribe who received or benefited from any of the State Funds except for Burley and her immediate family. The Plaintiffs do not know of any programs for the benefit of the Tribe or its members that were created or supported with the Funds.

b. In 2005, the Commission ceased distribution of the State Funds to Burley on the ground that the federal government did not recognize her as the appropriate representative of the Tribe. Burley has filed litigation in California Superior Court, seeking to compel the Commission to resume distribution of the State Funds to her, including approximately \$7.5 million of the State Funds that the Commission has withheld since 2005. *See California Valley Miwok Tribe v. California Gambling Control Commission*, No. 37-2008-00075326 (Sup. Ct. San Diego). Burley seeks to introduce the August 31 Decision as evidence that she is entitled to receive the State Funds.

c. If Burley receives the State Funds, Mr. Dixie and the members of the Tribal Council will be denied the benefit of the State Funds, because the State of California has no control over the use of the State Funds once they are paid to a tribe.

d. If Ms. Burley receives the State Funds, the Tribe will be denied the Funds, because Ms. Burley is not a legitimate representative of the Tribe.

89. The August 31 Decision will allow Burley to divert federal funds intended for the Tribe. Beginning in 1999, and continuing through 2007, Burley received federal grant money

intended for the Tribe, based on her representation that she was an authorized representative of the Tribe. The grant money was provided through a “self-determination contract” pursuant to the Indian Self-Determination and Education Assistance Act, 25 U.S.C. § 450 *et seq.* (“PL 638”), to assist the Tribe in organizing under the IRA. Burley received as much as \$400,000 to \$600,000 per year under this contract.

a. Burley did not use the PL 638 funds to organize the Tribe consistent with the IRA. Instead, she sought to disenfranchise Plaintiffs and other members of the Tribal community and to secure the benefits of Tribe membership only for herself and her immediate family.

b. The BIA previously indicated its intent, based on the AS-IA's December 22 Decision, to enter into a new PL 638 contract with the Burleys. If the August 31 Decision is allowed to stand, the Tribe will be denied its rightful use of the PL 638 funds, because those funds will be paid to Burley and her illegitimate government instead.

FIRST CAUSE OF ACTION

(Arbitrary and Capricious Agency Action in Violation of the APA)

90. Plaintiffs re-allege the above paragraphs and incorporate those paragraphs herein as if set forth in full.

91. The APA provides that a court must hold unlawful and set aside agency action that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. §706(2)(A).

92. The AS-IA’s August 31 Decision constitutes “final agency action.”

93. The August 31 Decision violates APA section 706(2)(A) because it unlawfully reopened and addressed issues not within the scope or jurisdiction of the Board appeal from which the decision arose.

94. The August 31 Decision violates APA section 706(2)(A) because, without reasoned decision making or foundation in the record, it reverses judicially approved, longstanding Department policy and prior Department determinations regarding the status of the Tribe, the Burley government, the application of the IRA to the Tribe, and the Department's obligation to ensure that it deals only with legitimate representatives of a tribe's members.

95. The August 31 Decision violates APA section 706(2)(A) because the agency failed to consider the Plaintiffs' legitimate reliance on Defendants' prior interpretations of their governing statutes.

96. The August 31 Decision violates APA section 706(2)(A) because it is unsupported by substantial evidence in the record before the agency.

97. The August 31 Decision is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law because BIA failed to carry out its duty to ensure that the interests of all Tribal members were protected during the process for organizing the Tribe and choosing its leadership, and to ensure that the governing documents for the Tribe reflect the will of a majority of such members.

98. The August 31 Decision violates APA section 706(2)(A) because it is precluded by the doctrine of *res judicata*.

99. The August 31 Decision violates APA section 706(2)(A) because it is barred by the doctrine of judicial estoppel.

100. The August 31 Decision violates APA section 706(2)(A) because it is barred by the doctrine of litigation estoppel.

101. The August 31 Decision violates APA section 706(2)(A) because it is inconsistent with the IRA.

102. The August 31 Decision violates APA section 706(2)(A) because it concludes that the Tribe only has five members, relies on the 1998 Resolution which is invalid because it was not adopted by a majority of the Tribe's members, and relies on an enrollment of the Burleys into the Tribe which was not approved by a majority of the Tribe's members.

103. The August 31 Decision violates APA section 706(2)(A) because it abdicates the Secretary's fiduciary duty to the Tribe and its members. Under the IRA, the Secretary has a duty to ensure that the Department recognizes only a legitimate tribal government that reflects the participation of a majority of the Tribe's membership. In addition, under section 450J of PL 638, the Secretary has a fiduciary duty to ensure that any tribal organization that receives federal funds to support tribal government, programs and services actually uses those funds to provide services and assistance to the tribe's members in a fair and uniform manner.

104. The August 31 Decision is arbitrary and capricious because the AS-IA failed to consider relevant evidence bearing on the issues before him and ignored evidence contradicting his position. This evidence includes, but is not limited to:

- a. Personal genealogies and other information submitted to the BIA in response to the BIA's 2007 public notice regarding Tribal organization, which demonstrate that there are currently several hundred adult members of the Tribe;
- b. The Tribe's current roster of adult members submitted with Plaintiffs' May 3, 2011 briefing, which demonstrates that there are currently several hundred adult members of the Tribe;
- c. Information showing that the 1998 Resolution was adopted without the participation or consent of a majority of the Tribe's adult members at that time; and

- d. Evidence of irregularities and improprieties in Burley's attempt to displace Mr. Dixie as Tribal chairperson and take control of the Tribe for herself.

105. The August 31 Decision violates APA section 706(2)(A) because, on information and belief, the AS-IA and personnel involved in the decisional process for the August 31 Decision engaged in improper ex parte contacts with representatives of Ms. Burley prior to the issuance of the August 31 Decision, and prejudged the issues involved in the August 31 Decision, in violation of the Department's regulations at 43 C.F.R. Part 4, including 43 C.F.R. section 4.27.

106. The August 31 Decision violates APA section 706(2)(A) because, on information and belief, the AS-IA and personnel involved in the decisional process for the August 31 Decision engaged in improper ex parte contacts prior to the issuance of the August 31 Decision with BIA employees or representatives who represented the BIA in Ms. Burley's appeal before the Board, and prejudged the issues involved in the August 31 Decision, in violation of the Department's regulations at 43 C.F.R. Part 4, including 43 C.F.R. section 4.27.

107. As a direct and proximate result of the August 31 Decision, Mr. Dixie, Velma Whitebear, Antonia Lopez, Michael Mendibles, Evelyn Wilson and Antone Azevedo have been and will continue to be denied the benefits of Tribe membership and will suffer irreparable injury and financial loss.

108. As a direct and proximate result of the August 31 Decision, Mr. Dixie, the Tribal Council, and Velma Whitebear, Antonia Lopez, Michael Mendibles, Evelyn Wilson and Antone Azevedo have been and will continue to be denied their rightful opportunity to participate in the organization and governance of the Tribe and will suffer irreparable injury and financial loss.

109. As a direct and proximate result of the August 31 Decision, the Tribe, the Tribal Council and the members of the Tribe, including Mr. Dixie, Velma Whitebear, Antonia Lopez, Michael Mendibles, Evelyn Wilson and Antone Azevedo, have been and will continue to be denied the

use of the PL 638 funds available through the BIA, and the State Funds provided by the Commission, and will suffer irreparable injury and financial loss.

110. As a direct and proximate result of the August 31 Decision, the Tribe and its members will be denied recognition to conduct traditional Tribal activities and official acts, and to intervene in legal and regulatory proceedings to protect the Tribe's interests and those of its members, and will suffer irreparable injury and financial loss.

SECOND CAUSE OF ACTION

(Violation of Substantive Due Process)

111. Plaintiffs re-allege the above paragraphs and incorporate those paragraphs herein as if set forth in full.

112. The August 31 Decision violates the Due Process Clause of the Fifth Amendment to the United States Constitution because it arbitrarily deprives Plaintiffs of their fundamental rights as Tribal members, including the rights to Tribal citizenship, political representation, and self-government. Because the August 31 Decision knowingly and deliberately strips Plaintiffs of these rights without regard for bedrock principles of democratic self-government and majority rule, the AS-IA's egregious conduct shocks the conscience and must be reversed.

THIRD CAUSE OF ACTION

(Violation of Procedural Due Process)

113. Plaintiffs re-allege the above paragraphs and incorporate those paragraphs herein as if set forth in full.

114. The August 31 Decision violates the Due Process Clause of the Fifth Amendment to the United States Constitution because it erroneously deprives Plaintiffs of constitutionally protected liberty and property interests without adequate procedural protections, including a pre-deprivation hearing. These interests include, but are not limited to, the right to education, health and other benefits

to which individual Plaintiffs are entitled as members of the Tribe, and the right to the State Funds and the PL 638 funds to which the Tribe is legally entitled.

115. The August 31 Decision violates the Due Process Clause of the Fifth Amendment to the United States Constitution because, on information and belief, the AS-IA and/or other Department personnel involved in the decisional process for the August 31 Decision engaged in improper ex parte contacts with representatives of Ms. Burley prior to the issuance of the August 31 Decision and prejudged the issues involved in the Decision.

116. The August 31 Decision violates the Due Process Clause of the Fifth Amendment to the United States Constitution because, on information and belief, the AS-IA and/or other Department personnel involved in the decisional process for the August 31 Decision engaged in improper ex parte contacts prior to the issuance of the August 31 Decision with BIA employees or representatives who represented the BIA in Ms. Burley's appeal before the Board, and prejudged the issues involved in the Decision.

FOURTH CAUSE OF ACTION

(Violation of the Indian Civil Rights Act)

117. Plaintiffs re-allege the above paragraphs and incorporate those paragraphs herein as if set forth in full.

118. The August 31 Decision violates the Indian Civil Rights Act, 25 U.S.C. 1301 *et seq.*, ("ICRA") because, by recognizing the 1998 Resolution and Burley government, it deprives Plaintiffs and other Tribal members of fundamental political rights and protected liberty and property interests without due process of law.

119. The August 31 Decision violates the ICRA because, by recognizing the 1998 Resolution and Burley government, it denies individual Plaintiffs and other Tribal members equal

protection by depriving them of fundamental rights that are granted to other Tribal members, without a legitimate basis.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs respectfully request that this Court issue an order:

A. Vacating and setting aside the August 31 Decision as arbitrary, capricious, unsupported by substantial evidence in the record, an abuse of discretion and otherwise not in accordance with law;

B. Declaring that the Secretary (acting through his subordinate, the AS-IA) violated his fiduciary duty to the Tribe and its individual members by adopting the August 31 Decision and allowing the Burleys to obtain federal funding intended to benefit the Tribe and its members;

C. Declaring that the AS-IA's August 31 Decision denied Plaintiffs substantive due process;

D. Declaring that the AS-IA's August 31 Decision denied Plaintiffs procedural due process;

E. Declaring that the AS-IA's August 31 Decision violated the ICRA by recognizing a Tribal governing document and governing body that deprive Plaintiffs and other Tribal members of equal protection and due process of law;

F. Directing the AS-IA and the BIA to establish government-to-government relations only with a Tribal government that reflects the participation of the entire Tribal community, including individual Plaintiffs and all other Current Members;

G. Preliminarily and permanently enjoining the Secretary, AS-IA and BIA from taking any action to implement the August 31 Decision, including any award of federal funds to the Burleys under PL 638 or any other federal law or program;

H. Awarding the Plaintiffs damages, and attorneys fees and reasonable costs incurred in connection with this action; and

I. Granting such other relief as the Court deems just and proper.

Respectfully submitted,

/s/ M. Roy Goldberg
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Dated: October 17, 2011

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CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2011, I caused a true and accurate copy of the foregoing First Amended Complaint to be served via first class mail, postage prepaid and via email on the following persons:

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/s/ M. Roy Goldberg
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EXHIBIT A

CVMT-2017-000055



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

AUG 31 2011

Ms. Silvia Burley
10601 N. Escondido Place
Stockton, California 95212

Mr. Yakima Dixie
1231 E. Hazelton Avenue
Stockton, California 95295

Dear Ms. Burley and Mr. Dixie:

Introduction and Decision

On December 22, 2010, I sent you a letter setting out my decision in response to a question referred to me by the Interior Board of Indian Appeals (IBIA) in *California Valley Miwok Tribe v. Pacific Regional Director, Bureau of Indian Affairs*, 51 IBIA 103 (January 28, 2010) (IBIA decision). I determined that there was "no need for the BIA to continue its previous efforts to organize the Tribe's government, because it is organized as a General Council, pursuant to the [1998 General Council Resolution] it adopted at the suggestion of the BIA." I concluded further that there was "no need for the BIA to continue its previous efforts to ensure that the Tribe confers tribal citizenship upon other individual Miwok Indians in the surrounding area."

I issued my December decision without providing the parties a formal opportunity to brief me on the facts and issues as they saw them. As a result of subsequent actions by both parties, I determined to withdraw the December decision, and, on April 8, 2011, I requested briefing from the parties. Counsel for the parties provided detailed responses with numerous exhibits. I appreciate the time and effort that went into providing these responses. I have considered them carefully.

Based on the litigation records in the prior Federal court actions in both California and Washington, D.C., the proceedings before the Department's Interior Board of Indian Appeals, and the material submitted in response to my April 8 letter, I now find the following:

- (1) The California Valley Miwok Tribe (CVMT) is a federally recognized tribe, and has been continuously recognized by the United States since at least 1916;
- (2) At the present date, the citizenship of the CVMT consists solely of Yakima Dixie, Silvia Burley, Rashel Reznor, Anjelica Paulk, and Tristian Wallace;

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(3) The CVMT today operates under a General Council form of government, pursuant to Resolution #CG-98-01, which the CVMT passed in 1998, facilitated by representatives of the Bureau of Indian Affairs (Bureau or BIA)(1998 General Council Resolution);

(4) Pursuant to the 1998 General Council Resolution, the CVMT's General Council is vested with the governmental authority of the Tribe, and may conduct the full range of government-to-government relations with the United States;

(5) Although this current General Council form of government does not render CVMT an "organized" tribe under the Indian Reorganization Act (IRA) (*see e.g.*, 25 U.S.C. 476(a) and (d)), as a federally recognized tribe it is not required "to organize" in accord with the procedures of the IRA (25 U.S.C. § 476(h));

(6) Under the IRA, as amended, it is impermissible for the Federal government to treat tribes not "organized" under the IRA differently from those "organized" under the IRA (25 U.S.C. §§ 476(f)-(h)); and

(7) As discussed in more detail below, with respect to finding (6), on this particular legal point, I specifically diverge with a key underlying rationale of past decisions by Department of the Interior (Department) officials dealing with CVMT matters, apparently beginning around 2004, and decide to pursue a different policy direction.¹ Under the circumstances of this case, it is inappropriate to invoke the Secretary's broad authority to manage "all Indian affairs and [] all matters arising out of Indian relations," 25 U.S.C. § 2, or any other broad-based authority, to justify interfering with the CVMT's internal governance. Such interference would run counter to the bedrock Federal Indian law principles of tribal sovereignty and tribal self-government, according to which the tribe, as a distinct political entity, may "manag[e] its own affairs and govern[] itself," *Cherokee Nation v. Georgia*, 30 U.S. 1, 16 (1832); and would conflict with this Administration's clear commitment to protect and honor tribal sovereignty.

Obviously, the December 2010 decision, and today's reaffirmation of that decision, mark a 180-degree change of course from positions defended by this Department in administrative and judicial proceedings over the past seven years. This change is driven by a straightforward correction in the Department's understanding of the California Valley Miwok Tribe's citizenship and a different policy perspective on the Department's legal obligations in light of those facts.

As discussed below, the BIA clearly understood in 1998 that the acknowledged CVMT citizens had the right to exercise the Tribe's inherent sovereign power in a manner they chose. It is unfortunate that soon after the 1998 General Council Resolution was enacted, an intra-tribal leadership dispute erupted, and both sides of the dispute found, at various points in time in the intervening years, that it served their respective interests to raise the theory that the BIA had a duty to protect the rights of approximately 250 "potential citizens" of the Tribe. A focus on that theory has shaped the BIA's and the Department's position on the citizenship question ever

¹ I recognize that the D.C. Circuit Court of Appeals' 2008 opinion upholding prior Department efforts to organize the CVMT pursuant to the IRA afforded broad deference to the Department's prior decisions and interpretations of the law. *Cal. Valley Miwok Tribe v. United States*, 515 F.3d 1262, 1264-68 (D.C. Cir. 2008).

since. By contrast, today's decision clears away the misconceptions that these individuals have inchoate citizenship rights that the Secretary has a duty to protect. They do not. The Tribe is not comprised of both citizens and potential citizens. Rather, the five acknowledged citizens are the only citizens of the Tribe, and the General Council of the Tribe has the exclusive authority to determine the citizenship criteria for the Tribe. *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 57 (1978). I believe this change in the Department's position is the most suitable means of resolving this decade-long dispute and is in accord with principles of administrative law. *Nat'l Cable & Telecomms. Ass'n v. Brand X Internet Servs.*, 545 U.S. 967 (2005).

Background

This decision is necessitated by a long and complex tribal leadership dispute that resulted in extensive administrative and judicial litigation. Much of the factual background is set out in the prior decisions, so it is not necessary to repeat or even summarize all of it here.

The history of this Tribe, and the record of this case to date, demonstrates the following:

- The CVMT is a federally recognized tribe, 74 Fed. Reg. 40,218, 40,219 (Aug. 11, 2009);
- In 1916, the United States purchased approximately 0.92 acres in Calaveras County, California, for the benefit of 12 named Indians living on the Sheepbranch Rancheria (now Sheep Ranch)(Rancheria) (51 IBIA at 106);
- The Indian Agent, who in 1915 recommended the purchase of the 0.92 acres, described the group of 12 named individuals as "the remnant of once quite a large band of Indians in former years living in and near the old decaying mining town known and designated on the map as 'Sheepbranch.'" *Id.*;
- The record shows only one adult Indian lived on the Rancheria in 1935, a Jeff Davis, who voted "in favor of the IRA" *Id.*;
- In 1966, the record shows only one adult Indian, Mabel Hodge Dixie, Yakima Dixie's mother, lived on the Rancheria, when the BIA crafted a plan for distribution of tribal assets pursuant to the California Rancheria Act of 1958, Pub. L. No. 85-671, 72 Stat. 619, *as amended by* Act of Aug. 11, 1964, Pub. L. No. 88-419, 78 Stat. 390;
- Mabel Hodge Dixie was to be the sole distributee of tribal assets under the 1966 Rancheria distribution plan;
- While the Bureau initiated the process to terminate the Tribe, it never declared the Tribe terminated and has never treated the Tribe as if it had been terminated;
- In 1994, Yakima Dixie wrote the BIA asking for assistance with home repairs and describing himself as "the only descendant and recognized . . . member of the Tribe." (51 IBIA at 107);
- At some point during the 1990s, Silvia Burley "contacted BIA for information related to her Indian heritage, which BIA provided, and by 1998—at BIA's suggestion—Burley had contacted Yakima[]" Dixie (as the IBIA has noted, "it appears that Burley may trace her ancestry to a 'Jeff Davis' who was listed on the 1913 census. . . .") 51 IBIA at 107, including footnote 7;
- On August 5, 1998, Mr. Dixie "signed a statement accepting Burley as an enrolled member of the Tribe, and also enrolling Burley's two daughters and her granddaughter." *Id.*;

- The Tribe was not organized pursuant to the IRA prior to 1998 and did not have organic documents setting out its form of government or criteria for tribal citizenship;
- In September of 1998, BIA staff met with Mr. Dixie and Ms. Burley “to discuss organizing the Tribe,” and on September 24, 1998 sent follow-up correspondence recommending that, “given the small size of the Tribe, we recommend that the Tribe operate as a General Council,” which could elect or appoint a chairperson and conduct business. *Id.* at 108;
- On November 5, 1998, Mr. Dixie and Ms. Burley signed a resolution establishing a General Council, which consisted of all adult citizens of the Tribe, to serve as the governing body of the Tribe. *Id.* at 109;
- Less than five months later, leadership disputes arose between Mr. Dixie and Ms. Burley—and those conflicts have continued to the present day;²
- Initially the BIA recognized Mr. Dixie as Chairman, but later recognized Ms. Burley as Chairperson based primarily upon the April 1999 General Council action appointing Ms. Burley as Chairperson - an action concurred in by Mr. Dixie. *Id.*;
- Mr. Dixie later challenged Ms. Burley’s 1999 appointment;
- In 2002, Ms. Burley filed suit in the name of the Tribe alleging that the Department had breached its trust responsibility to the Tribe by distributing the assets of the Rancheria to a single individual, Mabel Dixie, when the Tribe had a potential citizenship of “nearly 250 people[.]” *See* Complaint for Injunctive and Declaratory Relief at 1, *Cal. Valley Miwok Tribe v. United States*, No. 02-0912 (E.D. Cal. Apr. 29, 2002);
- In March, 2004, the BIA Superintendent rejected a proposed constitution from Ms. Burley because she had not involved the “whole tribal community” in the governmental organization process;
- On February 11, 2005, the Acting Assistant Secretary – Indian Affairs issued a decision on Mr. Dixie’s 1999 appeal, ruling that the appeal of the Bureau’s 1999 decision to recognize Ms. Burley as Chairperson was moot and that the BIA would recognize Ms. Burley only as a person of authority within the Tribe;
- Ms. Burley sued in D.C. District Court challenging the February 2005 decision;
- After the District Court dismissed her challenge, *Cal. Valley Miwok Tribe v. United States*, 424 F.Supp. 2d 197 (D.D.C. 2006), the D. C. Circuit Court of Appeals affirmed, *Cal. Valley Miwok Tribe v. United States*, 515 F.3d 1262 (D.C. Cir. 2008);
- In January 2010, the IBIA rejected Ms. Burley’s appeal objecting to, among other matters, the Superintendent’s decision to continue to assist the Tribe in organizing its government according to the IRA because it viewed the matter as “effectively and functionally a tribal enrollment dispute,” and then referred the matter to me on jurisdictional grounds.

In response to the Board’s referral, I issued my December 22, 2010 decision letter. I intended that decision to resolve the citizenship question referred to me by the IBIA by finding that the current Tribe’s citizenship consisted of the five acknowledged citizens noted above and recognizing the Tribe’s General Council as a tribal government with which the United States may

² I note that the Department repeatedly has offered to assist in mediating this dispute—to no avail. The amount of time and resources focused on these disputes reflects poorly on all the parties, and they must be mindful that continuing this imprudent dispute risks potential adverse consequences well beyond the Tribe and its citizens.

conduct government-to-government relations. Almost immediately, Mr. Dixie filed suit in the D.C. District Court challenging that decision. Recognizing the complex and fundamental nature of the underlying issues, and because I desired the benefit of submissions from the interested parties, I set aside that decision and requested formal briefing.

The submissions by the parties in response to my request were thorough. I have carefully reviewed the submissions and find they were most helpful in enhancing my understanding of the parties' positions.

Analysis

It is clear to me that the heart of this matter is a misapprehension about the nature and extent of the Secretary's role, if any, in determining tribal citizenship of a very small, uniquely situated tribe. Related to this issue is the Tribe's current reluctance to "organize" itself under the IRA, choosing instead to avail itself of the provisions in 25 U.S.C. § 476(h), first enacted in 2004, which recognizes the inherent sovereign powers of tribes "to adopt governing documents under procedures other than those specified . . . [in the IRA.]"

Applicability of General Legal Authorities of the Secretary of the Interior in Indian Affairs

The D.C. Circuit viewed § 476(h) as ambiguous, and then granted *Chevron* deference to the then-Secretary's interpretation of that provision. 513 F.3d at 1266-68. The D.C. Circuit put great weight on the Secretary's broad authority over Indian affairs under 25 U.S.C. § 2, writing that "[w]e have previously held that this extensive grant of authority gives the Secretary broad power to carry out the federal government's unique responsibilities with respect to Indians." *Id.* at 1267, citations omitted. In addition to § 2, 25 U.S.C. §§ 9, and 13, and 43 U.S.C. § 1457, are often cited as the main statutory bases for the Department's general authority in Indian affairs. *Cal. Valley Miwok Tribe v. United States*, 424 F.Supp. 2d 197, 201 (D.D.C. 2006); see also COHEN'S HANDBOOK OF FEDERAL INDIAN LAW § 5.03[2] at 405 (2005 ed.) [hereinafter COHEN]. The D.C. Circuit also cited two cases involving separate bands of the Seminole Nation for the general propositions that the United States has an "obligation" "to promote a tribe's political integrity" as well as "the responsibility to ensure that [a tribe's] representatives, with whom [it] must conduct government-to-government relations, are valid representatives of the [tribe] as a whole." 513 F.3d at 1267 (emphasis added by the Court), citing, *Seminole Nation v. United States*, 313 U.S. 286, 296 (1942), and *Seminole Nation of Oklahoma v. Norton*, 223 F.Supp. 2d 122, 140 (D.D.C. 2002).

In my view, prior Department officials misapprehended their responsibility when they: (1) took their focus off the fact that the CVMT was comprised a five individuals, and (2) mistakenly viewed the Federal government as having particular duties relating to individuals who were not citizens of the tribe. I decline to invoke the broad legal authorities cited above to further intrude into internal tribal citizenship and governance issues in the instant case. In making this decision, I also am mindful of the Supreme Court's recent guidance concerning: (1) the importance of identifying "specific rights creating or duty-imposing statutory or regulatory prescriptions" before concluding the United States is obligated to act in a particular manner in Indian affairs,

and (2) the central role Federal policy plays in administering Indian affairs. *United States v. Jicarilla Apache Nation*, 131 S. Ct. 2313, 2323-24, 2326-27 (June 13, 2011).

Application of Specific Legal Authorities

In my view, prior Department officials (from 2003 to the present) fundamentally misunderstood the role of the Federal government in addressing the CVMT citizenship and governance issues: (1) they misunderstood and ignored the legal authority of CVMT to govern itself through its General Council structure without being compelled to “organize” under the IRA; and (2) they confused the Federal government’s obligations to *possible* tribal citizens with those owed to *actual* tribal citizens.

The February 11, 2005, decision of Acting Assistant Secretary – Indian Affairs Michael D. Olsen stated that, until the Tribe organized itself, the Department could not recognize anyone as the Tribe’s Chairperson, and that the “first step in organizing the Tribe is identifying the putative tribal members.” (2005 Decision at 1-2, *discussed in* 51 IBIA at 112). The D.C. Circuit, after citing the Secretary’s broad authority under 25 U.S.C. § 2, endorsed this approach as a reasonable interpretation of 25 U.S.C. § 476(h) because “[t]he exercise of this authority is especially vital when, as is the case here, the government is determining whether a tribe is organized, and the receipt of significant federal benefits turns on the decision.” 515 F.3d at 1267. As I have stated above, I reject as contrary to § 476(h) the notions that a tribe can be compelled to “organize” under the IRA and that a tribe not so organized can have “significant federal benefits” withheld from it. Either would be a clear violation of 25 U.S.C. § 476(f).

The CVMT currently consists of the five citizens identified above. Under the current facts, the Department does not have a legitimate role in attempting to force the Tribe to expand its citizenship.³ Department officials previously referred to “the importance of participation of a greater tribal community in determining citizenship criteria.” (Superintendent’s 2004 Decision at 3, *discussed in* 51 IBIA at 111-112). The D.C. Circuit, referring to the Tribe’s governance structure that arguably would maintain a limited citizenship, stated “[t]his antimajoritarian gambit deserves no stamp of approval from the Secretary.” 515 F.3d at 1267. However, I know of no *specific statutory or regulatory authority* that warrants such intrusion into a federally recognized tribe’s internal affairs. (As to the more general sources of authority cited in support of Federal oversight of tribal matters, I have explained my views on the proper scope of those authorities above). “Courts have consistently recognized that one of an Indian tribe’s most basic powers is the authority to determine questions of its own membership.” *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 57, 72 n.32 (1978); *United States v. Wheeler*, 435 U.S., 313, 322 n.18 (1978); COHEN § 3.03[3] at 176, *citations omitted*. “[I]f the issue for which the determination is important involves internal affairs of the Indian nation, it is more consistent with principles of tribal sovereignty to defer to that nation’s definition.” *Id.* at 180. As discussed in the previous paragraph, I also believe that, based on an incorrect interpretation of § 476(h), the previous Administration’s views on the IRA’s application to this case were erroneous and led to an improper focus on expanding the size of the Tribe and altering the form of its government.

³ While I believe that it is *equitably* appropriate for the CVMT General Council to reach out to potential citizens of the Tribe, I do not believe it is proper, *as a matter of law*, for the Federal government to attempt to impose such a requirement on a federally recognized tribe.

Mr. Dixie invokes the *Alan-Wilson* IBIA cases to support the theory that the Secretary has a duty to ensure that the potential citizens are involved in the organization of an unorganized, but federally recognized tribe.⁴ 30 IBIA 241. But, in fact, *Alan-Wilson* works directly against Mr. Dixie's position, and this distinction provides additional support for my decision. Unlike CVMT, the Cloverdale Rancheria was a federally recognized tribe terminated under the California Rancheria Act. It was later restored pursuant to the *Tillie Hardwick* litigation and settlement, which required the Rancheria to organize its tribal government under the IRA.

30 IBIA 241, 248.

My review of the history of the CVMT compels the conclusion set out in the December decision and reaffirmed here: the CVMT has been continuously recognized, and its political relationship with the Federal government has not been terminated. The five acknowledged citizens are the only current citizens of the Tribe, and the Tribe's General Council is authorized to exercise the Tribe's governmental authority. In this case, again, the factual record is clear: there are only five citizens of CVMT. The Federal government is under no duty or obligation to "potential citizens" of the CVMT. Those potential citizens, if they so desire, should take up their cause with the CVMT General Council directly.

Given both parties' acknowledgment of the existence of other individuals who could potentially become tribal citizens, the Department's prior positions are understandable. The Department endeavored to engage both parties in a resolution of the tribal citizenship issues, including offers of assistance from the Department's Office of Collaborative Action and Dispute Resolution (CADR) – to no avail. By the time this matter was referred to me by the IBIA in January 2010, serious doubts existed about the likelihood of the parties ever being able to work together to resolve the issues involving the citizenship and governance of the Tribe.

Absent an express commitment from the parties to formally define tribal citizenship criteria, any further effort by the Department to do so would result in an unwarranted intrusion into the internal affairs of the Tribe. Moreover, given the unfortunate history of this case, most likely such efforts would not succeed in accomplishing this objective. While there may be rare circumstances in which such an intrusion would be warranted in order for the Secretary to discharge specific responsibilities, no such specific law or circumstances exist here.

Accordingly, unless asked by the CVMT General Council, the Department will make no further efforts to assist the Tribe to organize and define its citizenship. I accept the Resolution #GC-98-01 as the interim governing document of the Tribe, and as the basis for resuming government-to-government relations between the United States and the Tribe.

While I appreciate that the General Council Resolution may prove lacking as to certain aspects of tribal governance, I also recognize that this tribe is very small and uniquely situated. Many tribes have been able to govern effectively with limited or no written governing documents.

⁴ Mr. Dixie also invokes the case of *Seminole Nation of Oklahoma v. Norton*, 223 F.Supp.2d 122 (D.D.C. 2002) in support of his position. *Seminole Nation* involved a dispute where a particular faction of the Tribe asserted rights to tribal citizenship under an 1866 treaty. *Id.* at 138. There is no overriding treaty or congressional enactment governing tribal citizenship at issue in this dispute.

Conclusion

Based upon the foregoing analysis, I re-affirm the following:

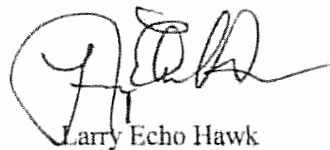
- CVMT is a federally recognized tribe whose entire citizenship, as of this date, consists of the five acknowledged citizens;
- The 1998 Resolution established a General Council form of government, comprised of all the adult citizens of the Tribe, with whom the Department may conduct government-to-government relations;
- The Department shall respect the validly enacted resolutions of the General Council; and
- Only upon a request from the General Council will the Department assist the Tribe in refining or expanding its citizenship criteria, or developing and adopting other governing documents.

In my December 2010 decision letter I rescinded several earlier decisions. I am persuaded that such attempts to rewrite history are fraught with the risk of unintended consequences. Past actions, undertaken in good faith and in reliance on the authority of prior Agency decisions, should not be called into question by today's determination that those prior Agency decisions were erroneous. Thus, today's decision shall apply prospectively.

This decision is final for the Department and effective immediately, but implementation shall be stayed pending resolution of the litigation in the District Court for the District of Columbia. *California Valley Miwok Tribe v. Salazar*, C.A. No. 1:11-cv-00160-RWR (filed 03/16/11).

Finally, I strongly encourage the parties to work within the Tribe's existing government structure to resolve this longstanding dispute and bring this contentious period in the Tribe's history to a close.

Sincerely,



Larry Echo Hawk
Assistant Secretary – Indian Affairs

cc: Robert A. Rosette, Esq.
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EXHIBIT “4”



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Central California Agency
1824 Tribute Road, Suite J
Sacramento, CA 95815-4308



IN REPLY REFER TO:

FEB - 4 2000

Yakima K. Dixie, Vice-Chairperson
Sheep Ranch Rancheria
P.O. Box 41
Sheep Ranch, California 95250

Dear Mr. Dixie:

This correspondence serves three purposes. First, we respond to concerns raised by you and other persons purporting to be members of the Sheep Ranch Rancheria, during a meeting held at the Central California Agency (Agency) on December 28, 1999. Second, we respond to your delivery during the aforementioned meeting of the "Constitution of the (Sheep (Ranch Rancheria) Miwok Indian Tribe of California," purportedly adopted on December 11, 1999. Third, we give you notice of the meeting to be held on Tuesday, February 15, 2000, for the purpose of discussing further these issues among the members of the Tribe.

Allegations of Fraud Raised at our Meeting of December 28, 1999

The concerns raised at our meeting with you and other persons purported to be members of the Sheep Ranch Rancheria (Tribe) center around allegations of fraud or misconduct relative to the change in Tribal leadership during April and May 1999. You provided us with copies of two documents as support for your claims. The first document appears to be a resolution of the General Council, where at a special meeting held on April 20, 1999, the General Council accepted your resignation from the office of Chairperson. The second document contains two letters from you to Silvia Burley wherein you assert that you "cannot and will not (resign) as Chairman" but "do give (Ms. Burley)...the right to act as a delegate to represent the Sheep Ranch Indian Rancheria." During our meeting, you also stated that within two weeks you would submit to the Agency additional documents and statements supporting your claims. However, we did not receive anything from you as of the date of this letter.

At the conclusion of our meeting, we agreed to review our records and provide you with a response regarding your allegations. We also agreed that as a matter of protocol our response would be shared with the person presently recognized by the Agency as the Chairperson of the Tribe, Silvia Burley. We further agreed that our response would be among the subjects of discussion at a future meeting with the Tribe.

Background

Prior to August 1998, the Agency recognized you as the Spokesperson of the Tribe. This recognition was based upon the fact that you are a lineal descendant of the sole distributee (your mother, Mabel Hodge Dixie) identified in the Plan for the Distribution of the Assets of the Sheep Ranch Rancheria, as approved by the Associate Commissioner of Indian Affairs on October 12, 1966. You are also one of the two remaining heirs identified in the Order of Determination of Heirs issued on November 1, 1971, as reaffirmed by subsequent Order issued on April 14, 1993. At that time, the whereabouts of the other remaining heir (your brother Melvin Dixie) were unknown.

On August 5, 1998, as Spokesperson of the Tribe, you accepted as enrolled members of the Tribe four persons: (1) Silvia Burley, (2) her daughter Rashel Reznor, (3) her daughter Anjelica Paulk, and (4) her granddaughter Tristian Wallace. The documents evidencing your action do not state any restrictions upon the rights of these persons as members of the Tribe. As such, we view these persons as members of the Tribe, enjoying all benefits, privileges, rights, and responsibilities of Tribal membership. This includes the right to participate in the initial organization of the Tribe, provided that those persons are eighteen years or older.

On September 8, 1998, and again on October 16, 1998, Agency staff met with you, Ms. Burley, Ms. Reznor, and other interested parties (including representatives from California Indian Legal Services) to discuss the group's interest in formally organizing the Tribe. The group expressed an interest in proceeding and we agreed to provide technical assistance to the group.

Generally, the initial issue to be addressed in the process of organizing an "unterminated" Tribe is that of specifying those persons entitled to participate. The position of the Agency on this subject is that, at a minimum, those persons entitled to organize the Tribe are those persons now living and listed on either (1) the Distribution Plan or (2) the Order of Determination of Heirs, and the lineal descendants of those persons. As stated above, your August 5, 1998, enrollment action is viewed by the Agency as extending to Ms. Burley and Ms. Reznor the right of participation. Thus, as of that date, you, Ms. Burley, and Ms. Reznor formed the group of persons entitled to participate in the organization of the Tribe.

We also recommended that the group consider eliciting the participation of descendants of those persons listed on the Census of Sheepranch-Indians, as attached to the letter by the Special Indian Agent, dated August 13, 1915, recommending the purchase of land that would later become the Sheep Ranch Rancheria. At this time, we do not know whether the group has formally considered this recommendation.

Another recommendation we made involved the initial form of government to be adopted by the group, and was based upon the General Council concept. To this end, we prepared a draft resolution that would establish a General Council as the governing body of the Tribe and empowered that body to act with regard to various aspects of the organization process. On November 5, 1998, the majority of the adult members of the Tribe, adopted Resolution #GC-98-01, thus establishing a General Council to serve as the governing body of the Tribe.

Resolution #GC-98-01 provided for the appointment of a Chairperson and the election of a Secretary/Treasurer. We do not have any record of the appointment of a Chairperson or the election of a Secretary/Treasurer. We do have two letters, both from Ms. Burley, the first dated April 2, 1999, wherein she asserts that she is the elected Secretary/Treasurer of the Tribe, and the second dated April 13, 1999, which states Ms. Burley's title as Secretary/Treasurer. The second letter also indicates a courtesy copy was sent to Yakima Dixie, Chairman.

The first of the two documents you provided us during our meeting on December 28, 1999, indicate that, at a special meeting held on April 20, 1999, the General Council accepted your resignation from the office of Chairperson. The second document contains two letters from you to Ms. Burley, dated April 21, 1999, wherein you assert that you "cannot and will not (resign) as Chairman" but "do give you...the right to act as a delegate to represent the Sheep Ranch Indian Rancheria." Prior to our meeting, we did not have copies of these documents in our records.

The next correspondence regarding the Tribe contained in our records is dated May 14, 1999, from Mary T. Wynne, Attorney at Law, which purported to transmit to the Agency several documents, including a constitution, an attorney contract, and a certification of election. However, a copy of the certification of election was not received by the Agency until May 27, 1999. The certificate states that an election occurred on May 8, 1999, pursuant to Article XIV of the constitution ratified the same day. As a result of the election, Ms. Burley became Chairperson, you became Vice-Chairperson, and Ms. Reznor became Secretary/Treasurer. Also contained in our records is a copy of the May 8, 1999, General Council Meeting Notice upon which your signature appears.

As for the attorney contract that was enclosed with the May 14, 1999, correspondence, the Agency by letter addressed to you and dated May 27, 1999, returned the proposed contract to the Tribe without action for a number of reasons, including the fact that the "Agency has not received any documentation from the tribe which would clarify how, when and where the leadership of the tribe changed from having Mr. Yakima Dixie be the Chairperson to Ms. Silvia Burley assuming that elected position." The Agency did not receive a written response from the Tribe addressing the lack of documentation. As stated above, the Agency did receive on May 27, 1999, copies of the Certificate of Election and the May 8, 1999, General Council Meeting Notice.

Analysis

You alleged that the events during April and May 1999 leading to the change in Tribal leadership resulted from fraud and your lack of awareness of what was happening during that period of time. You also requested that the Agency take action to clear up this matter. We cannot at this time fulfill your request that the Agency act to clear up this matter.

The general position of the Agency is that the appointment of Tribal leadership and the conduct of Tribal elections are internal matters. Tribal members reasonably believing such actions to be invalid have the right to appeal as a matter of due process. Appeals are to be made within a reasonable time after the election and in an appropriate manner as defined by Tribal law. Appeals are to be made directly to and resolved within the appropriate Tribal forum designated and empowered under Tribal law to process and decide such appeals.

When the appointment of Tribal leadership or the conduct of a Tribal election is the subject of an appeal, the Agency as a matter of policy continues to recognize the Tribal government as constituted prior to the appointment or election. Such recognition continues until either (1) the Agency is assured that the appeal is resolved, or (2) the Agency determines that resolution of the appeal within a reasonable time appears unlikely. In the first instance, the Tribe's assurance of resolution of the appeal is the basis for Agency acknowledgement of the newly appointed or elected officials of the Tribal government.

However, in the second instance, often the appointment of Tribal leadership or the conduct of a Tribal election becomes the center of a larger dispute, such that appeals are unlikely to be handled in a manner affording due process. The factions then will approach the Agency and request our recognition of each faction's actions. As a matter of policy, the Agency informs the Tribal government as constituted prior to the appointment or election that a continuing dispute regarding the composition of the governing body of the Tribe raises concerns that a duly constituted government is lacking. The Agency then advises the Tribe to resolve the dispute internally within a reasonable period of time, and that failure to do so may result in sanctions taken against the Tribe, up to and including the suspension of the government-to-government relationship between the Tribe and the United States. Such suspensions are rare, but they do occur.

With respect to your allegations regarding the transition in leadership of the Tribe, we view such allegations as the basis of an appeal regarding the appointment of Tribal leadership and the conduct of the May 8, 1999, Tribal election. Such an appeal should have been pursued within a reasonable time after the election was conducted, and made to the appropriate body empowered to decide such an appeal. Whether your letter of April 21, 1999, to Silvia Burley, wherein you expressed your inability to resign

from the office of Chairperson, was such an appeal is a question to be decided by the Tribe. As regards the May 8, 1999, Tribal election, you provided no evidence to us that you pursued or attempted to pursue those remedies available to you within the Tribe. If you possess such evidence, you should present it to the appropriate body empowered to process and decide an appeal. Thus, consistent with Agency policy, we cannot at this time fulfill your request that the Agency act to clear up this matter as this issue is an internal matter to be resolved by the Tribe.

Constitution of December 11, 1999

During our meeting on December 26, 1999, you provided us with a document entitled, "Constitution of Sheep (Ranch (Rancheria) Miwok Indian Tribe of California" (Constitution). The last page of the Constitution indicates that it was adopted on December 11, 1999.

Please find enclosed the Constitution. We return it to you, without action, as a formal request for review did not accompany the Constitution. Further, the body that acted on December 11, 1999, upon the document does not appear to be the proper body to so act.

Proposed Meeting of February 15, 2000

During our meeting on December 26, 1999, you requested that another meeting be held after we responded to your concerns. For this reason, and in light of the present dispute within the Tribe, we scheduled the requested meeting for Tuesday, February 15, 2000, at 11:30 a.m., to be held in the Conference Room of the Central California Agency. The purpose of this meeting will be to discuss the issues raised in light of the discussion above, as well as steps the Tribe may take to resolve this matter internally.

You also requested that only members of the General Council and one non-attorney representative for each side participate in this meeting. We understand that Rebecca Cuthill and your brother, Melvin Dixie, will be accompanying you to this meeting. Ms. Cuthill was present at our meeting on December 28, 1999. We briefly met with Melvin Dixie at the Agency on January 13, 2000, and informed him of the efforts made to formally organize the Tribe. At that time, he expressed an interest in being involved in that process. Since Melvin Dixie is the only remaining heir, other than you, identified in the Order of Determination of Heirs, he is entitled to participate in the organization of the Tribe.

A copy of this letter is being sent under separate cover letter to Ms. Burley so as to apprise her of your concerns and our position. The separate cover letter will provide Ms. Burley with notice of the February 15, 2000, meeting, as described in this letter.

Should you have any questions with regard to this matter, please contact Mr. Raymond Fry, Tribal Operations Officer, at (916) 566-7124.

Sincerely,


Dale Risling, Sr.
Superintendent

Enclosure

cc: Rebecca Cuthill (without enclosure)

EXHIBIT “5”

MAR - 7 2000

Silvia Burley, Chairperson
Sheep Ranch Rancheria
1055 Winter Court
Tracy, California 95376

Dear Ms. Burley:

The purpose of this correspondence is to provide you with a summary of the discussion that occurred during a meeting on February 15, 2000, held at the Central California Agency (Agency), with Yakima Dixie, Vice-Chairperson of the Sheep Ranch Rancheria (Tribe), his brother Melvin Dixie, and other interested parties. The summary responds to the concerns you expressed in your letter dated February 15, 2000. We also respond to your requests expressed in your letter dated February 24, 2000.

The Meeting of February 15, 2000

At the request of Yakima Dixie, Vice-Chairperson, which he made during a meeting at the Agency with him and other interested parties on December 28, 1999, we scheduled a meeting to be held at the Agency on February 15, 2000. As explained in our February 4, 2000, letters to you and to Mr. Dixie, the purpose of that meeting was to discuss the issues raised in those letters, as well as steps the Tribe may take to resolve this matter internally. Mr. Dixie also requested that only members of the General Council and one non-attorney representative for each side participate in that meeting. We understood Mr. Dixie's request as a desire to ensure a free exchange of ideas among those persons comprising the body possessing authority to decide the issues.

By letters dated February 9, 2000, you informed the Agency that the Tribe concluded that the February 15, 2000, meeting was inconsistent with Tribal management of its own affairs. On that basis, you and Rashed Reznor declined to participate in that meeting.

On February 15, 2000, we informed Yakima Dixie, his brother Melvin Dixie, and other interested parties, of the decision of Rashed Reznor and you not to participate in the scheduled meeting. However, Yakima Dixie requested a brief meeting with us to address general questions arising from our February 4, 2000, letter to him. We agreed to meet for that limited purpose. The following is a summary of the ensuing discussion.

At the outset of the meeting, we reiterated to the parties present the Agency's position that the issues raised in our letter of February 4, 2000, are internal matters. As such, the parties present needed to seek redress within the appropriate Tribal forum empowered to process and decide such issues. We also reiterated our view, notwithstanding a Tribal decision to the contrary, that the appropriate Tribal forum is the General Council. At present, we view, again notwithstanding

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a Tribal decision to the contrary, the General Council as comprised of Yakima Dixie, Rashel Reznor, and you. The rights of Melvin Dixie, Rocky McKay, and other interested parties, to participate in the governance of the Tribe are to be determined by the appropriate Tribal forum, and are further discussed below.

Your Membership Status

The discussion then turned to the assertion by Yakima Dixie that his act of August 5, 1998, to accept Rashel Reznor, Anjelica Paulk, Tristian Wallace, and you, as enrolled members of the Tribe was a limited enrollment. He explained that he intended only to grant to the four of you such membership rights necessary to qualify the four of you for services offered by the Bureau of Indian Affairs to members of federally recognized tribes. Yakima Dixie stated that his intent was consistent with the context in which you originally approached him, seeking a means of obtaining additional assistance after such assistance previously provided to you by the Jackson Rancheria was discontinued. As evidence of his position, Yakima Dixie produced videotape of a meeting held at Yakima Dixie's residence on or about October 16, 1998, at which representatives from the Agency and the California Indian Legal Services were present. We viewed a portion of the videotape documenting a discussion of your potential eligibility as a member of the Tribe to receive scholarship, housing, and other assistance. Afterward, we expressed our view that it was unlikely that the Tribe would find such a limitation on your enrollment expressed in the videotape. Further, we pointed out the fact, as stated in our letter of February 4, 2000, that the documents signed by Yakima Dixie to effect your enrollment expressed no such limitation. Moreover, we explained that Yakima Dixie's subsequent actions tended to establish the contrary view that you possess full rights of membership, since Mr. Dixie only objected to your participation in the deliberations of the decision-making body of the Tribe many months after the transition in leadership.

Allegations of Fraud or Misconduct

The discussion then turned to the allegations of fraud or misconduct relative to the change in Tribal leadership during April and May 1999. Yakima Dixie asked what action we were going to take. We explained that there was no action for the Agency to take, consistent with our position as expressed in our letter of February 4, 2000, that the allegations are issues properly decided within the appropriate Tribal forum. Thus, we explained, in light of federal law and policy, there was no basis for Agency involvement, since this situation is a dispute of an internal nature.

Your Decision Not to Participate in the Meeting

Yakima Dixie then asked why you and Rashel Reznor did not attend the meeting, and whether we were going to do something about your lack of participation. We explained that attendance at the meeting was not mandatory. Our reasons for fulfilling Mr. Dixie's request were threefold. First, we believed fulfilling the request was appropriate to provide a safe neutral location for the meeting. Second, by hosting a meeting at the Agency, we would assure our availability to answer general questions regarding steps the Tribe may take to resolve this matter internally. Third, we believed the meeting would assure a free exchange of ideas among the persons comprising the body possessing authority to decide the issues. However, we believed that requiring the mandatory participation of the parties would likely be viewed as an intrusion into an internal matter of the Tribe.

We also discussed your letter to Yakima Dixie, dated February 9, 2000, wherein you informed Mr. Dixie of the Tribe's decision to extend to him a thirty-day period within which to raise his concerns and present his issues to the Tribe. We reiterated to Mr. Dixie of our position that, where issues are internal in nature, their resolution must be sought within the appropriate Tribal forum. In light of your letter and consistent with our position, we suggested that Mr. Dixie send to the Tribe a letter stating his claims and requesting a hearing. Moreover, we recommended Mr. Dixie provide the Tribe with notice of that address where he expected delivery of notices of Tribal meetings and other correspondence to occur. We also suggested that Mr. Dixie inform the Tribe of any circumstances which may limit his ability to participate in Tribal affairs, such as a lack of access to transportation or an inability to pay out-of-pocket costs of transportation. If Mr. Dixie believes such circumstances exist, he should request financial assistance from the Tribe or suggest alternatives he believes may reduce or eliminate potential barriers to his participation in Tribal affairs. We also suggested that Mr. Dixie provide the Agency with a courtesy copy of such a notice. To date, no such courtesy copy has been received at the Agency.

Ability of Rocky McKay to Participate

During the meeting, Rocky McKay presented us with an original affidavit from his mother, Wanda Lewis, wherein she states that Yakima Dixie is the true father of Mr. McKay. We briefly reviewed the document. We then expressed our view that Mr. McKay may be entitled to participate in the organization of the Tribe, if he can establish that he is a lineal descendant of Yakima Dixie, one of the heirs now living listed in the Order of Determination of Heirs issued on November 1, 1971, as reaffirmed by subsequent Order issued on April 14, 1993. Further, we informed Mr. McKay that the subject of what evidence is acceptable for establishing his lineal descendancy is an internal matter to be determined by the Tribe. Thus, Mr. McKay's ability to participate in the organization of the Tribe also depends upon whether he can provide that type of evidence determined by the Tribe to be acceptable for purposes of establishing lineal descendancy.

We then recommended that Rocky McKay provide to the Tribe a written request to be enrolled as a member of the Tribe. We also recommended that Mr. McKay enclose with his request any documents and other evidence he believed to be acceptable for establishing his lineal descendancy.

By way of a letter dated February 25, 2000, we informed Rocky McKay that the Tribe would likely view the affidavit from Wanda Lewis as insufficient evidence of Yakima Dixie's paternity. In general, where the Bureau of Indian Affairs is performing enrollment functions, a valid affidavit from the purported father is acceptable evidence of paternity. However, as stated previously, the subject of what evidence is acceptable for establishing paternity is an internal matter to be determined by the Tribe. Thus, we recommended that Mr. McKay obtain from Yakima Dixie a notarized affidavit asserting his paternity. We also recommended that Mr. McKay seek an amendment to his birth certificate, since Yakima Dixie is not named therein as the father. We further recommended that Mr. McKay request financial and technical assistance from the Tribe in obtaining an affidavit or any other evidence the Tribe may determine to be necessary to establish his eligibility for enrollment and membership in the Tribe.

In our February 25, 2000, letter to Rocky McKay, we expressed the view that the letter accompanying his correspondence dated November 22, 1999, from Yakima Dixie declaring his adoption of Mr. McKay as a member of the Tribe would likely be viewed by the Tribe as ineffective. Copies of these documents were faxed by the Agency to you on December 7, 1999. We also informed Mr. McKay that in general, only the Tribe, acting at a duly noticed, called, and convened meeting at which a quorum is present, is the proper body to consider and effect his enrollment in the Tribe.

Ability of Melvin Dixie to Participate

Also during the February 15, 2000, meeting, we discussed the right of Melvin Dixie to participate in the organization of the Tribe. We advised Melvin Dixie that he is entitled to participate in the organization of the Tribe because he is one of the heirs now living listed in the Order of Determination of Heirs issued on November 1, 1971, as reaffirmed by subsequent Order issued on April 14, 1993. We then recommended Mr. Dixie provide to the Tribe written notice of his present address and telephone number, as the present leadership and administration of the Tribe must have such information in order to deliver proper and timely notice of Tribal meetings. We further advised Mr. Dixie to inform the Tribe of any circumstances which may limit his ability to participate in Tribal affairs, such as a lack of access to transportation or an inability to pay out-of-pocket costs of transportation. If Mr. Dixie believes such circumstances exist, he should request financial assistance from the Tribe or suggest alternatives he believes may reduce or eliminate potential barriers to his participation in Tribal affairs.

In connection with Melvin Dixie's right to participate in the organization of the Tribe, we expressed the view that he would likely be requested to provide to the Tribe proof of his identity. We explained that the subject of what evidence is acceptable for establishing identity is an internal matter to be determined by the Tribe. Therefore, we suggested that Mr. Dixie provide written notice to the Tribe of his assertion of entitlement to participate in the organization of the Tribe, and to enclose documents and other evidence he believed to be acceptable for establishing his identity.

In a subsequent letter dated February 25, 2000, we further recommended that Melvin Dixie request financial and technical assistance from the Tribe in obtaining any other evidence the Tribe might determine to be necessary.

In the aforementioned letter, we also discussed our views related to an affidavit by Melvin Dixie. The affidavit was received at the Agency on February 1, 2000. In the affidavit, among other assertions, Melvin Dixie stated that he is the father of a son. In our letter, we recommended that Melvin Dixie provide to the Tribe a written request that his son be enrolled as a member of the Tribe. We suggested Mr. Dixie enclose with his request a photocopy of the birth certificate or provide other evidence establishing that he is the father of his son. We further suggested that Mr. Dixie obtain, if not already in his possession, a certified copy of the birth certificate naming Mr. Dixie as the father of his son. Moreover, we recommended that Melvin Dixie, should he not be named in the birth certificate, complete an affidavit asserting his paternity of his son, and have the affidavit notarized. We also suggested that Melvin Dixie seek an amendment to the birth certificate if he is not named as the father in the birth certificate. We then recommended that Melvin Dixie request assistance from the Tribe in obtaining a certified birth certificate, an affidavit, or any other evidence the Tribe might determine to be necessary to establish his son's eligibility for enrollment and membership in the Tribe.

Your Letter of February 15, 2000

As for your concern expressed in your letter of February 15, 2000, that the meeting of the same day with Yakima and Melvin Dixie and other interested parties was improper, we assure you that the meeting was completely proper. First and foremost, we agreed to meet, at the request of an officer of the Tribe's governing body, for the limited purpose of addressing general questions arising from our letter of February 4, 2000. Moreover, we reiterated to the parties present our position as expressed in our letter of February 4, 2000, that these issues are internal matters to be considered and acted upon by the appropriate Tribal forum. Thus, we believe that our actions were consistent with our responsibility to provide technical assistance, and with established policies of non-interference, deference to Tribal decision-making, and respect for Tribal self-determination and sovereignty.

Your Letter of February 24, 2000

In your letter of February 24, 2000, you requested copies of the "sworn affidavits" submitted to the Agency by Yakima Dixie "alleging fraud on the part of the Tribal Council and that Rocky McKay is his son." Unfortunately, we cannot fulfill your request, as no such documents by Mr. Dixie are maintained within the records of the Agency.

As to your statement that the Agency "refused" to provide the Tribe with information as to the address and location of Melvin Dixie, we have no record of a Tribal request for such information. Further, such information is contained in a system of records covered by the Privacy Act (5 USC § 552a). As such, we are unable to release this information to you without the express consent of Melvin Dixie. As stated above, we also suggested in our letter of February 25, 2000, that Mr. Dixie provide this information to the Tribe.

Your Letter Postmarked February 2, 2000

As for your undated letter, postmarked February 2, 2000, requesting that we forward a letter to Yakima Dixie regarding the Regular Tribal Meeting scheduled for February 7, 2000, we were unable to fulfill your request. The letter was received at the Agency on Thursday afternoon, February 3, 2000. Even if the Agency, within a twenty-four hour period, had processed and forwarded the letter via overnight mail, the meeting day of Monday, February 7, 2000, would likely be the earliest Yakima Dixie would have received the letter. Thus, we return to you the enclosed sealed envelope addressed to Yakima Dixie.

Conclusion

The issues surrounding the present leadership and membership of the Tribe are internal matters to be resolved within the appropriate Tribal forum. As a matter of policy, the Agency will not interfere in the internal matters of the Tribe. However, if in time a dispute regarding the composition of the governing body of the Tribe continues without resolution, the government-to-government relationship between the Tribe and the United States may be compromised. In such situations, the Agency will advise the Tribe to resolve the dispute internally within a reasonable period of time. The Agency will also inform the Tribe that its failure to do so may result in sanctions against the Tribe, up to and including the suspension of the government-to-government.

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The Tribe, in the letter dated February 9, 2000, granted a thirty-day period of time to Yakima Dixie within which to raise his concerns and present his issues to the Tribe. This fact demonstrates that the Tribe is attempting to resolve this internal matter. We respectfully request that the Tribe inform us in writing of the action taken by the appropriate Tribal forum to resolve the dispute. We further request the Tribe's written response clearly explain what action was taken to resolve the dispute, the legal authority in Tribal law for the action, and the rationale for the action.

As always, Agency staff is available to the extent resources permit to provide the Tribe with technical assistance, upon your written request.

Should you have any questions with regard to this matter, please contact Mr. Raymond Fry, Tribal Operations Officer, at (916) 566-7124.

Sincerely,

Sgd. Dale Risling, Sr.

Dale Risling, Sr.
Superintendent

Enclosure

cc: 3703-P3 Sheep Ranch Rancheria FY 00
Tribal Operations Chron
Superintendent Chron
Blind Copy (Brian)

BGolding, Sr.:03/06/2000

CVMT-2011-000254

EXHIBIT “6”

**ORIGINAL
FILED**

JUL 18 2001

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Deputy Clerk

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OF CALIFORNIA; YAKIMA DIXIE,
MELVIN DIXIE, and ROCKY DIXIE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CIV.S-01 - 1389 MLS DAD

Case No. _____

COMPLAINT FOR:

1. Fraud;
2. Violation of the Racketeer Influenced and Corrupt Organizations;
3. Accounting; and,
4. Declaratory Relief.

SHEEP RANCH (RANCHERIA) MIWOK
INDIAN TRIBE OF CALIFORNIA;
YAKIMA DIXIE (CHIEF), MELVIN
DIXIE, and ROCKY DIXIE.

Plaintiffs,

vs.

SILVIA BURLEY, TIGER BURLEY; and
RASHEL REZNOR,

Defendants.

Plaintiffs SHEEP RANCH (RANCHERIA) MIWOK INDIAN TRIBE OF CALIFORNIA
(hereinafter "Sheep Ranch Miwok Tribe"), YAKIMA DIXIE, MELVIN DIXIE and ROCKY
DIXIE allege as follows:

PARTIES

1. Plaintiff Sheep Ranch Miwok Tribe was recognized by the United States Bureau of
Indian Affairs and on June 12, 1935 the Sheep Ranch Miwok Tribe voted to accept the terms of
the Indian Reorganization Act (P.L. 73-383; 48STAT. 984). The Sheep Ranch Miwok Tribe is a
Federally recognized Indian Tribe as confirmed by the inclusion of the Tribe and the list of
Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of
Indian Affairs as published in the Federal Register on October 23, 1997.

COMPLAINT

1 2. Plaintiff Yakima Dixie was recognized on October 1, 1971 as an heir and possessing
2 an undivided interest in the Sheep Ranch Miwok Tribe. The Bureau of Indian Affairs recognized
3 Yakima Dixie as a spoke's person for the Sheep Ranch Miwok Tribe.

4 3. Plaintiff Melvin Dixie was recognized on October 1, 1971 as owning an undivided
5 interest in the Sheep Ranch Miwok Tribe.

6 4. Plaintiff Rocky Dixie is the son of Yakima Dixie and a member of the tribe.

7 5. Plaintiffs Yakima Dixie, Melvin Dixie and Rocky Dixie are lineal descendants

8 6. Defendant SHEEP RANCH (RANCHERIA) OF ME-WUK INDIANS (hereinafter
9 "Burley Me-Wuk Indians") lodged a purported constitution of the "Sheep Ranch Band of Me-
10 Wuk Indians" - the constitution has not been recognized by the United States Bureau of Indian
11 Affairs.

12 7. Defendant Silvia Burley is not a lineal descendant of the Sheep Ranch Miwok Tribe.
13 Rather based upon recommendations and encouragement of the Bureau of Indian Affairs she was
14 voted a tribal member.

15 8. Defendant Tiger Burley is not a purported member of the Sheep Ranch Miwok Tribe
16 nor of the Burley Me-Wuk Indians. He is the husband of Silvia Burley.

17 9. Defendant Rashel Reznor is not a lineal descendant of the Sheep Ranch Miwok Tribe
18 but is the daughter of Silvia Burley and Tiger Burley. She was voted as member of the tribe
19 upon the recommendation of the Bureau of Indian Affairs.

20 **JURISDICTION AND VENUE**

21 10 This court has exclusive jurisdiction pursuant to the provisions of 28 USC §1362
22 providing that the district court shall have original jurisdiction of all civil actions brought by any
23 Indian tribe or band.

24 11. The court also has jurisdiction over the subject matter of this action based upon 28
25 USC §1331 concerning original jurisdiction on all civil actions arising under the Constitution,
26 laws, or treaties of the United States.

27 12. At all relevant times to this action Defendants resided and the events arose in the
28 Eastern District of California where the Sheep Ranch Miwok Tribe is located. Venue is proper

1 pursuant to 28 USC §1391.

2 INTRODUCTION

3 13. The Sheep Ranch Miwok Tribe is a small tribe located in Sheep Ranch, California in
4 the County of Calaveras, State of California. It is the only federally recognized "Rancheria" in
5 Calaveras County.

6 14. It is a small tribe and it is recognized by the United States Government. The "true
7 tribal members those born of lineal descendants" are the progeny of Mabel (Hodge) Dixie who
8 have surviving sons Yakima Dixie and Melvin Dixie. Rocky Dixie is the son of Yakima Dixie.
9 Yakima Dixie, Melvin Dixie and Rocky Dixie are lineal descendants of Mabel (Hodge) Dixie.

10 15. The tribe was recognized by the United States Government.

11 16. Thereafter, Defendants Silvia Burley and Rashel Reznor (mother and daughter)
12 approached the United States Bureau of Indian Affairs in order to align themselves and be
13 accepted by a California Indian tribe. After several attempts the Bureau of Indian Affairs
14 encouraged Yakima Dixie, Chief of the Sheep Ranch Miwok Tribe to accept Silvia Burley and
15 Rashel Reznor as non lineal descendants but members of the Sheep Ranch Miwok Tribe in order
16 for them to obtain some benefits since they had not been placed with another tribe.

17 17. Upon the recommendation of the United States Bureau of Indian Affairs Yakima
18 Dixie, Chief of the Sheep Ranch Miwok Tribe agreed to accept Silvia Burley and Rashel Reznor
19 as tribal members.

20 18. Thereafter, Silvia Burley, Rashel Reznor and Tiger Burley proceeded to orchestrate
21 Silvia Burley's appointment as chair person of a different tribe known as the Sheep Ranch
22 Rancheria of Me-Wuk Indians, appoint Rashel Reznor secretary/treasurer and appoint Yakima
23 Dixie vice chair person. The appointments were made without the consent of Yakima Dixie,
24 Melvin Dixie, or Rocky Dixie.

25 19. Silvia Burley and Rashel Reznor lodged a "Constitution of the Sheep Ranch Band of
26 Me-Wuk Indians" with the Bureau of Indian Affairs.

27 20. On or about April 27, 2000 Yakima K. Dixie, Chief-Chair Person filed an
28 "OBJECTION TO THE PROPOSED TRIBAL CONSTITUTION, IN RE SHEEP RANCH

1 (RANCHERIA) MIWOK INDIAN TRIBE OF CALIFORNIA" with the Department of Interior
2 Bureau of Indian Affairs, Tribal Operations. (Attached as Exhibit "A").

3 21. The Department of Interior, Bureau of Indian Affairs, Tribal Operations, has taken no
4 action on the Burley Constitution.

5 22. Yakima Dixie and the Sheep Ranch Miwok Tribe lodged its Constitution with the
6 Bureau of Indian Affairs (Attached as Exhibit "B").

7 23. Silvia Burley and Rashel Reznor have over the past years solicited and accepted funds
8 from the United States Government Department of the Interior, Bureau of Indian Affairs in the
9 hundreds of thousands of dollars. There has never been an accounting nor have Yakima Dixie,
10 Melvin Dixie or Rocky Dixie received any of the monies.

11 24. On or about December 7, 1999 Silvia Burley as Chair Person of the "California Valley
12 Miwok Tribe f/k/a Sheep Ranch Tribe of Me-Wuk" executed an agreement with John Dietrich,
13 Robert Dawson, Harold Chesnin and Alan Ginsburg/NORAM (hereinafter collectively referred
14 to as "Developer") for the development of a "casino project". Silvia Burley has defaulted on the
15 agreement and a complaint has been filed before this Court No. CIV. S-00-2107 DFL DAD.

16 25. Plaintiffs Yakima Dixie, Melvin Dixie, and Rocky Dixie have never consented to nor
17 participated in any of the actions taken by Defendants.

18 **FIRST CAUSE OF ACTION**
19 **(Fraud)**

20 26. Plaintiffs incorporate as if fully set forth herein the allegations of paragraphs 1
21 through and including 25, above.

22 27. Defendants Silvia Burley and Rashel Reznor represented to Plaintiffs that if voted as
23 non lineal tribal members would in good faith follow Yakima Dixie's leadership and comply
24 with the desire and wishes of the descendants of the lineal tribe Sheep Ranch Miwok Tribe.

25 28. Based upon these representations Silvia Burley and Rashel Reznor were voted as non
26 lineal tribe members at the request of Defendants and the United States Bureau of Indian Affairs.

27 29. The above representations were false.

28 30. Defendants and co-conspirator Tiger Burley intended to not follow the leadership of

1 the lineal descendants of the Sheep Ranch Miwok Tribe. Instead, they voted to give the
2 chairpersonship to Silvia Burley and to take the funds available to Sheep Ranch Miwok Tribe for
3 their personal benefit. None of the lineal descendants of the Sheep Ranch Miwok Tribe have
4 received any funds.

5 31. If the Sheep Ranch Miwok Tribe had known of the true intent of Defendants, the
6 Sheep Ranch Miwok Tribe would not have accepted Defendants Silvia Burley and Rashel
7 Reznor as non lineal tribe members.

8 32. Based upon the fraudulent representations of Defendants Plaintiff has been damaged
9 in the amount according to proof and will seek the recovery set forth below.

10 **SECOND CAUSE OF ACTION**
11 **(Violation of the Racketeer Influenced and Corrupt Organizations)**
12 **(RICO)**

13 33. Plaintiffs incorporate as if fully set forth herein the allegations of paragraphs 1
14 through and including 32, above.

15 34. In making the fraudulent statements the Defendants utilized the United States Mail,
16 the Bureau of Indian Affairs and telephonic communication on an ongoing and continuing basis.
17 These uses substantially facilitated Defendants fraudulent scheme.

18 35. Defendants' actions consisted of violations of 18 USC §1961.

19 36. Defendants conspired to conduct the above referenced enterprise through the pattern
20 of racketeering, deception and fraud set forth above.

21 37. As a proximate result of Defendants conspiracy Plaintiffs has suffered in excess of
22 \$75,000 in damages.

23 38. Pursuant to 18 USC §1964(c) Plaintiffs are entitled to recover treble damages, costs,
24 and attorneys fees.

25 **THIRD CAUSE OF ACTION**
26 **(Accounting)**

27 39. Plaintiffs incorporate as if fully set forth herein the allegations of paragraphs 1
28 through and including 38, above.

40. Upon information and belief Plaintiffs allege that Defendants have received in excess

EXHIBIT “7”

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THOMPSON

PAGE 15



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Central California Agency
1824 Tibbels Road, Suite J
Sacramento, CA 95815-4308

JUL 12 2006

Silvia Burley, Chairperson
Sheep Ranch Rancheria
1055 Winter Court
Tracy, California 95376

Dear Ms. Burley:

The purpose of this correspondence is to provide a response to the Tribe's request for a recognition letter from the Bureau of Indian Affairs.

The Bureau of Indian Affairs, Central California Agency, recognizes the following individuals as members of the Tribal Council, governing body, of the Sheep Ranch Rancheria of Me-Wuk Indians:

1. Silvia F. Burley, Chairperson
2. Vacant, Vice-Chairperson
3. Rashel K. Reznor, Secretary/Treasurer

Please contact Raymond Fry, Tribal Operations Officer, at (916) 566-7124 should you require additional information with regard to this matter.

Sincerely,


Dale Rising, Sr.
Superintendent

CVMT-2011-000257

EXHIBIT “8”



YAKIMA K. DIXIE

Sheep Ranch Rancheria of MiWok Indians of California
11178 Sheep Ranch Rd., Mail P.O. Box 41
Sheep Ranch California 95250
Phone: 209-728-2102

October 30, 2003

Aurene Martin, Principal Deputy Assistant Secretary
U.S. Department of the Interior
Bureau of Indian Affairs
1849 C St. NW # 4160
Washington DC 20240-9997
(202) 208-7163

NOTICE OF APPEAL

This is a formal appeal which is made under Title 25 of the Code of Federal Regulations Ch 1 (4-1-03 Edition) Part 2 "Appeals From Administrative Actions" (The Code).

This action pertains to the federally registered Indian tribe known as the "**California Valley Miwok Tribe, California (formerly the Sheep Ranch Rancheria of Me-Wuk Indians of California)**" (See: Federal Register / Vol 67, No. 134 / Friday, July 12, 2002, page 46328).

In this appeal, I, Yakima K. Dixie, as Appellant, am contesting the administrative action (without my knowledge or consent) by agents of the Bureau of Indian Affairs, in which Silvia Burley fraudulently came to be the recognized authority for and Chairperson of my ancestral tribe, of which I am the hereditary Chief and rightful Chairperson by lineal descent. As explained herein, I was tricked by Silvia Burley and others; and I, The Appellant, am requesting the nullification of both her appointment as Chairperson and the nullification of her original adoption and the adoption of her daughter and two grand-daughters into my tribe, which, again, I allege was fraudulent.

**Why this Appeal is now directed to the Washington Office
and the Principal Deputy Assistant Secretary.**

(ref. Section 2.9)

I Appeal directly to the Assistant Secretary of the BIA because repeated attempts, over the last 5 months, to initiate the Appeal at the office of both the Area and Regional Directors have failed to receive any attention. These prior actions are described below.

On May 5, 2003, I sent a formal request to Raymond Fry, Tribal Operations Officer for Tribal Services of the Sacramento Area Office, with whom I have dealt for over 20 years, who has been assigned to help me with tribal matters, who was instrumental in getting me to adopt Silvia Burley into my tribe, and who is involved with all of the details surround this situation. In this request, I asked him for help in preparing this Appeal as is his duty under Sub-section 2.9(b) of the CFR code cited above:

“When the appellant is an Indian or Indian Tribe not represented by counsel, the official who issued the decision appealed shall, upon request of the appellant, render such assistance as is appropriate in the preparation of the appeal”.

Further, I requested all relevant documents under the Freedom of Information Act. Contrary to his usual practice in responding to me, Mr. Fry has remained completely unresponsive to my request, which I have made repeatedly in both written form and by telephone message. See Exhibit #2003-05-05.

On June 26, 2003, I directed this same inquiry to Raymond Fry’s supervisor, Dale Risling, Superintendent Central California Area Office. In like manner, he also failed to respond to my request. See Exhibit 2003-06-26.

Finally, on August 15, 2003, I sent a formal NOTICE OF “APPEAL from inaction of official” under 25 Code of Federal Regulations Ch. 1 Section 2.8 to Clayton Gregory, the Acting Regional Director - Pacific Region, in which I requested that he force either Raymond Fry or Dale Risling to respond to my rightful requests. Again, Mr. Gregory neither responded to my request nor notified me of his intent not to respond. He simply ignored my request. See Exhibit 2003-08-15.

Consequently, I have exhausted my attempts to initiate my Appeal “in the office of the official whose decisions is being appealed” as prescribed in Section 2.9 of the above cited code in the CFR. For reason of the inactions that are cited above and for reasons of

possible malfeasance and breach of trust duties, which will be delineated later, the Area or Regional agents (Fry, Risling, Golden, and Gregory) cannot be trusted to mediate this Appeal. And I now Appeal directly to the headquarters of the Bureau in Washington.

Statement of Reasons for This Appeal (ref. Section 2.10)

The reasons and causes for my Appeal that Silvia Burley be nullified as both Chairperson and member of my tribe include allegations against Silvia Burley of fraud, forgery, theft of large sums of money, and gross mis-management of tribal affairs and business. This is made clear in the recitation of the following historical events.

By lineal descent and inheritance, I, Yakima K. Dixie am the legitimate heir to and the rightful Chief and Chairperson of the Sheep Ranch Rancheria of MiWok Indians of California. That is the traditional name of my tribe and it is my preferred tribal name, even though the tribal name was changed recently, without my knowledge or permission, in the Federal Register to "California Valley Miwok Tribe, California (formerly the Sheep Ranch rancheria of Me-Wuk Indians of California)".

My authority in the tribe as Chief and rightful Chairperson is by heredity and lineal descent through three historically documented generations spanning over 100 years (from my mother, Mable Hodge Dixie {Exhibits 1971-08-09 and 1971-11-01} and to her from her father, Tom Hodge {Exhibit 1915-08-13}, and to him from his father Peter Hodge {Exhibit 1915-08-13}) and prior to that back into pre-recorded history.

From the earliest anthropological studies, it is recorded that in Miwok tradition "Chieftanship was a well-defined and hereditary affair, as is show by the passage of the title to women, in the male line." (Exhibit 1925-00-00). This has certainly been the tradition in my particular tribe. Thus, according to tradition, I could never resign my Chairmanship nor could Silvia Burley or anyone else other than a lineal descendant ever be Chief. The authenticity of my lineal descent has never been in dispute at the BIA {Exhibit 1998-??-??} or by any other entity and is fully acknowledged by the key BIA agents, Raymond Fry and Brian Golden, in the video tape of their discussions with me wherein they purport to help me organize the tribe so that I may receive Trust benefits {Video Tape Exhibit 1998-09-08}. One component of such help was to be the acceptance of Silvia Burley as a tribal member. This tape is an important document and warrants viewing; and a written transcription will be prepared if warranted.

Some time in 1996, Silvia Burley visited me at my house (rancheria) and tribal location at Sheep Ranch. She was a tribeless Indian and unknown to me at the time She introduced herself by saying that the BIA had recommended that she discuss with me the prospect of accepting herself, her daughter, and two grand-daughters into the tribe so that they could obtain government health and educational benefits. Apparently, at the time,

126 she was virtually destitute, without much education, and living on welfare. Her
127 socio-economic status is important because it would seem impossible that she, of her
128 own capacity, could engineer the sophisticated maneuvers that were necessary to take
129 away my authority and divert such large sums of money - thus, inferring her management
130 by others. Over a period of about 2 years, I discussed with Silvia, both in person and in
131 letters, her request of becoming a member in my tribe; and in about October 1998, after
132 the meeting with Fry and Golden (Video Tape Exhibit #1998-09-08), I somehow
133 accepted Silvia, her daughter, and grand-daughters into the tribe. I say "somehow"
134 because there is no written membership induction nor traditional ceremony nor official
135 notice to me by the BIA. I have no clear recollection of how she became a member; it
136 just seemed to be assumed. Further, the agents of the BIA did not counsel me on the
137 implications of such an acceptance and on the various modes of membership -
138 non-voting, etc. However, by late 1998, in Resolution #GC-98-01, the BIA considers
139 Silvia to be a full member {op. cit. Exhibit 1998-??-??}.

141 My documentation on these and virtually all other transactions is only partial due to the
142 unwillingness of the agents of the Area and Regional BIA to provide complete
143 documents and the fact that I am still waiting for the fulfillment of my formal requests
144 under the Freedom of Information Act. {Exhibit 2003-09-30}

146 In the BIA files, there is a document which is dated April 20, 1999 and which purports to
147 represent that I resigned my Tribal Chairmanship to Silvia Burley {Exhibit 1999-04-20};
148 and it is said that upon this document, the Chairmanship was officially transferred. I
149 never signed such a document! The document is unnotarized; and the signature is forged.
150 I was never issued by the BIA a Notice of Administrative Decision or Action to this
151 effect, nor was I ever contacted by the agents of the BIA to confirm the matter, which one
152 would assume to be a routine part of their fiduciary and trusteeship responsibility to me
153 when dealing with major events such as this. Indeed, I did not know of the existence of
154 such a document or the fact that I had been replaced until some 7 months later, in
155 November 1999, when it was accidentally discovered by a business associate in the
156 course of his due diligence. The allegation of a fraudulent resignation letter was brought
157 to the attention of the BIA in a meeting of December 23, 1999, which I called to correct
158 this mistake, and the issue was acknowledged by the BIA in a communication of two
159 months later {Exhibit 2000-02-04}. However, no action was ever taken.

161 The letter of resignation upon which Silvia Burley's authority rests is not legitimate for
162 numerous reasons. I swear, under penalty of perjury, that I never signed such a letter.
163 The document is not properly witnessed and is un-notarized. The resignation document
164 of April 20, 1999 was subjected to the analysis of a qualified handwriting expert and
165 judged that "... Yakima Kenneth Dixie **did not sign** the questioned resignation letter"
166 {Exhibit 2003-06-22} (the emphasis is mine). Under any circumstances, such a
167 resignation would have been illegitimate under general tradition of the MiWoks and the
168 particular tradition of my tribe. Even if I had signed such a resignation, it would have
169 been the obligation of BIA agents to contact me and confirm in a formal manner that
170 such was my true desire under free will - something which was not done.

Thus, within 6 months of having been admitted into my tribe for the charitable purpose of helping her and her daughters obtain government health and educational benefits, Silvia Burley goes from being a tribeless, indigent person, not a part of my clan, to becoming the Chairperson of a federally recognized Indian tribe with a documented lineal descent of over 100 years, and in control of making all decisions for my tribe and capable of diverting to herself huge sums of money from contracts, Federal Trust accounts, and the California Gambling Control Commission.

The fraud and malfeasance of Silvia Burley increases exponentially from this point.

On April 30, 1999, ten days after the purported resignation (of which I was unaware at the time), and at Silvia's instigation, I did sign a power of attorney in which one Mary Turgeon Wynne (PO Box 1218 / 212 2nd Ave. N Suite 5 / Okanogan, Washington 98840-9652 / Phone: 509-422-6267) was authorized to represent me in filing documents with the BIA to obtain my trust benefits {Exhibit 1999-04-30}, which by then had accrued to, I believe, about \$280,000. A suspicious element is that, if I had signed such a resignation, then why was such a power of attorney required from me? Why did Silvia not sign the power of attorney by herself, as Chairperson. She has never required my signature on any other document. This might be an indication that the April 20 document was back-dated. Be that as it may, I never learned what Wynne did on my behalf; and I have requested full documentation from her, which will be amended to this Appeal if received.

Another example of fraud centers around a meeting of December 10, 1999. As mentioned previously, when the Appellant learned about the forged resignation letter, a meeting was called at the BIA to contest the issue. At the last moment, the agents of the BIA canceled the appointment and deferred it to December 23, 1999. About a year later, I learned through an inside informant, that a secret meeting was held on December 10 between the BIA agents, Silvia Burley, and representatives of a group called North American Sports Management, Inc. I was not informed of such a meeting even though I was the designated "Vice-Chairperson" in Burley's tribal organization and should have been informed of such an important event. The purpose of the meeting, I learned, was to discuss the prospects of establishing The Tribe as an operator of a gambling casino. Immediately after that meeting, North American Sports Management and Silvia Burley for The Tribe signed an agreement to move forward on that opportunity, with Silvia Burley receiving a check for \$250,000 plus a commitment of \$50,000 per month until a casino was established. Again, all of this was done without my knowledge or permission. The agreement between Burley and North American Sports Management lasted for about 5 months and ended in North American filing suit on September 27, 2000 against Silvia Burley and The Tribe for "breach of contract and fraud" {Exhibit 2000-09-27}. The suit was settled before trial for a large, undisclosed amount of money to be paid by my tribe to North American Sports Management.

On July 18, 2001, I initiated a suit against Silvia Burley; but the legal representation became mismanaged, and the suit was eventually dismissed by the court on January 24, 2002 because administrative remedies had not been exhausted. {Exhibit 2001-07-18}

During the course of the above and continuing into the present, Silvia Burley has garnered to herself through The Tribe something over \$3 million, most of which has come from the California Indian Gaming Revenue Sharing Trust Fund, a partial accounting of which is provided in the table below and is available on their web-site {<http://www.cgcc.ca.gov/rstfi.shtml>}.

STATE OF CALIFORNIA GRAY DAVIS, *Governor*
CALIFORNIA GAMBLING CONTROL COMMISSION

Report to Legislature for Distribution of Funds from Indian Gaming Revenue Sharing Trust Fund	
as Sheep Ranch Rancheria	
July 1, 2000	\$50,000
September 30, 2000	50,000
December 30, 2000	50,000
March 31, 2001	150,000
May 30, 2001	150,000
June 30, 2001	300,000
September 30, 2001	200,000
June 30, 2002	188,385
as California Valley Miwok Tribe	
September 30, 2002	159,393
December 31, 2002	111,234
March 31, 2002	50,358
June 30, 2003	95,172
Pending Distribution	683,160
Total	\$2,237,702

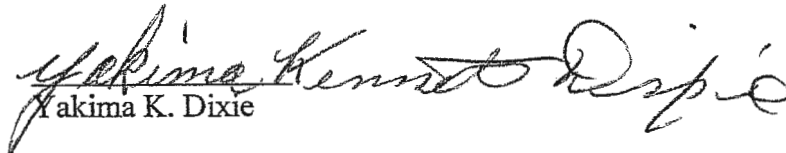
As far as can be determined, the sole beneficiary of this money has been Silvia Burley and her personal family with none of this money being used to advance tribal values or any activities related to Indians - thus, constituting gross mismanagement of The Tribe.

234
235 Meanwhile, the Appellant, who by lineal descent and inheritance is the legitimate heir to
236 and the rightful Chief and Chairperson of the Sheep Ranch Rancheria of MiWok Indians
237 of California continues to subsist on some \$700 per month in state aid.
238

239 In progress is a request for full documentation from the BIA under the Freedom of
240 Information Act. In addition, a request for records has been sent to Silvia Burley and to
241 Mary Wynne. Pertinent information obtained therefrom will be amended to this Appeal.
242 And additional points may be enumerated at a later time and at the hearing.
243

244 I need to know, as rapidly as possible, if the Bureau will hear this Appeal. If not, I need
245 to know that in writing and the reasons for not hearing this Appeal. If the Bureau will
246 hear the Appeal, then I need to know the procedures for further documentation and
247 hearing preparation. I need to know who, within the BIA, will be the case manager and
248 how to contact that person; and I need to have an itinerary of events.
249

250 Respectfully,
251

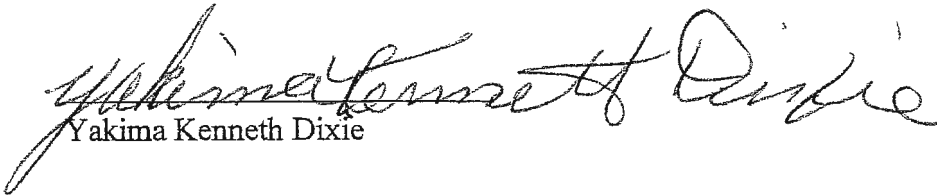
252
253 
254 Yakima K. Dixie
255
256
257
258

Affidavit

(Under California Code of Civ. Proc. Section 2015.5)

I, Yakima Kenneth Dixie, hereby swear, under penalty of perjury, that the foregoing is true and correct and when called to testify will do so as is represented herein. Although I have had outside assistance in constructing and writing this Appeal, I have completely read and understand its contents; and I confirm that this accurately represents my personal testimony.

Date: 11-3-03


Yakima Kenneth Dixie

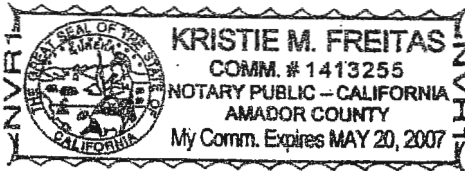
JURAT

State/Commonwealth of California }
 County of Amador } ss.

Subscribed and sworn to (or affirmed) before me
 this 3rd day of November, 2003, by

(1) Yakima Kenneth Dixie
Name of Signer #1

(2) _____
Name of Signer #2



Place Notary Seal and/or Any Stamp Above

Kristie M. Freitas
Signature of Notary Public

Kristie M. Freitas
Other Required Information (Printed Name of Notary, Residence, etc.)

OPTIONAL

Though the information in this section is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Affidavit

Document Date: 11/3/03 Number of Pages: _____

Signer(s) Other Than Named Above: _____

**RIGHT THUMBPRINT
OF SIGNER #1**
Top of thumb here

**RIGHT THUMBPRINT
OF SIGNER #2**
Top of thumb here

Certificate of Service

In accordance with Sec. 2.12 Service of appeal documents of The Code, I hereby certify that, on October 30, 2003, I served copies of the foregoing Appeal top the following Interested Parties by first class U.S. mail, postage prepaid, addressed to:

Interested Parties

For The Bureau of Indian Affairs

Aurene Martin
Principal Deputy Assistant Secretary
U.S. Department of the Interior
Bureau of Indian Affairs
1849 C St. NW # 4160
Washington DC 20240-9997
(202) 208-7163

Collateral Interested Parties

Debora G. Luther
United States Attorney
501 I Street, Suite 10-100
Sacramento, CA 95814

For Silvia Burley

Silvia Burley
California Valley Miwok Tribe
10601 Escondido Pl.
Stockton, California 95212
Phone 209-931-4567 Fax 209-931-4333

David J. Rapport
Rapport and Marston
P.O. Box 488
405 West Perkins Street
Ukiah, California 95482
707-462-6846

Phillip E. Thompson
Thompson Associates
2307 Thornknoll Dr. Suite 100
Fort Washington, Maryland 20744
301-248-6480

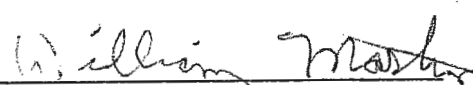

William Martin
203 Plaza Ave.
Lodi., California 95240
925-586-7260

Table of Exhibits

Document number assoc. with date.	Document Title	Annotations
1915-08-13	BIA census of Sheep Ranch Indians	Some 12 Indians are identified as part of the "Sheep-ranch Indians from "once quite a large band of Indians in former years". Yakima is the grandson of one of 4 children of Peter Hodge and Annite Hodge.
1925-00-00	Handbook of the Indians of California by A.L. Kroeber UCB	Important over-view of Miwoks including a definition of chieftainship. Also, territorial maps. See page 452 Social Practices "Chieftanship was a well-defined and hereditary affair, as is show by the passage of the title to women, in the male line...."
1971-08-09	Inventory and Appraisement of Indian Trust Land of Mable Hodge Dixie	Title of Yakima's land - relevant to "reservation" of the tribe and his position as Chief.
1971-11-01	Order Determining Heirs	BIA document designating Yakima and Melvin as heirs of Sheep Ranch land
1998-09-08	Video tape of BIA meeting with Yakima at Sheep Ranch	Raymond Fry and Brian Goldman, Tribal Officers of the BIA have a meeting at Yakima's house in Sheep Ranch with Silvia Burley to discuss various issues of Yakima's tribe, including Sylvia's entry into the tribe. The meeting is recorded on a 2 hour tape taken by Rocky McCay's wife. There is absolutely no doubt that Yakima is held to be the Chief, Chairperson, and sole determining entity in the Tribe by the BIA. They mention that there is a trust fund that has accumulated for Yakima (\$250,000) and that he needs to get his

tribe organized so that they can disburse the money to him to fix up his house and give him a decent standard of living. They convince Yakima to take Silvia into Tribe and do not advise him about various options such as voting or non-voting membership. There is no mention of making her Chairperson. Yakima repeatedly says that he is not an educated man, does not understand what is going on, and needs help.

1998-?-?	BIA Resolution #GC-98-01	“Establishing a General Council to Serve as the Governing Body of The Sheep Ranch Band of Me-Wuk Indians.” We have only page one. This is important and mentions Silvia.
1999-04-20	Resignation of Chairmanship by Yakima to Silvia	Forged document upon which the BIA validates its designation Silvia as Chairperson. It is not notarized and Silvia and her daughter are the only co-signers. Yakima, claims that he never signed such a document; and indeed, he was completely surprised when this was discovered accidentally some 7 months later on November 15, 1999, by others. Because chieftainship in the Miwok is by lineal descent, Yakima cannot resign his position but could only assign it with right of revocation - See Exhibit 1925-00-00. This document was reviewed by a hand-writing expert and found “Yakima Kenneth Dixie did not sign the questioned resignation letter.”.
1999-04-30	Power of attorney from Yakima to Mary Wynne	A power of attorney is granted by Yakima to Mary Wynn, attorney in Okanogan, Washington to manage the legal affairs of the tribe. Silvia was then going to school there, being funded by the BIA. (This power of attorney is curious because if Yakima had resigned his Chairpersonship

		1999-04-20 to her 10 days before, then why did Silvia ask him to sign a document which, ostensibly, she, herself, was empowered to execute?) Yakima is told that the power of attorney was necessary to get money from the BIA to fix his house, give him some income, and generally conduct the affairs of the tribe. Subsequent, to this document, Yakima hears virtually nothing from Silvia or the BIA after this date.
		Yakima withdraws the power of attorney on March 4, 2000
2000-02-04	BIA letter to Yakima reciting events and giving determinations.	This needs study. Note, they address it to Yakima K Dixie, Vice-Chairperson.
2000-09-27	North American Sports suit against the Tribe and Silvia.	Case # CIV.S-00-21-7 DFL DAD Complaint for Breach of Contract and Fraud.
2001-07-18	Sheep Ranch and Yakima sue Silvia Burley	Case# CIV.S-01-1389 MLS DAD Complaint for Fraud, RICO, Accounting, Declaratory Relief
2003-05-05	Letter to Raymond Fry of the BIA.	Yakima requests help from Fry in filing an appeal - Procedures, Interested Persons, and Freedom of Information documents. Fry does not respond.
2003-06-22	Document Examiners evaluation of Yakima's signature on resignation of Chairmanship.	See document of 1999-04-20-E. Examiner holds that "Yakima Kenneth Dixie did not sign the questioned resignation letter."
2003-06-26	Letter to Dale Risling of the BIA.	Yakima requests help in filing an appeal from Raymond Fry's Supervisor.
2003-08-15	Letter to Clayton Gregory of the BIA	Yakima makes an Appeal to Regional BIA, attempting to compel Fry and Risling, above, to fulfill their duty.
2003-09-30	Request for documents under Freedom of Information Act	FOIA re-sent to Willie Chism

EXHIBIT “9”

RESOLUTION #GC-98-01

ESTABLISHING A GENERAL COUNCIL TO SERVE AS THE GOVERNING BODY OF
THE SHEEP RANCH BAND OF ME-WUK INDIANS

WHEREAS, The Sheep Ranch Band of Me-Wuk Indians of the Sheep Ranch Rancheria of California ("the Tribe") was not terminated pursuant to the provisions of the Act of August 18, 1958, P.L. 85-671, 72 Stat. 619, as amended by the Act of August 11, 1964, P.L. 88-419, 78 Stat. 390 ("the Rancheria Act"), and is a federally recognized Indian Tribe as confirmed by the inclusion of the Tribe in the list of Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs, as published in the Federal Register on October 23, 1997.

WHEREAS, The plan of Distribution of the Assets of the Sheep Ranch Rancheria, approved by the Associate Commissioner of Indian Affairs on October 12, 1966, identified Mabel (Hodge) Dixie as the sole distributee entitled to participate in the distribution of the assets of the Sheep Ranch Rancheria;

WHEREAS, The Bureau of Indian Affairs did not completely implement the steps necessary to effect the termination of the Tribe prior to the passing of Mabel (Hodge) Dixie;

WHEREAS, The estate of Mabel (Hodge) Dixie was probated and Order of Determination of Heirs was issued on October 1, 1971, listing the following persons as possessing a certain undivided interest in the Sheep Ranch Rancheria:

Merle Butler, husband	Undivided 1/3 interest
Richard Dixie, son	Undivided 1/6 interest
Yakima Dixie, son	Undivided 1/6 interest
Melvin Dixie, son	Undivided 1/6 interest
Tommy Dixie, son	Undivided 1/6 interest

and this Order was reaffirmed by another Order issued on April 14, 1993;

WHEREAS, The surviving heirs are believed to be Yakima and Melvin Dixie, as the other heirs are or are believed to be deceased, and their heirs are in the process of requesting the estates of the deceased heirs be probated, and it is believed that the deceased heirs had no issue;

WHEREAS, The whereabouts of Melvin Dixie are unknown;

WHEREAS, The membership of the Tribe currently consists of at least the following individuals; Yakima Dixie, Silvia Fawn Burley, Rashel Kawehilani Reznor, Anjelica Josett Paulk, and Tristian Shawnee Wallace; this membership may change in the future consistent with the Tribe's ratified constitution and any duly

enacted Tribal membership statutes.

WHEREAS, The Tribe, on June 12, 1935, voted to accept the terms of the Indian Reorganization Act (P.L. 73-383; 48 Stat. 984) but never formally organized pursuant to federal statute, and now desires to pursue the formal organization of the Tribe; now, therefore, be it

RESOLVED, That Yakima Dixie, Silvia Fawn Burley, and Rashel Kawehilani Reznor, as a majority of the adult members of the Tribe, hereby establishes a General Council to serve as the governing body of the Tribe;

RESOLVED, That the General Council shall consist of all members of the Tribe who are at least eighteen years of age, and each member shall have one vote;

RESOLVED, That the General Council shall have the following specific powers to exercise in the best interest of the Tribe and its members:

- (a) To consult, negotiate, contract, or conclude agreements with the Bureau of Indian Affairs, for the purpose of furthering the development and adoption of a Constitution;
- (b) To administer assets received from such agreements specified in (a) above, including the power to establish bank accounts and designate signers thereupon;
- (c) To administer the day-to-day affairs related to such agreements specified in (a) above;
- (d) To develop and adopt policies and procedures regarding personnel, financial management, procurement and property management, and other such policies and procedures necessary to comply with all laws, regulations, rules, and policies related to funding received from such agreements specified in (a) above;
- (e) To employ legal counsel for the purpose of assisting in the development of the Constitution and the policies and procedures specified in (d) above, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior or his authorized representative;
- (f) To receive advice from and make recommendations to the Secretary of the Interior with regard to all appropriation estimates or federal projects for the benefit of the Tribe prior to the submission of such estimates to the Office of Management and Budget and to Congress;
- (g) To faithfully advise the General Council of all activities provided for in this resolution at each regularly scheduled meeting of the General Council;
- (h) To purchase real property and put such real property into trust with the United States government for the benefit of the Tribe;

RESOLVED, That all other inherent rights and powers not specifically listed herein shall vest in the General Council, provided that the General Council may specifically list such other rights and powers through subsequent resolution of the General Council;

RESOLVED, That the General Council shall appoint from among its members a Chairperson, who shall preside over all meetings of the General Council and rights and powers through

subsequent resolutions of the General Council, provided that in the absence of the Chairperson, a Chairperson Pro Tem shall be appointed from members convening the meeting;

RESOLVED, That the Chairperson shall notice and convene regular meetings of the General Council on the second Saturday of each month following the adoption of this resolution, provided that special meetings of the General Council may be called by the Chairperson upon providing a least fifteen (15) days notice stating the purpose of the meeting;

RESOLVED, That the Chairperson shall call a special meeting of the General Council, within thirty (30) days of receipt of a petition stating the purpose of the meeting, signed by at least fifty-one percent (51%) of the General Council, and the Chairperson shall provide at least fifteen (15) days notice stating the purpose of the meeting, provided that at such meeting, it shall be the first duty of the General Council to determine the validity of the petition;

RESOLVED, That the General Council shall elect from among its members a Secretary/Treasurer, who shall record the minutes of all General Council meetings, maintain the official records of the Tribe, certify the enactment of all resolutions, and disburse all funds as ordered by the General Council;

RESOLVED, That the quorum requirement for meetings of the General Council shall be conducted pursuant to Robert's Rules of Order;

RESOLVED, That the General Council shall exist until a Constitution is formally adopted by the Tribe and approved by the Secretary of the Interior or his authorized representative, unless this resolution is rescinded through subsequent resolution of the General Council.

CERTIFICATION

We, the undersigned as a majority of the adult members of the General Council of the Sheep Ranch Band of Me-Wuk Indians of the Sheep Ranch Rancheria of California ("the Tribe"), do hereby certify that at a duly noticed, called, and convened special meeting of the General Council held on Thursday, in Sheep Ranch, California, where a quorum was present, this resolution was adopted by a vote of 2 in favor, 0 opposed, and 0 abstaining. We further certify that this resolution has not been rescinded, amended, or modified in any way.

Dated this 5 day of November, 1998:

Yakima Dixie
Yakima Dixie

Silvia Burley
Silvia Burley

Rashel Reznor

EXHIBIT “10”



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

FEB 11 2005

Mr. Yakima K. Dixie
Sheep Ranch Rancheria of MiWok Indians of California
11178 Sheep Ranch Rd.
P.O. Box 41
Sheep Ranch, California 95250

Dear Mr. Dixie:

I am writing in response to your appeal filed with the office of the Assistant Secretary – Indian Affairs on October 30, 2003. In deciding this appeal, I am exercising authority delegated to me from the Assistant Secretary – Indian Affairs pursuant to 209 DM 8.3 and 110 DM 8.2. In that appeal, you challenged the Bureau of Indian Affairs' ("BIA") recognition of Sylvia Burley as tribal Chairman and sought to "nullify" her admission, and the admission of her daughter and granddaughters into your Tribe. Although your appeal raises many difficult issues, I must dismiss it on procedural grounds.

Your appeal of the BIA's recognition of Ms. Burley as tribal Chairman has been rendered moot by the BIA's decision of March 26, 2004, a copy of which is enclosed, rejecting the Tribe's proposed constitution. In that letter, the BIA made clear that the Federal government did not recognize Ms. Burley as the tribal Chairman. Rather, the BIA would recognize her as "a person of authority within California Valley Miwok Tribe." Until such time as the Tribe has organized, the Federal government can recognize no one, including yourself, as the tribal Chairman. I encourage you, either in conjunction with Ms. Burley, other tribal members, or potential tribal members, to continue your efforts to organize the Tribe along the lines outlined in the March 26, 2004, letter so that the Tribe can become organized and enjoy the full benefits of Federal recognition. The first step in organizing the Tribe is identifying putative tribal members. If you need guidance or assistance, Ray Fry, (916) 930-3794, of the Central California Agency of the BIA can advise you how to go about doing this.

In addition, your appeal to my office was procedurally defective because it raised issues that had not been raised at lower levels of the administrative appeal process. In May 2003, you contacted the BIA to request assistance in preparing an appeal of the BIA's recognition of Ms. Burley as tribal Chairman. You specifically stated that you were not filing a formal Notice of Appeal. In June 2003, you filed an "Appeal of inaction of official," pursuant to 25 C.F.R. §2.8, with the Central California Agency Superintendent challenging the BIA's failure to respond to your request for assistance. In August 2003, you filed another "Appeal of inaction of official"

with the Acting Regional Director challenging the failure of the Superintendent to respond to your appeal of the BIA's inaction. Your appeal with my office, however, was not an "Appeal of inaction of official." Rather, your "Notice of Appeal" challenged the BIA's recognition of Ms. Burley as tribal Chairman and sought to nullify the Tribe's adoption of her and her family members. Those issues were not raised below. They are not, therefore, properly before me.

In addition, your appeal appears to be untimely. In 1999, you first challenged the BIA's recognition of Ms. Burley as Chairman of the Tribe. In February 2000, the BIA informed you that it defers to tribal resolution of such issues. On July 18, 2001, you filed a lawsuit against Ms. Burley in the United States District Court for the Eastern District of California challenging her purported leadership of the Tribe. On January 24, 2002, the district court dismissed your lawsuit, without prejudice and with leave to amend, because you had not exhausted your administrative remedies by appealing the BIA's February 2000 decision. After the court's January 24, 2002, order, you should have pursued your administrative remedies with the BIA. Instead, you waited almost a year and a half, until June 2003, before raising your claim with the Bureau. As a result of your delay in pursuing your administrative appeal after the court's January 24, 2002, order, your appeal before me is time barred.

In light of the BIA's letter of March 26, 2004, that the Tribe is not an organized tribe, however, the BIA does not recognize any tribal government, and therefore, cannot defer to any tribal dispute resolution process at this time. I understand that a Mr. Troy M. Woodward has held himself out as an Administrative Hearing Officer for the Tribe and purported to conduct a hearing to resolve your complaint against Ms. Burley. Please be advised that the BIA does not recognize Mr. Woodward as a tribal official or his hearing process as a legitimate tribal forum. Should other issues arise with respect to tribal leadership or membership in the future, therefore, your appeal would properly lie exclusively with the BIA.

Sincerely,



Michael D. Olsen
Principal Deputy
Acting Assistant Secretary - Indian Affairs

Enclosure

cc: Sylvia Burley
Troy M. Woodward, Esq.
Thomas W. Wolfrum, Esq.
Chadd Everone

EXHIBIT “11”



YAKIMA K. DIXIE

Sheep Ranch Rancheria of MiWok Indians of California
a.k.a. California Valley Miwok Tribe
11178 Sheep Ranch Rd., Mail P.O. Box 41
Sheep Ranch California 95250
209-728-2102

The Will & Testament

of

Yakima K. Dixie

I, Yakima K. Dixie (born February 1, 1940, a resident of California, and being of sound mind) make this Will for the organization of my Tribe, the conduct of its business, and the disposition of my personal property.

I

The Organization of My Tribe

I (a) - The Structure and Function of The Tribe

Until such time that the Tribe becomes organized within the frame-work of a constitution that is formally recognized by the government of the United States, this document represents my Will for the purpose, structure, and activities of my Tribe.

I (b) - The Purpose of The Tribe

The purpose of the Tribe shall be to engage its members in activities that enhance the particular interests of the Tribe, of Miwok Indians and their descendants in the vicinity of Sheep Ranch and of Native Americans and humanity in general. This will include, but not be limited to, the following activities: business enterprises, health and medical programs, educational and employment programs, projects in sustainable development, projects in Miwok traditions.

I (c) - The Office of The Chief

By hereditary and lineal descent, I, Yakima K. Dixie, am the Chief and rightful authority of the Sheep Ranch Rancheria of MiWok Indians of California a.k.a. California Valley Miwok Tribe (Tribe). I inherit my position and authority through three, historically documented generations

spanning over 100 years. From my mother, Mable Hodge Dixie (1918-1971), I inherited tribal authority - superseding my elder brother, Richard Dixie (1937-1987) and my younger brothers, Melvin Dixie (1943 -) and Tommy Dixie (1945-1983). My mother inherited her authority for The Tribe from her father, Tom Hodge, who, in turn, inherited his authority from his father, Peter Hodge. Prior to that, descent goes back into pre-recorded history.

Until superseded by a constitutional form of government, the Chief is the sole authority for the Tribe. If I were to die without progeny, the Office of Chief will cede to my next of kin, Melvin Dixie. The following are prerequisites for Melvin to inherit this position. 1) He would have to complete an accredited alcohol detoxification and treatment program. 2) He would have to pledge to honor all agreements which I have made for the Tribe and which are identified in this document. 3) He may not associate with Rocky MacKay. And 4) for a period of 2 years, he would have to manage the affairs of the Chief under the supervision of a Board of Trustees which would include the Executive Director of the Tribe plus one representative of each of the entities with whom I have made a business agreement and who is identified herein.

If I were to survive Melvin, then his son, as next of kin, would inherit the position of Chief with the same provisos as above. If there is no next of kin or if the next of kin is unable to fulfill the functions of Chief, the Office shall cede to the Executive Director of the Tribal Counsel.

I (d) - Tribal Counsel

The Tribal Counsel shall consist of those member of the Tribe who are engaged in managing the functions of the Tribe. The Counsel may have consultants who are non-tribal members. The Tribal Counsel may initiate tribal policy for the approval of the Chief and the Counsel may organize itself as it determines appropriate to its activities. The initial Tribal Counsel shall be appointed by the Chief; and serve for a defined term. At the time of this signing, the only member of the Tribal Counsel is Velma WhiteBear, who is designated as the Executive Director of the Tribe.

I (e) - Tribal Membership

Membership in the Tribe shall be proposed by the Counsel by a majority vote and subject to approval by the Chief or proposed by the Chief and approved by a majority of the Counsel. There shall be various types of membership such as: probationary, conditional, life-time, and hereditary. The provisional members are listed below.

Antone Azevedo	4001 Carrie Bee Court	North Highlands, Calif. 95660
Melvin Dixie	Not known	
Arvada Fisher	PO BOX 224	Burson, Calif. 95225
Antonia Lopez	PO BOX 1432	Jackson, Calif. 95642
Robert Ramirez, Jr.	PO BOX 844	Valley Springs, Calif.
Iva A. Sandoval	31 1/2 Sinclair St.	Stockton, Calif. 9521

Velma D. WhiteBear 213 Downing Drive Galt, Calif. 95632
Shirley M. Wilson 3352 Bellview St. Stockton, Calif. 95206
Evelyn F. Wilson PO BOX 189 West Point, Calif. 95255
Patricia L. Williams 4585 Iowa Ave. Sacramento, Calif. 95824

I (f) - Contracts with Non-tribal Entities

In the course of regaining my authority of the Tribe and positioning it for business enterprises, I, as Chief, have made various agreements with non-tribal entities (individuals and organizations). These agreements are hereby incorporated into my Will as policy for the Tribe. At the time of this signing, there are four contracts. These are:

My Agreement with Bill Martin and LeRoi Chapelle. (Exhibit A)

My Finders Agreement with Philip Peck and Michael Babcock. (Exhibit B)

My Bridge-loan Agreement with various people. (Exhibit C)

My pending agreement with the casino Developer and Operator. (Exhibit D)

End of Section I - The Organization of My Tribe.

II

The Disposition of My Personal Property

II (a) - Appointment of Executor

I designate Velma Whitebear (my cousin) to be the Executor of this Will.

II (b) - Distribution of My Money

My accumulated cash reserves are to be distributed accordingly.

1) The sum of \$5,000 is to be used by the Executor to cover the costs of probating this Will.

2) The payment my obligations and debts.

(a) Priority in the payment of my obligations is the money which Bill Martin has expended on my behalf and on behalf of my Tribe since November 1999. Payment will be based on the expense receipts which are presented by Martin to the Executor plus a reasonable allowance for travel which he has made over the years.

(b) Payment to my remaining debts, including any "bridge-loans" which I may have made to cover expenses related to tribal matters, are to be made to individual lenders on a *pro rata* basis.

3) The remainder is to be donated to the general fund of my tribe.

3 - Distribution of Real Estate

a) My interest in any real estate that is held in trust for me with the Bureau of Indian affairs is to remain in federal trust and is to be deeded to my tribe (Sheep Ranch Rancheria of MiWok Indians of California a.k.a. California Valley Miwok Tribe) given the Exclusionary Principle as described below in section 5.

4 - Distribution of Other Assets

a) Earned income from intellectual properties, accrued earnings from other sources (including BIA trust accounts), and other assets that may be in my estate are to be used first to repay any outstanding debts and obligations as described in section 2, with the remainder to be conveyed to my Tribe according to my wishes as described below in both section 5 (Exclusionary Principle) and section 6 (Inheritance Of Tribal Authority).

5 - Exclusionary Principle

a) Where I have conveyed my personal assets to my Tribe, the following exclusionary principle shall apply. If (at the time of my demise and when this Will comes into force) the Tribe is still under the control of Silvia Burley or her relative(s), then my assets shall remain in my estate until such time as she is replaced by the rightful, lineal descendant as defined herein under section 6 (Inheritance Of Tribal Authority). If the probate of the Will is required by lawful authority before such recover of tribal authority, then such assets are willed to the Executor to be retained personally until, at the discretion of the Executor, the assets may be re-conveyed back to the Tribe.

6 - Inheritance Of Tribal Authority

To restate what is above, according to Miwok tradition, I am, by lineal descent, the Chief and rightful authority (Chairperson) of the federally recognized Indian tribe which is known as: Sheep Ranch Rancheria of MiWok Indians of California a.k.a. California Valley Miwok Tribe. I have held this position since the death of my mother (Mabel Hodge Dixie) in 1965. My mother inherited the Chieftanship from her father (my maternal grandfather), Tom Hodge. Tom Hodge inherited the Chieftanship from his father (my great-grandfather), Peter Hodge. Peter Hodge traced his ancestry back to pre-recorded history.

If I were to die without progeny, the Office of Chief will cede to my next of kin as described above. If there is no next of kin or if the next of kin is unable to fulfill the functions of Chief, the Office shall cede to the Executive Director of the Tribal Counsel.

End of Section II - The Disposition of My Personal Property.

Date: 5/5/04

Yakima K. Dixie
Yakima K. Dixie

Witnesses

Date: 05/05/04

Bill Martin
Bill Martin

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5 - Exclusionary Principle

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If I were to die without progeny, the Office of Chief will cede to my next of kin as described above. If there is no next of kin or if the next of kin is unable to fulfill the functions of Chief, the Office shall cede to the Executive Director of the Tribal Counsel.

End of Section II - The Disposition of My Personal Property.

State of California

County of Calaveras }

Subscribed and sworn to before me on MAY 5, 2004

NOTARY SEAL:



J. Hunt
Notary Signature

J. Hunt
(Typed Name of Notary)

EXHIBIT “12”



Federal Register

Friday,
July 12, 2002

Part IV

Department of the Interior

Bureau of Indian Affairs

**Indian Entities Recognized and Eligible
To Receive Services From the United
States Bureau of Indian Affairs; Notice**

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs****Indian Entities Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs**

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of the current list of 562 tribal entities recognized and eligible for funding and services from the Bureau of Indian Affairs by virtue of their status as Indian tribes. This notice is published pursuant to Section 104 of the Act of November 2, 1994 (Pub. L. 103-454; 108 Stat. 4791, 4792).

FOR FURTHER INFORMATION CONTACT: Daisy West, Bureau of Indian Affairs, Division of Tribal Government Services, MS-4631-MIB, 1849 C Street, NW, Washington, D.C. 20240. Telephone number: (202) 208-2475.

SUPPLEMENTARY INFORMATION: This notice is published in exercise of authority delegated to the Assistant Secretary—Indian Affairs under 25 U.S.C. 2 and 9 and 209 DM 8.

Published below is a list of federally acknowledged tribes in the contiguous 48 states and in Alaska. The list is updated from the notice published on March 13, 2000 (65 FR 13298). Six tribal entities have been added to the list. Three of the six tribes became newly recognized since the last publication. The other three tribes were omitted from earlier **Federal Register** publications of the Tribal Entities List. The Shawnee Tribe and the Graton Rancheria, were recognized under Titles 7 and 14 of the Act of December 27, 2000, Pub. L. 106-568, 114 Stat. 2868. The Cowlitz Indian Tribe was acknowledged under 25 CFR part 83. The final determination for federal acknowledgment became effective on January 4, 2002. The Assistant Secretary—Indian Affairs reaffirmed the formal recognition of the King Salmon Tribe, the Shoonag' Tribe of Kodiak, and the Lower Lake Rancheria, on December 29, 2000. The reaffirmation acknowledged that an administrative oversight had occurred and that three tribes had been omitted from the **Federal Register** list of entities recognized and eligible to receive services from the United States Bureau of Indian Affairs.

Several tribes have also made changes to their tribal name. Most of the name changes are minor in nature, except for the California Valley Miwok Tribe (formerly the Sheep Ranch Rancheria). To aid in identifying tribal name

changes, the tribe's former name is included with the new tribal name. We will continue to list the tribe's former name for several years before dropping the former name from the list. We have also made several corrections. To aid in identifying corrections, the tribe's previously listed name is included with the tribal name.

The listed entities are acknowledged to have the immunities and privileges available to other federally acknowledged Indian tribes by virtue of their government-to-government relationship with the United States as well as the responsibilities, powers, limitations and obligations of such tribes. We have continued the practice of listing the Alaska Native entities separately solely for the purpose of facilitating identification of them and reference to them given the large number of complex Native names.

Dated: July 1, 2002.

Neal A. McCaleb,
Assistant Secretary—Indian Affairs.

Indian Tribal Entities Within the Contiguous 48 States Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs

Absentee-Shawnee Tribe of Indians of Oklahoma
 Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California
 Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona
 Alabama-Coushatta Tribes of Texas
 Alabama-Quassarte Tribal Town, Oklahoma
 Alturas Indian Rancheria, California
 Apache Tribe of Oklahoma
 Arapahoe Tribe of the Wind River Reservation, Wyoming
 Aroostook Band of Micmac Indians of Maine
 Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana
 Augustine Band of Cahuilla Mission Indians of the Augustine Reservation, California
 Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin
 Bay Mills Indian Community, Michigan (previously listed as the Bay Mills Indian Community of the Sault Ste. Marie Band of Chippewa Indians, Bay Mills Reservation, Michigan)
 Bear River Band of the Rohnerville Rancheria, California
 Berry Creek Rancheria of Maidu Indians of California
 Big Lagoon Rancheria, California
 Big Pine Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California

Big Sandy Rancheria of Mono Indians of California
 Big Valley Band of Pomo Indians of the Big Valley Rancheria, California
 Blackfeet Tribe of the Blackfeet Indian Reservation of Montana
 Blue Lake Rancheria, California
 Bridgeport Paiute Indian Colony of California
 Buena Vista Rancheria of Me-Wuk Indians of California
 Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon
 Cabazon Band of Cahuilla Mission Indians of the Cabazon Reservation, California
 Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California
 Caddo Indian Tribe of Oklahoma
 Cahuilla Band of Mission Indians of the Cahuilla Reservation, California
 Cahto Indian Tribe of the Laytonville Rancheria, California
 California Valley Miwok Tribe, California (formerly the Sheep Ranch Rancheria of Me-Wuk Indians of California)
 Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California
 Capitan Grande Band of Diegueno Mission Indians of California:
 Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California
 Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California
 Catawba Indian Nation (aka Catawba Tribe of South Carolina)
 Cayuga Nation of New York
 Cedarville Rancheria, California
 Chemehuevi Indian Tribe of the Chemehuevi Reservation, California
 Cher-Ae Heights Indian Community of the Trinidad Rancheria, California
 Cherokee Nation, Oklahoma
 Cheyenne-Arapaho Tribes of Oklahoma
 Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
 Chickasaw Nation, Oklahoma
 Chicken Ranch Rancheria of Me-Wuk Indians of California
 Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana
 Chitimacha Tribe of Louisiana
 Choctaw Nation of Oklahoma
 Citizen Potawatomi Nation, Oklahoma
 Cloverdale Rancheria of Pomo Indians of California
 Cocopah Tribe of Arizona
 Coeur D'Alene Tribe of the Coeur D'Alene Reservation, Idaho
 Cold Springs Rancheria of Mono Indians of California
 Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California

Comanche Nation, Oklahoma (formerly the Comanche Indian Tribe)
 Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana
 Confederated Tribes of the Chehalis Reservation, Washington
 Confederated Tribes of the Colville Reservation, Washington
 Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians of Oregon
 Confederated Tribes of the Goshute Reservation, Nevada and Utah
 Confederated Tribes of the Grand Ronde Community of Oregon
 Confederated Tribes of the Siletz Reservation, Oregon
 Confederated Tribes of the Umatilla Reservation, Oregon
 Confederated Tribes of the Warm Springs Reservation of Oregon
 Confederated Tribes and Bands of the Yakama Nation, Washington (formerly the Confederated Tribes and Bands of the Yakama Indian Nation of the Yakama Reservation)
 Coquille Tribe of Oregon
 Cortina Indian Rancheria of Wintun Indians of California
 Coushatta Tribe of Louisiana
 Cow Creek Band of Umpqua Indians of Oregon
 Cowlitz Indian Tribe, Washington
 Coyote Valley Band of Pomo Indians of California
 Crow Tribe of Montana
 Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota
 Cuyapaipe Community of Diegueno Mission Indians of the Cuyapaipe Reservation, California
 Death Valley Timbi-Sha Shoshone Band of California
 Delaware Nation, Oklahoma (formerly the Delaware Tribe of Western Oklahoma)
 Delaware Tribe of Indians, Oklahoma
 Dry Creek Rancheria of Pomo Indians of California
 Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada
 Eastern Band of Cherokee Indians of North Carolina
 Eastern Shawnee Tribe of Oklahoma
 Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California
 Elk Valley Rancheria, California
 Ely Shoshone Tribe of Nevada
 Enterprise Rancheria of Maidu Indians of California
 Flandreau Santee Sioux Tribe of South Dakota
 Forest County Potawatomi Community, Wisconsin (previously listed as the Forest County Potawatomi Community of Wisconsin Potawatomi Indians, Wisconsin)
 Fort Belknap Indian Community of the Fort Belknap Reservation of Montana
 Fort Bidwell Indian Community of the Fort Bidwell Reservation of California
 Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California
 Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon
 Fort McDowell Yavapai Nation, Arizona (formerly the Fort McDowell Mohave-Apache Community of the Fort McDowell Indian Reservation)
 Fort Mojave Indian Tribe of Arizona, California & Nevada
 Fort Sill Apache Tribe of Oklahoma
 Gila River Indian Community of the Gila River Indian Reservation, Arizona
 Grand Traverse Band of Ottawa and Chippewa Indians, Michigan (previously listed as the Grand Traverse Band of Ottawa & Chippewa Indians of Michigan)
 Graton Rancheria, California
 Greenville Rancheria of Maidu Indians of California
 Grindstone Indian Rancheria of Wintun-Wailaki Indians of California
 Guidiville Rancheria of California
 Hannahville Indian Community, Michigan (previously listed as the Hannahville Indian Community of Wisconsin Potawatomi Indians of Michigan)
 Havasupai Tribe of the Havasupai Reservation, Arizona
 Ho-Chunk Nation of Wisconsin (formerly the Wisconsin Winnebago Tribe)
 Hoh Indian Tribe of the Hoh Indian Reservation, Washington
 Hoopa Valley Tribe, California
 Hopi Tribe of Arizona
 Hopland Band of Pomo Indians of the Hopland Rancheria, California
 Houlton Band of Maliseet Indians of Maine
 Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona
 Huron Potawatomi, Inc., Michigan
 Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California
 Ione Band of Miwok Indians of California
 Iowa Tribe of Kansas and Nebraska
 Iowa Tribe of Oklahoma
 Jackson Rancheria of Me-Wuk Indians of California
 Jamestown S'Klallam Tribe of Washington
 Jamul Indian Village of California
 Jena Band of Choctaw Indians, Louisiana
 Jicarilla Apache Nation, New Mexico (formerly the Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation)
 Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona
 Kalispel Indian Community of the Kalispel Reservation, Washington
 Karuk Tribe of California
 Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California
 Kaw Nation, Oklahoma
 Keweenaw Bay Indian Community, Michigan (previously listed as the Keweenaw Bay Indian Community of L'Anse and Ontonagon Bands of Chippewa Indians of the L'Anse Reservation, Michigan)
 Kialegee Tribal Town, Oklahoma
 Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas
 Kickapoo Tribe of Oklahoma
 Kickapoo Traditional Tribe of Texas
 Kiowa Indian Tribe of Oklahoma
 Klamath Indian Tribe of Oregon
 Kootenai Tribe of Idaho
 La Jolla Band of Luiseno Mission Indians of the La Jolla Reservation, California
 La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California
 Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin (previously listed as the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of the Lac Courte Oreilles Reservation of Wisconsin)
 Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin
 Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan (previously listed as the Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan)
 Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada
 Little River Band of Ottawa Indians, Michigan (previously listed as the Little River Band of Ottawa Indians of Michigan)
 Little Traverse Bay Bands of Odawa Indians, Michigan (previously listed as the Little Traverse Bay Bands of Odawa Indians of Michigan)
 Lower Lake Rancheria, California
 Los Coyotes Band of Cahuilla Mission Indians of the Los Coyotes Reservation, California
 Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada
 Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota
 Lower Elwha Tribal Community of the Lower Elwha Reservation, Washington
 Lower Sioux Indian Community in the State of Minnesota (previously listed as the Lower Sioux Indian Community of Minnesota)
 Mdewakanton Sioux Indians of the Lower Sioux Reservation in Minnesota)

Lummi Tribe of the Lummi Reservation, Washington
 Lytton Rancheria of California
 Makah Indian Tribe of the Makah Indian Reservation, Washington
 Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California
 Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California
 Mashantucket Pequot Tribe of Connecticut
 Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan
 Mechoopda Indian Tribe of Chico Rancheria, California
 Menominee Indian Tribe of Wisconsin
 Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California
 Mescalero Apache Tribe of the Mescalero Reservation, New Mexico
 Miami Tribe of Oklahoma
 Miccosukee Tribe of Indians of Florida
 Middletown Rancheria of Pomo Indians of California
 Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band)
 Mississippi Band of Choctaw Indians, Mississippi
 Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada
 Modoc Tribe of Oklahoma
 Mohegan Indian Tribe of Connecticut
 Mooretown Rancheria of Maidu Indians of California
 Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California
 Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington
 Muscogee (Creek) Nation, Oklahoma
 Narragansett Indian Tribe of Rhode Island
 Navajo Nation, Arizona, New Mexico & Utah
 Nez Perce Tribe of Idaho
 Nisqually Indian Tribe of the Nisqually Reservation, Washington
 Nooksack Indian Tribe of Washington
 Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana
 Northfork Rancheria of Mono Indians of California
 Northwestern Band of Shoshoni Nation of Utah (Washakie)
 Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota
 Omaha Tribe of Nebraska
 Oneida Nation of New York
 Oneida Tribe of Indians of Wisconsin (previously listed as the Oneida Tribe of Wisconsin)
 Onondaga Nation of New York
 Osage Tribe, Oklahoma
 Ottawa Tribe of Oklahoma
 Otoe-Missouria Tribe of Indians, Oklahoma
 Paiute Indian Tribe of Utah (Cedar City Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes)
 Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California
 Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada
 Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California
 Pala Band of Luiseno Mission Indians of the Pala Reservation, California
 Pascua Yaqui Tribe of Arizona
 Paskenta Band of Nomlaki Indians of California
 Passamaquoddy Tribe of Maine
 Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California
 Pawnee Nation of Oklahoma
 Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California
 Penobscot Tribe of Maine
 Peoria Tribe of Indians of Oklahoma
 Picayune Rancheria of Chukchansi Indians of California
 Pinoleville Rancheria of Pomo Indians of California
 Pit River Tribe, California (includes Big Bend, Lookout, Montgomery Creek & Roaring Creek Rancherias & XL Ranch)
 Poarch Band of Creek Indians of Alabama
 Pokagon Band of Potawatomi Indians, Michigan and Indiana (previously listed as the Pokagon Band of Potawatomi Indians of Michigan)
 Ponca Tribe of Indians of Oklahoma
 Ponca Tribe of Nebraska
 Port Gamble Indian Community of the Port Gamble Reservation, Washington
 Potter Valley Rancheria of Pomo Indians of California
 Prairie Band of Potawatomi Nation, Kansas (formerly the Prairie Band of Potawatomi Indians)
 Prairie Island Indian Community in the State of Minnesota (previously listed as the Prairie Island Indian Community of Minnesota)
 Mdewakanton Sioux Indians of the Prairie Island Reservation, Minnesota)
 Pueblo of Acoma, New Mexico
 Pueblo of Cochiti, New Mexico
 Pueblo of Jemez, New Mexico
 Pueblo of Isleta, New Mexico
 Pueblo of Laguna, New Mexico
 Pueblo of Nambe, New Mexico
 Pueblo of Picuris, New Mexico
 Pueblo of Pojoaque, New Mexico
 Pueblo of San Felipe, New Mexico
 Pueblo of San Juan, New Mexico
 Pueblo of San Ildefonso, New Mexico
 Pueblo of Sandia, New Mexico
 Pueblo of Santa Ana, New Mexico
 Pueblo of Santa Clara, New Mexico
 Pueblo of Santo Domingo, New Mexico
 Pueblo of Taos, New Mexico
 Pueblo of Tesuque, New Mexico
 Pueblo of Zia, New Mexico
 Puyallup Tribe of the Puyallup Reservation, Washington
 Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada
 Quapaw Tribe of Indians, Oklahoma
 Quartz Valley Indian Community of the Quartz Valley Reservation of California
 Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona
 Quileute Tribe of the Quileute Reservation, Washington
 Quinault Tribe of the Quinault Reservation, Washington
 Ramona Band or Village of Cahuilla Mission Indians of California
 Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
 Red Lake Band of Chippewa Indians, Minnesota (previously listed as the Red Lake Band of Chippewa Indians of the Red Lake Reservation, Minnesota)
 Redding Rancheria, California
 Redwood Valley Rancheria of Pomo Indians of California
 Reno-Sparks Indian Colony, Nevada
 Resighini Rancheria, California (formerly the Coast Indian Community of Yurok Indians of the Resighini Rancheria)
 Rincon Band of Luiseno Mission Indians of the Rincon Reservation, California
 Robinson Rancheria of Pomo Indians of California
 Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota
 Round Valley Indian Tribes of the Round Valley Reservation, California (formerly the Covelo Indian Community)
 Rumsey Indian Rancheria of Wintun Indians of California
 Sac & Fox Tribe of the Mississippi in Iowa
 Sac & Fox Nation of Missouri in Kansas and Nebraska
 Sac & Fox Nation, Oklahoma
 Saginaw Chippewa Indian Tribe of Michigan (previously listed as the Saginaw Chippewa Indian Tribe of Michigan, Isabella Reservation)
 St. Croix Chippewa Indians of Wisconsin (previously listed as the St. Croix Chippewa Indians of Wisconsin, St. Croix Reservation)
 St. Regis Band of Mohawk Indians of New York

<p>Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona</p> <p>Samish Indian Tribe, Washington</p> <p>San Carlos Apache Tribe of the San Carlos Reservation, Arizona</p> <p>San Juan Southern Paiute Tribe of Arizona</p> <p>San Manuel Band of Serrano Mission Indians of the San Manuel Reservation, California</p> <p>San Pasqual Band of Diegueno Mission Indians of California</p> <p>Santa Rosa Indian Community of the Santa Rosa Rancheria, California</p> <p>Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation, California</p> <p>Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California</p> <p>Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California</p> <p>Santee Sioux Tribe of the Santee Reservation of Nebraska</p> <p>Sauk-Suiattle Indian Tribe of Washington</p> <p>Sault Ste. Marie Tribe of Chippewa Indians of Michigan</p> <p>Scotts Valley Band of Pomo Indians of California</p> <p>Seminole Nation of Oklahoma</p> <p>Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations</p> <p>Seneca Nation of New York</p> <p>Seneca-Cayuga Tribe of Oklahoma</p> <p>Shakopee Mdewakanton Sioux Community of Minnesota (previously listed as the Shakopee Mdewakanton Sioux Community of Minnesota (Prior Lake))</p> <p>Shawnee Tribe, Oklahoma</p> <p>Sherwood Valley Rancheria of Pomo Indians of California</p> <p>Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California</p> <p>Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington</p> <p>Shoshone Tribe of the Wind River Reservation, Wyoming</p> <p>Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho</p> <p>Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada</p> <p>Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota</p> <p>Skokomish Indian Tribe of the Skokomish Reservation, Washington</p> <p>Skull Valley Band of Goshute Indians of Utah</p> <p>Smith River Rancheria, California</p> <p>Snoqualmie Tribe, Washington</p> <p>Soboba Band of Luiseno Indians, California (formerly the Soboba Band of Luiseno Mission Indians of the Soboba Reservation)</p>	<p>Sokaogon Chippewa Community, Wisconsin (previously listed as the Sokaogon Chippewa Community of the Mole Lake Band of Chippewa Indians, Wisconsin)</p> <p>Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado</p> <p>Spirit Lake Tribe, North Dakota</p> <p>Spokane Tribe of the Spokane Reservation, Washington</p> <p>Squaxin Island Tribe of the Squaxin Island Reservation, Washington</p> <p>Standing Rock Sioux Tribe of North & South Dakota</p> <p>Stockbridge Munsee Community, Wisconsin (previously listed as the Stockbridge-Munsee Community of Mohican Indians of Wisconsin)</p> <p>Stillaguamish Tribe of Washington</p> <p>Summit Lake Paiute Tribe of Nevada</p> <p>Suquamish Indian Tribe of the Port Madison Reservation, Washington</p> <p>Susanville Indian Rancheria, California</p> <p>Swinomish Indians of the Swinomish Reservation, Washington</p> <p>Sycuan Band of Diegueno Mission Indians of California</p> <p>Table Bluff Reservation—Wiyot Tribe, California</p> <p>Table Mountain Rancheria of California</p> <p>Te-Moak Tribe of Western Shoshone Indians of Nevada (Four constituent bands: Battle Mountain Band; Elko Band; South Fork Band and Wells Band)</p> <p>Thlopthlocco Tribal Town, Oklahoma</p> <p>Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota</p> <p>Tohono O'odham Nation of Arizona</p> <p>Tonawanda Band of Seneca Indians of New York</p> <p>Tonkawa Tribe of Indians of Oklahoma</p> <p>Tonto Apache Tribe of Arizona</p> <p>Torres-Martinez Band of Cahuilla Mission Indians of California</p> <p>Tule River Indian Tribe of the Tule River Reservation, California</p> <p>Tulalip Tribes of the Tulalip Reservation, Washington</p> <p>Tunica-Biloxi Indian Tribe of Louisiana</p> <p>Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California</p> <p>Turtle Mountain Band of Chippewa Indians of North Dakota</p> <p>Tuscarora Nation of New York</p> <p>Twenty-Nine Palms Band of Mission Indians of California (previously listed as the Twenty-Nine Palms Band of Luiseno Mission Indians of California)</p> <p>United Auburn Indian Community of the Auburn Rancheria of California</p> <p>United Keetoowah Band of Cherokee Indians in Oklahoma (previously listed as the United Keetoowah Band of Cherokee Indians of Oklahoma)</p> <p>Upper Lake Band of Pomo Indians of Upper Lake Rancheria of California</p> <p>Upper Sioux Community, Minnesota (previously listed as the Upper Sioux</p>	<p>Indian Community of the Upper Sioux Reservation, Minnesota)</p> <p>Upper Skagit Indian Tribe of Washington</p> <p>Ute Indian Tribe of the Uintah & Ouray Reservation, Utah</p> <p>Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah</p> <p>Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California</p> <p>Walker River Paiute Tribe of the Walker River Reservation, Nevada</p> <p>Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts</p> <p>Washoe Tribe of Nevada & California (Carson Colony, Dresslerville Colony, Woodfords Community, Stewart Community, & Washoe Ranches)</p> <p>White Mountain Apache Tribe of the Fort Apache Reservation, Arizona</p> <p>Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma</p> <p>Winnebago Tribe of Nebraska</p> <p>Winnemucca Indian Colony of Nevada</p> <p>Wyandotte Tribe of Oklahoma</p> <p>Yankton Sioux Tribe of South Dakota</p> <p>Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona</p> <p>Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona</p> <p>Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada</p> <p>Yomba Shoshone Tribe of the Yomba Reservation, Nevada</p> <p>Ysleta Del Sur Pueblo of Texas</p> <p>Yurok Tribe of the Yurok Reservation, California</p> <p>Zuni Tribe of the Zuni Reservation, New Mexico</p>
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Native Entities Within the State of Alaska Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs

Village of Afognak

Agdaagux Tribe of King Cove

Native Village of Akhiok

Akiachak Native Community

Akiak Native Community

Native Village of Akutan

Village of Alakanuk

Alatna Village

Native Village of Aleknagik

Algaaciq Native Village (St. Mary's)

Allakaket Village

Native Village of Ambler

Village of Anaktuvuk Pass

Yupit of Andreafski

Angoon Community Association

Village of Aniak

Anvik Village

Arctic Village (See Native Village of Venetie Tribal Government)

Asa'carsarmiut Tribe (formerly the Native Village of Mountain Village)

Native Village of Atka

Village of Atnautluak

Atkasuk Village (Atkasook)	Inupiat Community of the Arctic Slope	Nome Eskimo Community
Native Village of Barrow Inupiat	Iqurmuit Traditional Council (formerly	Nondalton Village
Traditional Government	the Native Village of Russian Mission)	Noorvik Native Community
Beaver Village	Ivanoff Bay Village	Northway Village
Native Village of Belkofski	Kaguyak Village	Native Village of Nuiqsut (aka Nooiksut)
Village of Bill Moore's Slough	Organized Village of Kake	Nulato Village
Birch Creek Tribe	Kaktovik Village (aka Barter Island)	Nunakauyarmiut Tribe (formerly the
Native Village of Brevig Mission	Village of Kalskag	Native Village of Toksook Bay)
Native Village of Buckland	Village of Kaltag	Native Village of Nunapitchuk
Native Village of Cantwell	Native Village of Kanatak	Village of Ohogamiut
Native Village of Chanega (aka Chenega)	Native Village of Karluk	Village of Old Harbor
Chalkyitsik Village	Organized Village of Kasaan	Orutsararmiut Native Village (aka
Cheesh-Na Tribe (formerly the Native	Native Village of Kasigluk	Bethel)
Village of Chistochina)	Kenaitze Indian Tribe	Oscarville Traditional Village
Village of Cheforuak	Ketchikan Indian Corporation	Native Village of Ouzinkie
Chevak Native Village	Native Village of Kiana	Native Village of Paimiut
Chickaloon Native Village	King Island Native Community	Pauloff Harbor Village
Native Village of Chignik	King Salmon Tribe	Pedro Bay Village
Native Village of Chignik Lagoon	Native Village of Kipnuk	Native Village of Perryville
Chignik Lake Village	Native Village of Kivalina	Petersburg Indian Association
Chilkat Indian Village (Klukwan)	Klawock Cooperative Association	Native Village of Pilot Point
Chilkoot Indian Association (Haines)	Native Village of Kluti Kaah (aka Copper	Pilot Station Traditional Village
Chinik Eskimo Community (Golovin)	Center)	Native Village of Pitka's Point
Native Village of Chitina	Knik Tribe	Platinum Traditional Village
Native Village of Chuathbaluk (Russian	Native Village of Kobuk	Native Village of Point Hope
Mission, Kuskokwim)	Kokhanok Village	Native Village of Point Lay
Chuloonawick Native Village	Native Village of Kongiganak	Native Village of Port Graham
Circle Native Community	Village of Kotlik	Native Village of Port Heiden
Village of Clarks Point (previously listed	Native Village of Kotzebue	Native Village of Port Lions
as the Village of Clark's Point)	Native Village of Koyuk	Portage Creek Village (aka Ohgsenakale)
Native Village of Council	Koyukuk Native Village	Pribilof Islands Aleut Communities of
Craig Community Association	Organized Village of Kwethluk	St. Paul & St. George Islands
Village of Crooked Creek	Native Village of Kwigillingok	Qagan Tayagungin Tribe of Sand Point
Curyung Tribal Council (formerly the	Native Village of Kwinhagak (aka	Village
Native Village of Dillingham)	Quinhagak)	Qawalangin Tribe of Unalaska
Native Village of Deering	Native Village of Larsen Bay	Rampart Village
Native Village of Diomedea (aka Inalik)	Levelock Village	Village of Red Devil
Village of Dot Lake	Lesnoi Village (aka Woody Island)	Native Village of Ruby
Douglas Indian Association	Lime Village	Saint George Island (See Pribilof Islands
Native Village of Eagle	Village of Lower Kalskag	Aleut Communities of St. Paul & St.
Native Village of Eek	Manley Hot Springs Village	George Islands)
Egegik Village	Manokotak Village	Native Village of Saint Michael
Eklutna Native Village	Native Village of Marshall (aka Fortuna	Saint Paul Island (See Pribilof Islands
Native Village of Ekuk	Ledge)	Aleut Communities of St. Paul & St.
Ekwoik Village	Native Village of Mary's Igloo	George Islands)
Native Village of Elim	McGrath Native Village	Village of Salamatoff
Emmonak Village	Native Village of Mekoryuk	Native Village of Savoonga
Evansville Village (aka Bettles Field)	Mentasta Traditional Council	Organized Village of Saxman
Native Village of Eyak (Cordova)	Metlakatla Indian Community, Annette	Native Village of Scammon Bay
Native Village of False Pass	Island Reserve	Native Village of Selawik
Native Village of Fort Yukon	Native Village of Minto	Seldovia Village Tribe
Native Village of Gakona	Naknek Native Village	Shageluk Native Village
Galena Village (aka Loudon Village)	Native Village of Nanwalek (aka English	Native Village of Shaktoolik
Native Village of Gambell	Bay)	Native Village of Sheldon's Point
Native Village of Georgetown	Native Village of Napaimute	Native Village of Shishmaref
Native Village of Goodnews Bay	Native Village of Napakiak	Shoonaq' Tribe of Kodiak
Organized Village of Grayling (aka	Native Village of Napaskiak	Native Village of Shungnak
Holikachuk)	Native Village of Nelson Lagoon	Sitka Tribe of Alaska
Gulkana Village	Nenana Native Association	Skagway Village
Native Village of Hamilton	New Koliganek Village Council	Village of Sleetmute
Healy Lake Village	(formerly the Koliganek Village)	Village of Solomon
Holy Cross Village	New Stuyahok Village	South Naknek Village
Hoonah Indian Association	Newhalen Village	Stebbins Community Association
Native Village of Hooper Bay	Newtok Village	Native Village of Stevens
Hughes Village	Native Village of Nightmute	Village of Stony River
Huslia Village	Nikolai Village	Takotna Village
Hydaburg Cooperative Association	Native Village of Nikolski	Native Village of Tanacross
Igiugig Village	Ninilchik Village	Native Village of Tanana
Village of Iliamna	Native Village of Noatak	Native Village of Tatitlek

Native Village of Tazlina
 Telida Village
 Native Village of Teller
 Native Village of Tetlin
 Central Council of the Tlingit & Haida
 Indian Tribes
 Traditional Village of Togiak
 Tuluksak Native Community
 Native Village of Tuntutuliak
 Native Village of Tununak

Twin Hills Village
 Native Village of Tyonek
 Ugashik Village
 Umkumiute Native Village
 Native Village of Unalakleet
 Native Village of Unga
 Village of Venetie (*See* Native Village of
 Venetie Tribal Government)

Native Village of Venetie Tribal
 Government (Arctic Village and
 Village of Venetie)
 Village of Wainwright
 Native Village of Wales
 Native Village of White Mountain
 Wrangell Cooperative Association
 Yakutat Tlingit Tribe
 [FR Doc. 02-17508 Filed 7-11-02; 8:45 am]
 BILLING CODE 4310-4J-P

EXHIBIT “13”

0457



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

IN REPLY REFER TO:

Tribal Government Services
BCCO 01792

JUN 7 2001

Honorable Silvia Burley
Chairperson, California Valley Miwok Tribe
aka "Sheep Ranch Rancheria of Me-Wuk
Indians of California"
1055 Winter Court
Tracy, California 95376

Dear Chairperson Burley:

Thank you for your letter dated April 9, 2001, regarding the Tribal Council's desire to change the name of the *Sheep Ranch Rancheria of Me-Wuk Indians of California* to the *California Valley Miwok Tribe*. You have received conflicting information on how to accomplish the name change so you've requested us to clarify the matter.

The *Sheep Ranch Rancheria (Tribe)* is a small tribe that does not have a tribal constitution. The Tribe has a tribal council and conducts tribal business through resolution. A tribal resolution, such as resolution No. R-1-5-07-201, enacted by the Tribal Council on May 7, 2001, is sufficient to effect the tribal name change. The Tribe's new name has been included on the Tribal Entities List that will be published in the FEDERAL REGISTER later this year.

Some tribes have constitutions that contain a provision that specifically states the tribe's official name. In that situation, the tribe will have to amend that particular provision in the constitution before the new name will be published in the FEDERAL REGISTER. On the other hand, if the tribal constitution does not contain a provision that sets out the tribe's official name, an amendment to the constitution is unnecessary. In such instances, the tribe can change its name by enacting a tribal ordinance to establish its official name.

We hope that this information resolves the matter for you.

Sincerely,

A handwritten signature in black ink, appearing to read "Sharon Backman", is written over a horizontal line.

Deputy Commissioner of Indian Affairs

cc: Regional Director, Pacific Region w/copy of incoming
Superintendent, Central California Agency w/copy of incoming

EXHIBIT “14”

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

THE CALIFORNIA VALLEY MIWOK
TRIBE,
11178 Sheep Ranch Road
Mountain Ranch, CA 95246

Case No. 1:11-CV-00160-RWR

THE TRIBAL COUNCIL,
11178 Sheep Ranch Road
Mountain Ranch, CA 95246

YAKIMA DIXIE,
11178 Sheep Ranch Road
Mountain Ranch, CA 95246

VELMA WHITEBEAR,
213 Downing Drive
Galt, CA 95632

ANTONIA LOPEZ
P.O. Box 1432
Jackson, CA 95642

MICHAEL MENDIBLES,
P.O. Box 1432
Jackson, CA 95642

EVELYN WILSON
4104 Blagen Boulevard
West Point, CA 95255

ANTOINE AZEVEDO,
4001 Carribee Court
North Highlands, CA 95660

Plaintiffs,

v.

KEN SALAZAR, in his official capacity as
Secretary of the United States Department of
the Interior,
United States Department of the Interior

1849 C Street, N.W.
Washington, D.C. 20240
LARRY ECHO HAWK, in his official
capacity as Assistant Secretary-Indian Affairs
of the United States Department of the Interior,
Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

MICHAEL BLACK, in his official capacity as
Director of the Bureau of Indian Affairs within
the United States Department of the Interior,
Bureau of Indian Affairs
MS-4606
1849 C Street, N.W.
Washington, D.C. 20240

Defendants.

**STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF INTERVEOR
DEFENDANT'S MOTION TO DISMISS FIRST AMENDED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF**

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Dated: December 13, 2011

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S-03-1476 slip op. at 7 (E.D. Cal. Nov. 4, 2003) (“It is by now well-established that an Indian tribe has exclusive jurisdiction over wholly internal tribal subject matter, such as membership disputes...”); *Lincoln v. Saginaw Chippewa Indian Tribe of Michigan*, 967 F.Supp. 966, 967 (E.D. Mich. 1997) *aff’d*, 156 F.3d 1230 (6th Cir. 1998) (“this court finds that it lacks jurisdiction to hear what is essentially a membership dispute between Plaintiffs and the Tribe.”); *Montgomery v. Flandreau Santee Sioux Tribe*, 905 F.Supp. 740, 746 (D.S.C. 1995) (“Giving deference to the Tribe’s right as a sovereign to determine its own membership, the Court holds that it lacks subject matter jurisdiction to determine whether any plaintiffs were wrongfully denied enrollment in the Tribe.”)

Moreover, “[f]ederal court jurisdiction does not reach this matter simply because the plaintiffs carefully worded their complaint.” *Smith v. Babbitt*, 100 F.3d at 559. In their Amended Complaint, Plaintiffs allege violations of the APA, the U.S. Constitution, and the Indian Civil Rights Act (“ICRA”). (Amended Complaint, ¶¶ 90-119). However, upon closer examination, it is evident that “these allegations are merely attempts to move this [internal tribal] dispute, over which this [C]ourt would not otherwise have jurisdiction, into federal court.” *Smith v. Babbitt*, 100 F.3d at 559. This Court cannot, and appropriately should not, permit Plaintiffs to pursue their enrollment grievances in this forum, as this Court lacks the necessary subject matter jurisdiction to do so pursuant to the aforementioned authority — despite Plaintiffs’ attempts to cloak an undisputed enrollment dispute under the guise of an APA action. Leaving these issues to the Tribe and to the Tribe alone is what current Federal law and policy towards Indian self-determination requires.

3. Plaintiffs’ Claims Are Time-Barred, Warranting Dismissal of This Action.

A separate and independent jurisdictional basis warranting dismissal of Plaintiffs' Amended Complaint is that the Plaintiffs' challenge to past BIA determinations, under the guise of challenging the August 2011 Decision, is statutorily prohibited as time-barred. Claims which arise under the APA are subject to the statute of limitations governed by 28 U.S.C. § 2401(a), which bars civil actions against the United States that are not filed within six years after the right of action first accrues. See *Impro Products, Inc. v. Block*, 722 F.2d 845, 850 (D.C. Cir. 1983). The right of action first accrues on the date of the final agency action.⁵ *Id.*; *Sendra Corp. v. Magaw*, 111 F.3d 162, 165 (D.C. Cir. 1997). As the D.C. Circuit has long held, Section "2401(a) is a jurisdictional condition attached to the government's waiver of sovereign immunity, and as such, it must be strictly construed." *Spannaus v. U.S. Dep't of Justice*, 824 F.2d 52, 55 (D.C. Cir. 1987) (citations omitted); see *West Virginia Highlands*, 540 F. Supp. 2d 125, 138 (4th Cir. 1998). Further, a jurisdictional statute of limitations, such as Section 2401(a) "cannot be overcome by the application of judicially recognized exceptions such as waiver, estoppels, equitable tolling, fraudulent concealment, the discovery rule, and the continuing violations doctrine." *Id.* (citations and alternations omitted). Instead, a "single violation...accrues on the day following the deadline" and a suit challenging such a violation is barred if filed outside the six-year statute of limitations. *Ctr. For Biological Diversity v. Hamilton*, 453 F.3d 1331, 1335 (11th Cir. 2006). Thus, where a party seeks to sue the United States pursuant to such a waiver of sovereign immunity, as Plaintiffs do here, the expiration of the statute of limitations on that claim is "construed as a bar to the court's subject matter

⁵ In *Bennett v. Spear*, the U.S. Supreme Court set forth two conditions in order for an agency action to be deemed "final": "First, the action must mark the 'consummation' of the agency's decision making process – it must not be of a merely tentative or interlocutory nature." (citations omitted) Second, "the action must be one by which rights or obligations have been determined," or from which "legal consequences will flow." 520 U.S. 154, 177-78, 117 S.Ct. 1154, 1168 (1997) (citations omitted).

jurisdiction, and thus a proper subject for a motion to dismiss under Rule 12(b)(1).” *Felter, et al. v. Norton*, 412 F.Supp.2d 118, 125 (D.D.C. 2006); *West Virginia Highlands*, 540 F. Supp. 2d at 138.

Plaintiffs’ Amended Complaint asserts claims against Federal Defendants that pertain, not to independent determinations of the August 2011 Decision, but, rather, to long-standing BIA determinations, which were used as the basis for the August 2011 Decision. Because these previous BIA decisions were never challenged by a single one of the Plaintiffs at the time of issuance or the six-year period thereafter, the statute of limitations governing such claims and the Plaintiffs’ APA action have lapsed in their entirety. As such, this Court lacks subject matter jurisdiction to entertain Plaintiffs’ time-barred claims. In challenging the Tribe’s governing body and composition of five Tribal members, Plaintiffs also challenge the BIA’s 1934 Final Agency Action, its 1966 Final Agency Action as well as the 1971 and 1993 Final Agency Actions pertaining to recognition of Mabel Hodge Dixie and her heirs as the sole members of the Tribe. (RAR Decl., Exs A and D thereto) Such determinations as to the Tribe’s membership, including the denial to claims of membership by the heirs of the 1915 Census Indians in the 1966 Final Agency Action, were never challenged by Plaintiffs, and therefore, claims challenging recognition of the Tribe’s membership is statutorily barred pursuant to 28 U.S.C. § 2401(a).

Plaintiffs’ Amended Complaint also very clearly challenges the September 24, 1998 BIA final agency action which first recognized the Tribe’s five member citizenship and their authority to establish a Tribal government, alleging that the BIA acted “erroneously” that the determination made therein as to the Tribe’s membership “was and is incorrect.” (Amended Complaint, ¶¶ 4-7; RAR Decl., Ex. D thereto). Neither the Non-Members, (who, apparently had yet to discover their “membership” at that time and were nowhere to be found), nor Mr. Dixie

ever challenged the 1998 Final Agency Action. Nor did Plaintiffs' challenge subsequent BIA final agency actions issued on February 2000 and March 2000, which reaffirmed the authority of the Tribe's governing body, pursuant to Resolution #GC-98-01, and its five federally recognized members. (RAR Decl., Exs. C, E and F thereto). By this APA action, Plaintiffs seek to challenge the underlying holdings of the 1998 Final Agency Action, the February 2000 Final Agency Action and the March 2000 Final Agency Action, including the validity of the Tribe's governing document itself which had, up until the present action, never been challenged. As the statute of limitations has long since expired to bring challenges to the well-settled and undisturbed BIA determinations pertaining to the membership and government of the Tribe, this Court lacks jurisdiction over Plaintiffs' time-barred claims.

B. The Tribe is a Necessary and Indispensable Party to This Litigation and Cannot be Joined Because of Its Sovereign Immunity.

The Plaintiffs' central allegations — that the Tribe's membership and governing body was improperly recognized by the Assistant Secretary despite almost a century of the United States' history with the Tribe and fundamental tenants of Federal Indian law — is a direct attack on the sovereignty and internal affairs of the California Valley Miwok Tribe. It is a direct attack on the right of the Tribe to establish its own form of government, and like other sovereign Indian nations, "to make their own laws and be ruled by them." *Williams v. Lee*, 358 U.S. 217, 220 (1959).

It is a bedrock principle of federal Indian law that Indian tribes possess sovereign immunity from suit without their consent. *Kiowa Tribe of Okla. v. Mtg. Techs., Inc.*, 523 U.S. 751, 754 (1998); *Okla. Tax Comm'n v. Citizen Band of Potawatomi Indian Tribe*, 498 U.S. 505, 509, (1991); *Santa Clara Pueblo v. Martinez*, 436 U.S. at 58; *Puyallup Tribe v. Wash. Dep't of Game*, 433 U.S. 165, 172-73 (1977); *U.S. v. U.S. Fidelity & Guar. Co.*, 309 U.S. 506, 512

Respectfully submitted this 13th day of December, 2011.

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EXHIBIT “15”

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**CALIFORNIA VALLEY MIWOK TRIBE
et al.,**

Plaintiffs,

v.

**KEN SALAZAR, Secretary,
United States Department of the Interior,
et al.,**

Defendants,

and,

CALIFORNIA VALLEY MIWOK TRIBE

Intervenor-Defendant

Civil Action No. 11-00160 (BJR)

**MEMORANDUM OPINION GRANTING
INTERVENOR-DEFENDANT'S
MOTION TO JOIN A REQUIRED
PARTY AND GRANTING IN PART AND
DENYING IN PART INTERVENOR-
DEFENDANT'S MOTION TO DISMISS**

2013 U.S. Dist. LEXIS 127122

This matter is before the Court on Intervenor-Defendant's motion to dismiss for lack of subject-matter jurisdiction, Fed. R. Civ. P. 12(b)(1), and for failure to state a claim, Fed. R. Civ. P. 12(b)(6). *See* Motion to Dismiss Plaintiffs' First Amended Complaint for Declaratory and Injunctive Relief ("Mot."), Dkt. No. 58, at 2 (Mar. 26, 2012). Intervenor-Defendant also argues that it is a required party but that its joinder is precluded by sovereign immunity, *id.* at 21; for clarity the Court will construe this argument as a motion to join a required party under Federal Rule of Civil Procedure 19(a)(2). Because the Court agrees that Intervenor-Defendant is a required party but not that its joinder is precluded by sovereign immunity, the motion to join a required party is GRANTED. Because the Court finds Intervenor-Defendant's remaining arguments to be largely — but not entirely — without merit, the motion to dismiss is GRANTED in part and DENIED in part.

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I. BACKGROUND

This is the latest volley in a long and bitter contest for control over the California Valley Miwok Tribe (“Tribe”), a federally recognized tribe. Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs, 78 Fed. Reg. 26,384, 26,385 (May 6, 2013). Plaintiffs are alleged Tribe members led by Yakima Dixie; the Intervenor-Defendant is a rival group led by Silvia Burley. For years each faction has attempted to organize its own tribal government and win recognition from the federal government; in this litigation, accordingly, both style themselves the “California Valley Miwok Tribe.” To avoid confusion the Court will refer to Plaintiffs as the “Dixie faction” and to Intervenor-Defendant as the “Burley faction.” The Dixie faction seeks to set aside a decision of the Secretary of the Interior¹ (“Secretary”) recognizing a tribal government controlled by the Burley faction. *See* Letter from Larry Echo Hawk, Assistant Secretary – Indian Affairs, to Silvia Burley and Yakima Dixie (“Decision Letter”), Administrative Record (“A.R.”) at 2049 (Aug. 31, 2011).

At stake is not only the prestige of leadership but also the authority to manage, on behalf of the Tribe, considerable state and federal largesse. As a California tribe without a gambling operation, the Tribe is entitled to receive \$1.1 million per year under a California revenue-sharing compact. *California Valley Miwok Tribe v. Superior Court of San Diego County*, No. D061811, 2012 WL 6584030 at *2 (Cal. Ct. App. Dec. 18, 2012). Since 2005 the California Gambling Control Commission has held these funds in trust pending resolution of the leadership dispute; by the end of 2011 the trust funds had grown to over \$7.6 million. *Id.* The tribal

¹ The court will refer to all final decisions of the Assistant Secretary — Indian Affairs and his subordinates as decisions of the Secretary of the Interior. Although the Secretary has delegated his authority to the Assistant Secretary, *see* 209 Department of the Interior Departmental Manual 8.1 (Apr. 21, 2003), ultimate responsibility for “the management of all Indian affairs and of all matters arising out of Indian relations” resides in the Secretary, 25 U.S.C. § 2.

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government that wins federal recognition will likely control the \$7.6 million held in trust, the \$1.1 million annual payout, and any grants the federal government may bestow. *See* Indian Self-Determination and Education Assistance Act, 25 U.S.C. § 450h(a)(1) (“The Secretary of the Interior is authorized, upon the request of any Indian tribe ... to contract with or make a grant ... to any tribal organization for the strengthening or improvement of tribal government”); *California Valley Miwok Tribe v. United States*, 424 F. Supp. 2d 197, 203 n.7 (D.D.C. 2006) (*CVMT I*) (“The Tribe received approximately \$400,000 in federal funds [in 2005]”).

Prior to the decision on review, the federal government recognized a tribal government only if the tribe was “organized” pursuant to Section 476 of the Indian Reorganization Act (IRA), 25 U.S.C. § 476. *See* Decision Letter, A.R. at 2054; Letter from Michael D. Olsen, Acting Assistant Secretary — Indian Affairs, to Yakima Dixie (“Nonrecognition Letter”), A.R. at 610–11 (Feb. 11, 2005). Section 476 provides two ways for a tribe to organize. Under § 476(a), a tribe may “adopt an appropriate constitution and bylaws,” which become effective when (1) “ratified by a majority vote of the adult members of the tribe ... at a special election authorized and called by the Secretary” and (2) approved by the Secretary. Alternatively, a tribe may organize pursuant to § 476(h)(1), which provides “each Indian tribe shall retain inherent sovereign power to adopt governing documents under procedures other than those specified in this section.” In short, § 476(a) allows a tribe to adopt a constitution according to federal procedures, while § 476(h) allows a tribe to “adopt a constitution using procedures of its own making.” *California Valley Miwok Tribe v. United States*, 515 F.3d 1262, 1265 (D.C. Cir. 2008) (*CVMT II*).

As recently as 1997 organization of the Tribe would have been a simple affair, for the

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only known member was Yakima Dixie.² In 1998, however, Dixie expanded the Tribe by enrolling Silvia Burley, her two daughters, and her granddaughter. Enrollment Letters, A.R. at 111–14 (Aug. 6, 1998). Soon thereafter Dixie and Burley met with representatives from the Bureau of Indian Affairs (“Bureau”), who advised them to set up a General Council as a “stepping stone” to formal organization. Transcription of Videotape of Meeting between Yakima Dixie, Raymond Fry, Brian Golding, and Silvia Burley, A.R. at 145 (Sep. 8, 1998). Dixie and Burley accepted the advice and signed a resolution establishing a “General Council ... consisti[ing] of all members of the Tribe who are at least eighteen years of age” to serve as “the governing body of the Tribe.” Resolution # GC-98-01 (“General Council Resolution”), A.R. at 178 (Nov. 5, 1998).

Despite this promising start, relations between Dixie and Burley soon began to sour. Between 2000 and 2004, Burley and her daughters made three failed efforts to organize the Tribe by submitting to the Secretary constitutions they adopted without Dixie’s participation; in their 2004 constitution, the Burley faction attempted to cut Dixie out altogether by “conferr[ing] tribal membership upon only them and their descendants.” *CVMT I*, 424 F. Supp. 2d at 203 n.7. Dixie now returns the favor by disputing the validity of his enrollment of Burley and her descendants; he also disputes the validity of the General Council Resolution. Plaintiffs’ First Amended Complaint (“Compl.”), Dkt. No. 32, at ¶¶ 44–47 (Oct. 17, 2011).

The Secretary rejected the Burley faction’s 2004 constitution because its organizers had made no effort to seek the “involvement of the whole tribal community,” including potential

² In 1994, Yakima Dixie wrote a letter to the Bureau of Indian Affairs identifying himself as “the only descendant and recognized tribal member of the [Tribe].” Letter from Yakima Dixie to Harold Brafford, Superintendent, Bureau of Indian Affairs, A.R. at 82 (1994). In 1998, Dixie informed the Bureau that he had a brother, Melvin, though Melvin’s whereabouts were unknown. Transcription of Videotape of Meeting between Yakima Dixie, Raymond Fry, Brian Golding, and Silvia Burley, A.R. at 127, 130–31 (Sep. 8, 1998).

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members of the Tribe living near its Rancheria. Letter from Dale Risling, Sr., Superintendent, Bureau of Indian Affairs, to Silvia Burley, A.R. at 499 (Mar. 26, 2004). The Burley faction brought suit in the district court, arguing that the Tribe had “lawfully organized pursuant to its inherent sovereign authority” and that § 476(h) required the Secretary to approve its constitution. *CVMT I*, 424 F. Supp. 2d at 201. The district court dismissed the suit, *id.* at 203, and the D.C. Circuit affirmed, *CVMT II*, 515 F.3d at 1263. The D.C. Circuit held § 476(h) ambiguous and, in accordance with *Chevron U.S.A. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), deferred to the Secretary’s reasonable determination that “her authority under § 476(h) includes the power to reject a proposed constitution that does not enjoy sufficient support from a tribe’s membership.” *CVMT II*, 515 F.3d at 1267. The court noted that although the Tribe, “by its own admission, has a potential membership of 250, only Burley and her small group of supporters had a hand in adopting her proposed constitution.” *Id.* “This antimajoritarian gambit,” the court declared, “deserves no stamp of approval from the Secretary.” *Id.*

While litigation over the Burley constitution wound through the courts, Dixie began to identify potential members who might be eligible to participate in organizing the Tribe. Compl. ¶¶ 65–70. The Bureau assisted in these efforts by publishing notices in local newspapers seeking individuals who might be lineal descendants of historic members of the Tribe. *See* Letter from Troy Burdick, Superintendent, Bureau of Indian Affairs, to Silvia Burley and Yakima Dixie, A.R. at 1261 (Nov. 6, 2006); Legal Announcement, A.R. at 1501 (Apr. 11, 2007). Burley filed an administrative appeal of the Bureau’s action, whereupon the Bureau explained its purpose was not to “determine who the members of the Tribe will be,” but rather to “assist the Tribe in identifying the whole community, the ‘putative’ group, who would be entitled to participate in the Tribe’s efforts to organize a government that will represent the Tribe as a whole.” Letter

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from Clay Gregory, Regional Director, Bureau of Indian Affairs, to Silvia Burley, A.R. at 1498 (Apr. 2, 2007). Unsatisfied, Burley further appealed to the Interior Board of Indian Appeals (“IBIA”). Notice of Appeal, A.R. at 1502 (Apr. 16, 2007). In the interim the Bureau received 503 applications from individuals claiming lineal descendancy and prepared notification letters to those whose claims it believed valid. Declaration of Troy Burdick, Superintendent, Bureau of Indian Affairs, A.R. at 2105 (Dec. 6, 2007). It did not send the letters, however, pending Burley’s appeal.

In December 2010 the Assistant Secretary — Indian Affairs, to whom the IBIA had referred a jurisdictional question, directed the Bureau to cease its efforts to assist the organization of the Tribe because the Tribe was already “organized as a General Council” pursuant to the 1998 General Council Resolution. Letter from Larry Echo Hawk, Assistant Secretary — Indian Affairs, to Silvia Burley, A.R. at 1765 (Dec. 22, 2010). The Dixie faction immediately filed this suit to set aside the decision. In response the Secretary withdrew his decision for reconsideration and requested briefing from both factions. Letter from Larry Echo Hawk, Assistant Secretary — Indian Affairs, to Yakima Dixie and Silvia Burley, A.R. at 2004 (Apr. 8, 2011). In August 2011 the Secretary issued his reconsidered decision. He determined (1) The “citizenship of the [Tribe] consists solely of Yakima Dixie, Silvia Burley,” and Burley’s three descendants; (2) “Pursuant to the 1998 General Council Resolution, the ... General Council is vested with the governmental authority of the Tribe, and may conduct the full range of government-to-government relations with the United States;” and (3) “Although this current General Council form of government does not render [the Tribe] an ‘organized’ tribe under the [IRA], as a federally recognized tribe it is not required ‘to organize’ in accord with the procedures of the IRA.” Decision Letter, A.R. at 2049–50. The Secretary acknowledged his

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decision “mark[ed] a 180-degree change of course from positions defended by this Department in administrative and judicial proceedings over the past seven years.” *Id.*

In October 2011 the Dixie faction amended its complaint to challenge the reconsidered decision of the Secretary. The Dixie faction alleges the Secretary made procedural and substantive errors that amount to violations of the Administrative Procedure Act (“APA”), 5 U.S.C. § 706(2)(A), the Due Process Clause of the Fifth Amendment to the Constitution of the United States, and the Indian Civil Rights Act (ICRA), 25 U.S.C. § 1302. Compl. ¶¶ 90–119. The Dixie faction claims it has been injured by the Secretary’s decision because each individual plaintiff is in fact a member of the Tribe by lineal descent, Compl. ¶¶ 26, 28. By excluding all the plaintiffs except Yakima Dixie from his determination of the Tribe’s current membership, the Dixie faction argues, the Secretary denied the excluded plaintiffs the opportunity to participate in the organization of the Tribe and made them ineligible for federal health, education, and other benefits reserved for members of recognized federal tribes. Compl. ¶¶ 85–86. For relief the Dixie faction requests, among other things, the Court vacate the Secretary’s decision and direct the Secretary to “establish government-to-government relations only with a Tribal government that reflects the participation of the entire Tribal community, including individual Plaintiffs and all other Current Members.” Compl. at 30.

In March 2012 the Court granted the Burley faction leave to intervene “for the limited purpose of filing a motion to dismiss for lack of subject matter jurisdiction, for failure to join an indispensable party, and for failure to state a claim.” Memorandum Opinion and Order, Dkt. No. 52, at 6 (Mar. 26, 2012). That motion is now before the Court.

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II. STANDARD OF REVIEW

In evaluating a motion to dismiss, the Court “must accept as true all material allegations of the complaint, drawing all reasonable inferences from those allegations in plaintiffs’ favor, and presuming that general allegations embrace those specific facts that are necessary to support the claim.” *LaRoque v. Holder*, 650 F.3d 777, 785 (D.C. Cir. 2011) (internal quotation marks, brackets, and citations omitted). In assessing standing, moreover, the Court “must assume that plaintiffs will prevail on the merits of their claims,” *City of Jersey City v. Consol. Rail Corp.*, 668 F.3d 741, 744 (D.C. Cir. 2012), and that they will be granted the relief they seek, *In re Thornburgh*, 869 F.2d 1503, 1511 (D.C. Cir. 1989).

III. DISCUSSION

The Burley faction presents five arguments in its motion to dismiss: (1) the plaintiffs lack standing; (2) the dispute is effectively over tribal membership, a matter over which the court has no jurisdiction; (3) the claims asserted in the complaint are time-barred; (4) the complaint fails to state a claim upon which relief can be granted; and (5) the Tribe, as represented by the Burley faction, is a required party but its joinder is precluded by sovereign immunity. As indicated earlier, the Court will construe the last argument as a motion to join a required party pursuant to Federal Rule of Civil Procedure 19(a)(2).

1. Standing

The standing inquiry has two parts, one constitutional and one prudential. Constitutional standing is a jurisdictional doctrine that enforces the “case-or-controversy requirement of Article III,” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992), while prudential standing is a “judicially self-imposed limit[] on the exercise of federal jurisdiction,” *Allen v. Wright*, 468 U.S. 737, 751 (1984). “To secure constitutional standing the plaintiffs must show injury in fact that is

fairly traceable to the defendant's action and redressable by the relief requested. To secure [prudential standing] under the APA, they must show that the injuries they assert fall within the 'zone of interests' of the relevant statute." *Animal Legal Def. Fund, Inc. v. Espy*, 23 F.3d 496, 498–99 (D.C. Cir. 1994). Although the Burley faction challenges only the Dixie faction's constitutional standing in its motion to dismiss,³ the D.C. Circuit "treats prudential standing as a jurisdictional issue which cannot be waived or conceded." *Ass'n of Battery Recyclers, Inc. v. EPA*, 716 F.3d 667, 674 (D.C. Cir. 2013) (per curiam) (internal quotation marks omitted). Accordingly, the Court will address the Dixie faction's prudential as well as constitutional standing to bring this suit.

The Dixie faction easily satisfies the requirements for constitutional standing. The individual plaintiffs, Dixie excepted,⁴ are injured because they are allegedly members of the Tribe by lineal descent but have been denied the right to participate in the organization and governance of the tribe. *See* Dixie Opp. at 20–21. The injury was caused by the Secretary's determination that Dixie, Burley, and her three descendants "are the only current citizens of the Tribe, and the Tribe's General Council," composed of those same citizens, "is authorized to exercise the Tribe's governmental authority." Decision Letter, A.R. at 2055. Vacating the Secretary's decision would redress the injury by restoring the possibility, if not the certainty, that the excluded plaintiffs could participate in any renewed efforts to organize the Tribe.

³ The Burley faction addressed prudential standing for the first time in its reply, Intervenor-Defendant's Reply in Support of Its Motion to Dismiss Plaintiffs' First Amended Complaint (Related to Docket Nos. 58 and 59) ("Reply to Dixie Opp."), Dkt. No. 63, at 7–13 (Apr. 27, 2012), after the Dixie faction volunteered the issue, Plaintiffs' Memorandum of Points and Authorities in Opposition to Intervenor's Motion to Dismiss ("Dixie Opp."), Dkt. No. 59, at 24–25 (Apr. 20, 2012).

⁴ The Court need not address whether Dixie also has standing. *See Newdow v. Roberts*, 603 F.3d 1002, 1008 (D.C. Cir. 2010) ("[O]nce one plaintiff has standing, there is 'no occasion to decide the standing of the other [plaintiffs]'" (quoting *Carey v. Population Servs. Int'l*, 431 U.S. 678, 682 (1977)); *Int'l Union, United Auto., Aerospace & Agr. Implement Workers of Am. v. Brock*, 783 F.2d 237, 246 n.12 (D.C. Cir. 1986) (similar).

The Burley faction objects on the ground that the excluded plaintiffs “cannot legitimately claim a denial of benefits” because they “never once ... had membership status within this Tribe.” Mot. at 11. The Burley faction points out that although the Court must accept as true the plaintiffs’ factual allegation that they are lineal descendants of historical members of the Tribe, it need not accept their legal conclusion that they are members of the Tribe. *Id.* at 4. “Being a direct lineal descendant ... does not mean one is entitled to Tribal membership.” *Id.* at 5 (internal quotation marks omitted). The Court disagrees. Prior to the decision on review, there was no functioning tribal government to determine membership; in such a circumstance, and for the limited purpose of determining standing, the Court can infer tribal membership from lineal descent.⁵

In any event, the constitutional standing of the excluded plaintiffs does not depend upon their actual membership in the Tribe. Prior to the decision on review, the Bureau sought genealogical evidence from individuals who might be “putative” members of the “whole community” eligible to participate “in the Tribe’s efforts to organize a government that will represent the Tribe as a whole.” Letter from Clay Gregory, Regional Director, Bureau of Indian Affairs, to Silvia Burley, A.R. at 1498 (Apr. 2, 2007). The Bureau’s emphasis upon genealogy implies it would regard a lineal descendant of a historical member of the Tribe a “putative” member eligible to participate in efforts to organize the Tribe. Thus, the excluded plaintiffs have constitutional standing because if, as the court must assume, they are lineal descendants of historic members of the Tribe, and if, as the court must assume, they are granted an order vacating the Secretary’s decision, then they will likely be eligible to participate in any renewed

⁵ Indeed, Burley’s own claim to tribal membership rests upon a bare claim of lineal descent: She was enrolled by Dixie, and Dixie claimed, in his first letter to the Bureau, that he was “the only descendant and recognized ... member of the [Tribe].” *See* Letter from Yakima Dixie to Harold Brafford, Superintendent, Bureau of Indian Affairs, A.R. at 82 (1994).

efforts to organize the Tribe.

The excluded plaintiffs have prudential standing for much the same reason. They seek to vindicate their interest in “participat[ing] in the organization of their Tribe’s government.” Dixie Opp. at 24. That is well within the zone of interests protected by § 476 of the IRA, whose core “purpose was to ‘encourage Indians to revitalize their self-government.’” *Feezor v. Babbitt*, 953 F. Supp. 1, 5 (D.D.C. 1996) (quoting *Cheyenne River Sioux Tribe v. Andrus*, 566 F.2d 1085, 1087 (8th Cir. 1977)). Indeed, the D.C. Circuit has all but held the IRA was designed to protect these very plaintiffs: Just five years ago, that court criticized the Burley faction’s failure to involve the Tribe’s “potential membership of 250” because “organization under the [IRA] must reflect majoritarian values ... [and] tribal governments should fully and fairly involve the tribal members in the proceedings leading to constitutional reform.” *California Valley Miwok Tribe v. United States*, 515 F.3d 1262, 1267–68 (D.C. Cir. 2008) (*CVMT II*) (internal quotation marks omitted).

2. Intratribal Dispute

The Burley faction next argues the Court lacks jurisdiction because “Plaintiffs’ ... grievances pertain[] to their lack of recognition as members of the Tribe,” an issue properly characterized “as a Tribal enrollment dispute.” Mot. at 15. It is indeed axiomatic that a tribe “retain[s] ... inherent power to determine tribal membership,” *Montana v. United States*, 450 U.S. 544, 564 (1981), but the Dixie faction does not complain it has been denied tribal membership by a tribal government. It complains a federal agency has recognized a rogue tribal government in violation of the APA and other federal laws. The Congress has vested this Court with “original jurisdiction of all civil actions arising under the Constitution [and] laws ... of the United States,” 28 U.S.C. § 1331, and the Court “ha[s] no more right to decline the exercise of

jurisdiction which is given, than to usurp that which is not given,” *Cohens v. Virginia*, 19 U.S. 264, 404 (1821). Even the Secretary concedes that “[w]hatever limitations there may be on the scope of relief that the court can order, vacating the [decision on review] is well within those limitations.” Federal Defendants’ Memorandum in Opposition to Defendant-Intervenor’s Motion to Dismiss (“Fed. Opp.”), Dkt No. 60, at 5 n.3 (April 20, 2012); *accord* 5 U.S.C. § 706(2)(A) (“The reviewing court shall hold unlawful and set aside agency action ... found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law”); *Goodface v. Grassrope*, 708 F.2d 335, 338 (8th Cir. 1983) (“[T]he district court did have jurisdiction under 28 U.S.C. § 1331 to review, pursuant to the APA, the action taken by the [Bureau] in refusing to recognize either tribal council”). Because the question here is whether the Secretary violated federal law, the Court has jurisdiction over this case.

The Burley faction objects that the Secretary himself characterized his prior position as an unwarranted “intrusion” into a federally recognized tribe’s internal affairs.” Mot. at 15 (quoting Decision Letter, A.R. at 2054). As discussed further below, the Burley faction is not entitled to rely upon this rather dubious characterization — the supposedly unwarranted “intrusion,” after all, had been upheld by the D.C. Circuit just five years ago — because it appears in the very decision this court has been asked to review. *See Cherokee Nation of Oklahoma v. Babbitt*, 117 F.3d 1489, 1499 (D.C. Cir. 1997) (“[T]he Final Decision ... cannot itself be used to block review”). The Burley faction asks the Court to decline jurisdiction to decide the lawfulness of the Secretary’s decision by assuming the decision was lawful. The Court will do no such thing.

3. Statute of Limitations

The Burley faction next argues certain of the Dixie faction’s claims are time-barred

because they “pertain not to independent determinations of the August 2011 Decision, but, rather, to long-standing [agency] determinations, which were used as the basis for the August 2011 Decision.” Mot. at 19. Specifically, the Burley faction argues the Secretary upheld “the Tribe’s five member citizenship” and “the authority of the Tribe’s governing body[] pursuant to [the General Council Resolution]” in letters issued September 1998, February 2000, and March 2000. Mot. at 19–20. Because the Dixie faction did not challenge these letters within the six-year statute of limitations, the Burley faction argues, its claims are time-barred now. *See* 28 U.S.C. § 2401(a) (“[E]very civil action commenced against the United States shall be barred unless the complaint is filed within six years after the right of action first accrues”); *Hardin v. Jackson*, 625 F.3d 739, 743 (D.C. Cir. 2010) (“[A] party challenging final agency action must commence his suit within six years after the right of action accrues and the right of action first accrues on the date of the final agency action” (internal quotation marks omitted)).

The Dixie faction’s challenges are timely. Although the February 2000 letter did indicate the Secretary’s view that Dixie and the four Burleys are “members of the Tribe,” Letter from Dale Risling, Sr., Superintendent, Bureau of Indian Affairs, to Yakima Dixie, A.R. at 235 (Feb. 4, 2000), neither it nor the other letters presaged the Secretary’s announcement, in the decision on review, that the “citizenship of the [Tribe] consists *solely* of Yakima Dixie, Silvia Burley,” and Burley’s three descendants, Decision Letter, A.R. at 2050 (emphasis added). It is true that in February 2000, the Secretary accepted the “General Council ... as the governing body of the Tribe,” A.R. at 236, and the Dixie faction could have challenged his determination then. Any such challenge would have been mooted, however, by the Secretary’s reversal in February 2005, when he held “the [Bureau] does not recognize any tribal government.” Nonrecognition Letter, A.R. at 611. Because the Secretary’s decision on review “mark[ed] a 180-degree change of

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course” by once again recognizing the General Council as the Tribe’s government, the Dixie faction’s challenge is timely. Decision Letter, A.R. at 2050.

4. Failure to State a Claim

The Burley faction argues the Dixie faction has failed to state a claim under the APA or Due Process Clause because relief would require the Court to “make the Non-Members enrolled members of th[e] Tribe.” Mot. at 27. This, they reiterate, the Court cannot do. *Id.* As the Court has already explained, however, it is no intrusion upon tribal sovereignty to set aside the decision of a federal agency if, as the Dixie faction alleges, that decision violates federal law. The Dixie faction’s APA and due process claims are not merely cognizable; they are the bread and butter of the Court.

The Dixie faction’s ICRA claim is another matter. The Dixie faction alleges the decision on review “violated the ICRA by recognizing a Tribal governing document and governing body that deprive Plaintiffs and other Tribal members of equal protection and due process of law,” Compl. at 30, but the ICRA does not operate against the federal government. *See* 25 U.S.C. § 1302(a)(8) (“No *Indian tribe* in exercising powers of self-government shall deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law” (emphasis added)). Instead, the ICRA imposes “restrictions upon tribal governments similar, but not identical, to those contained in the Bill of Rights and the Fourteenth Amendment.” *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 57 (1978). Because the Dixie faction has not alleged any violation by a tribal government, its ICRA claim must be dismissed.

5. Required Joinder

Federal Rule of Civil Procedure 19(a)(1)(B)(i) provides:

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A person who is subject to service of process and whose joinder will not deprive the court of subject-matter jurisdiction must be joined as a party if ... that person claims an interest relating to the subject of the action and is so situated that disposing of the action in the person's absence may ... as a practical matter impair or impede the person's ability to protect the interest.

If a required party can be joined, then "the court must order that the person be made a party."

Fed. R. Civ. P. 19(a)(2). If a required party cannot be joined, then "the court must determine whether, in equity and good conscience, the action should proceed among the existing parties or should be dismissed." Fed. R. Civ. P. 19(b). The Burley faction argues that it is a required party but that sovereign immunity precludes its joinder. Mot. at 21–23. Consequently, the Burley faction argues, the Court must dismiss the suit. Mot. at 23–25.

One aspect of this argument requires immediate clarification. The Burley faction takes as its premise that it is the proper representative of the Tribe: It claims it is a required party on the basis of the Tribe's interests in its "sovereignty" and "established governing structure and membership," Mot. at 22, and it invokes sovereign immunity on behalf of the Tribe. The Court cannot accept the premise of this argument. Prior to the decision on review, the Secretary recognized no government of the Tribe, Nonrecognition Letter, A.R. at 611; the Secretary then changed course by recognizing, in the decision on review, the General Council as the government of the Tribe. The Burley faction's authority to represent the Tribe therefore rests upon its control of the General Council, and, ultimately, the very decision on review. "Because reliance cannot be placed on the [Secretary's] recognition" of the General Council, *Cherokee Nation of Oklahoma v. Babbitt*, 117 F.3d 1489, 1499 (D.C. Cir. 1997), the Court cannot regard the Burley faction as the Tribe or accept its invocation of sovereign immunity. Were the Court to accept the Burley faction's invocation of sovereign immunity on the basis of the challenged decision, "then the [Secretary's] recognition decisions would be unreviewable, contrary to the

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presumption in favor of judicial review of agency action.” *Id.* at 1499.

The question, then, is not whether joinder of the Burley faction is possible, but whether joinder is necessary. It is. Although the Burley faction is not entitled to defend the sovereign interests of the Tribe, it is certainly entitled to defend its own interest in federal recognition of its favored governmental structure. That interest is pecuniary as well as political: If the decision on review is upheld, then the Burley faction will control the Tribe’s federally-recognized government and with it, an immense flow of federal and state funds. Nor can the Burley faction’s interest be adequately represented, as the Secretary suggests, by the Secretary’s defense of the suit. *See Fed. Opp.* at 7–12. The D.C. Circuit observed in *Cherokee Nation*:

[A]lthough the Delawares and the Department currently take the same position regarding the Delawares’ sovereignty, and to that extent their interests are the same, the Department has twice reversed its position regarding the Delawares since 1940.... [T]he Department may reverse itself again. Moreover, even were the Department vigorously to represent the Delawares ... in the district court, the Department might decide not to appeal any unfavorable decision.

Id. at 1497. That this precedent controls this case is self-evident.

IV. CONCLUSION

For the foregoing reasons, it is, hereby

1. ORDERED that the Fourth Cause of Action in the First Amended Complaint, Violation of the Indian Civil Rights Act, is DISMISSED. It is further,
2. ORDERED that Intervenor-Defendant’s Motion to Dismiss is in all other respects DENIED. It is further,
3. ORDERED that Intervenor-Defendant is dismissed as an intervenor and joined as a party defendant. It is further,
4. ORDERED that Intervenor-Defendant is granted leave to file any additional arguments in support of Federal Defendants’ motion for summary judgment. The memorandum must

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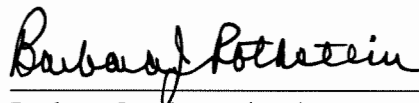
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be filed within 14 days and may not exceed 15 pages. Oppositions must be filed within 10 days of the memorandum and may not exceed 10 pages. No leave is granted to file a reply. It is further,

5. ORDERED that Intervenor-Defendant's Motion to Expedite Consideration of the Motion to Dismiss is DISMISSED as moot.

SO ORDERED.

September 6, 2013



Barbara Jacobs Rothstein
U.S. District Court Judge

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EXHIBIT “16”



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

AUG 31 2011

Ms. Silvia Burley
10601 N. Escondido Place
Stockton, California 95212

Mr. Yakima Dixie
1231 E. Hazelton Avenue
Stockton, California 95295

Dear Ms. Burley and Mr. Dixie:

Introduction and Decision

On December 22, 2010, I sent you a letter setting out my decision in response to a question referred to me by the Interior Board of Indian Appeals (IBIA) in *California Valley Miwok Tribe v. Pacific Regional Director, Bureau of Indian Affairs*, 51 IBIA 103 (January 28, 2010) (IBIA decision). I determined that there was “no need for the BIA to continue its previous efforts to organize the Tribe's government, because it is organized as a General Council, pursuant to the [1998 General Council Resolution] it adopted at the suggestion of the BIA.” I concluded further that there was “no need for the BIA to continue its previous efforts to ensure that the Tribe confers tribal citizenship upon other individual Miwok Indians in the surrounding area.”

I issued my December decision without providing the parties a formal opportunity to brief me on the facts and issues as they saw them. As a result of subsequent actions by both parties, I determined to withdraw the December decision, and, on April 8, 2011, I requested briefing from the parties. Counsel for the parties provided detailed responses with numerous exhibits. I appreciate the time and effort that went into providing these responses. I have considered them carefully.

Based on the litigation records in the prior Federal court actions in both California and Washington, D.C., the proceedings before the Department's Interior Board of Indian Appeals, and the material submitted in response to my April 8 letter, I now find the following:

- (1) The California Valley Miwok Tribe (CVMT) is a federally recognized tribe, and has been continuously recognized by the United States since at least 1916;
- (2) At the present date, the citizenship of the CVMT consists solely of Yakima Dixie, Silvia Burley, Rashel Reznor, Anjelica Paulk, and Tristian Wallace;

(3) The CVMT today operates under a General Council form of government, pursuant to Resolution #CG-98-01, which the CVMT passed in 1998, facilitated by representatives of the Bureau of Indian Affairs (Bureau or BIA)(1998 General Council Resolution);

(4) Pursuant to the 1998 General Council Resolution, the CVMT's General Council is vested with the governmental authority of the Tribe, and may conduct the full range of government-to-government relations with the United States;

(5) Although this current General Council form of government does not render CVMT an "organized" tribe under the Indian Reorganization Act (IRA) (*see e.g.*, 25 U.S.C. 476(a) and (d)), as a federally recognized tribe it is not required "to organize" in accord with the procedures of the IRA (25 U.S.C. § 476(h));

(6) Under the IRA, as amended, it is impermissible for the Federal government to treat tribes not "organized" under the IRA differently from those "organized" under the IRA (25 U.S.C. §§ 476(f)-(h)); and

(7) As discussed in more detail below, with respect to finding (6), on this particular legal point, I specifically diverge with a key underlying rationale of past decisions by Department of the Interior (Department) officials dealing with CVMT matters, apparently beginning around 2004, and decide to pursue a different policy direction.¹ Under the circumstances of this case, it is inappropriate to invoke the Secretary's broad authority to manage "all Indian affairs and [] all matters arising out of Indian relations," 25 U.S.C. § 2, or any other broad-based authority, to justify interfering with the CVMT's internal governance. Such interference would run counter to the bedrock Federal Indian law principles of tribal sovereignty and tribal self-government, according to which the tribe, as a distinct political entity, may "manag[e] its own affairs and govern[] itself," *Cherokee Nation v. Georgia*, 30 U.S. 1, 16 (1832); and would conflict with this Administration's clear commitment to protect and honor tribal sovereignty.

Obviously, the December 2010 decision, and today's reaffirmation of that decision, mark a 180-degree change of course from positions defended by this Department in administrative and judicial proceedings over the past seven years. This change is driven by a straightforward correction in the Department's understanding of the California Valley Miwok Tribe's citizenship and a different policy perspective on the Department's legal obligations in light of those facts.

As discussed below, the BIA clearly understood in 1998 that the acknowledged CVMT citizens had the right to exercise the Tribe's inherent sovereign power in a manner they chose. It is unfortunate that soon after the 1998 General Council Resolution was enacted, an intra-tribal leadership dispute erupted, and both sides of the dispute found, at various points in time in the intervening years, that it served their respective interests to raise the theory that the BIA had a duty to protect the rights of approximately 250 "potential citizens" of the Tribe. A focus on that theory has shaped the BIA's and the Department's position on the citizenship question ever

¹ I recognize that the D.C. Circuit Court of Appeals' 2008 opinion upholding prior Department efforts to organize the CVMT pursuant to the IRA afforded broad deference to the Department's prior decisions and interpretations of the law. *Cal. Valley Miwok Tribe v. United States*, 515 F.3d 1262, 1264-68 (D.C. Cir. 2008).

since. By contrast, today's decision clears away the misconceptions that these individuals have inchoate citizenship rights that the Secretary has a duty to protect. They do not. The Tribe is not comprised of both citizens and potential citizens. Rather, the five acknowledged citizens are the only citizens of the Tribe, and the General Council of the Tribe has the exclusive authority to determine the citizenship criteria for the Tribe. *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 57 (1978). I believe this change in the Department's position is the most suitable means of resolving this decade-long dispute and is in accord with principles of administrative law. *Nat'l Cable & Telecomms. Ass'n v. Brand X Internet Servs.*, 545 U.S. 967 (2005).

Background

This decision is necessitated by a long and complex tribal leadership dispute that resulted in extensive administrative and judicial litigation. Much of the factual background is set out in the prior decisions, so it is not necessary to repeat or even summarize all of it here.

The history of this Tribe, and the record of this case to date, demonstrates the following:

- The CVMT is a federally recognized tribe, 74 Fed. Reg. 40,218, 40,219 (Aug. 11, 2009);
- In 1916, the United States purchased approximately 0.92 acres in Calaveras County, California, for the benefit of 12 named Indians living on the Sheepranch Rancheria (now Sheep Ranch)(Rancheria) (51 IBIA at 106);
- The Indian Agent, who in 1915 recommended the purchase of the 0.92 acres, described the group of 12 named individuals as “the remnant of once quite a large band of Indians in former years living in and near the old decaying mining town known and designated on the map as ‘Sheepranch.’” *Id.*;
- The record shows only one adult Indian lived on the Rancheria in 1935, a Jeff Davis, who voted “in favor of the IRA” *Id.*;
- In 1966, the record shows only one adult Indian, Mabel Hodge Dixie, Yakima Dixie's mother, lived on the Rancheria, when the BIA crafted a plan for distribution of tribal assets pursuant to the California Rancheria Act of 1958, Pub. L. No. 85-671, 72 Stat. 619, *as amended by* Act of Aug. 11, 1964, Pub. L. No. 88-419, 78 Stat. 390;
- Mabel Hodge Dixie was to be the sole distributee of tribal assets under the 1966 Rancheria distribution plan;
- While the Bureau initiated the process to terminate the Tribe, it never declared the Tribe terminated and has never treated the Tribe as if it had been terminated;
- In 1994, Yakima Dixie wrote the BIA asking for assistance with home repairs and describing himself as “the only descendant and recognized . . . member of the Tribe.” (51 IBIA at 107);
- At some point during the 1990s, Silvia Burley “contacted BIA for information related to her Indian heritage, which BIA provided, and by 1998—at BIA's suggestion—Burley had contacted Yakima[.]” Dixie (as the IBIA has noted, “it appears that Burley may trace her ancestry to a ‘Jeff Davis’ who was listed on the 1913 census. . . .”) 51 IBIA at 107, including footnote 7;
- On August 5, 1998, Mr. Dixie “signed a statement accepting Burley as an enrolled member of the Tribe, and also enrolling Burley's two daughters and her granddaughter.” *Id.*;

- The Tribe was not organized pursuant to the IRA prior to 1998 and did not have organic documents setting out its form of government or criteria for tribal citizenship;
- In September of 1998, BIA staff met with Mr. Dixie and Ms. Burley “to discuss organizing the Tribe,” and on September 24, 1998 sent follow-up correspondence recommending that, “given the small size of the Tribe, we recommend that the Tribe operate as a General Council,” which could elect or appoint a chairperson and conduct business. *Id.* at 108;
- On November 5, 1998, Mr. Dixie and Ms. Burley signed a resolution establishing a General Council, which consisted of all adult citizens of the Tribe, to serve as the governing body of the Tribe. *Id.* at 109;
- Less than five months later, leadership disputes arose between Mr. Dixie and Ms. Burley—and those conflicts have continued to the present day;²
- Initially the BIA recognized Mr. Dixie as Chairman, but later recognized Ms. Burley as Chairperson based primarily upon the April 1999 General Council action appointing Ms. Burley as Chairperson - an action concurred in by Mr. Dixie. *Id.*;
- Mr. Dixie later challenged Ms. Burley’s 1999 appointment;
- In 2002, Ms. Burley filed suit in the name of the Tribe alleging that the Department had breached its trust responsibility to the Tribe by distributing the assets of the Rancheria to a single individual, Mabel Dixie, when the Tribe had a potential citizenship of “nearly 250 people[.]” See Complaint for Injunctive and Declaratory Relief at 1, *Cal. Valley Miwok Tribe v. United States*, No. 02-0912 (E.D. Cal. Apr. 29, 2002);
- In March, 2004, the BIA Superintendent rejected a proposed constitution from Ms. Burley because she had not involved the “whole tribal community” in the governmental organization process;
- On February 11, 2005, the Acting Assistant Secretary – Indian Affairs issued a decision on Mr. Dixie’s 1999 appeal, ruling that the appeal of the Bureau’s 1999 decision to recognize Ms. Burley as Chairperson was moot and that the BIA would recognize Ms. Burley only as a person of authority within the Tribe;
- Ms. Burley sued in D.C. District Court challenging the February 2005 decision;
- After the District Court dismissed her challenge, *Cal. Valley Miwok Tribe v. United States*, 424 F.Supp. 2d 197 (D.D.C. 2006), the D. C. Circuit Court of Appeals affirmed, *Cal. Valley Miwok Tribe v. United States*, 515 F.3d 1262 (D.C. Cir. 2008);
- In January 2010, the IBIA rejected Ms. Burley’s appeal objecting to, among other matters, the Superintendent’s decision to continue to assist the Tribe in organizing its government according to the IRA because it viewed the matter as “effectively and functionally a tribal enrollment dispute,” and then referred the matter to me on jurisdictional grounds.

In response to the Board’s referral, I issued my December 22, 2010 decision letter. I intended that decision to resolve the citizenship question referred to me by the IBIA by finding that the current Tribe’s citizenship consisted of the five acknowledged citizens noted above and recognizing the Tribe’s General Council as a tribal government with which the United States may

² I note that the Department repeatedly has offered to assist in mediating this dispute—to no avail. The amount of time and resources focused on these disputes reflects poorly on all the parties, and they must be mindful that continuing this imprudent dispute risks potential adverse consequences well beyond the Tribe and its citizens.

conduct government-to-government relations. Almost immediately, Mr. Dixie filed suit in the D.C. District Court challenging that decision. Recognizing the complex and fundamental nature of the underlying issues, and because I desired the benefit of submissions from the interested parties, I set aside that decision and requested formal briefing.

The submissions by the parties in response to my request were thorough. I have carefully reviewed the submissions and find they were most helpful in enhancing my understanding of the parties' positions.

Analysis

It is clear to me that the heart of this matter is a misapprehension about the nature and extent of the Secretary's role, if any, in determining tribal citizenship of a very small, uniquely situated tribe. Related to this issue is the Tribe's current reluctance to "organize" itself under the IRA, choosing instead to avail itself of the provisions in 25 U.S.C. § 476(h), first enacted in 2004, which recognizes the inherent sovereign powers of tribes "to adopt governing documents under procedures other than those specified . . . [in the IRA.]"

Applicability of General Legal Authorities of the Secretary of the Interior in Indian Affairs

The D.C. Circuit viewed § 476(h) as ambiguous, and then granted *Chevron* deference to the then-Secretary's interpretation of that provision. 513 F.3d at 1266-68. The D.C. Circuit put great weight on the Secretary's broad authority over Indian affairs under 25 U.S.C. § 2, writing that "[w]e have previously held that this extensive grant of authority gives the Secretary broad power to carry out the federal government's unique responsibilities with respect to Indians." *Id.* at 1267, *citations omitted*. In addition to § 2, 25 U.S.C. §§ 9, and 13, and 43 U.S.C. § 1457, are often cited as the main statutory bases for the Department's general authority in Indian affairs. *Cal. Valley Miwok Tribe v. United States*, 424 F.Supp. 2d 197, 201 (D.D.C. 2006); *see also* COHEN'S HANDBOOK OF FEDERAL INDIAN LAW § 5.03[2] at 405 (2005 ed.) [hereinafter COHEN]. The D.C. Circuit also cited two cases involving separate bands of the Seminole Nation for the general propositions that the United States has an "obligation" "to promote a tribe's political integrity" as well as "the responsibility to ensure that [a tribe's] representatives, with whom [it] must conduct government-to-government relations, are valid representatives of the [tribe] as a whole." 513 F.3d at 1267 (*emphasis added by the Court*), *citing*, *Seminole Nation v. United States*, 313 U.S. 286, 296 (1942), and *Seminole Nation of Oklahoma v. Norton*, 223 F.Supp. 2d 122, 140 (D.D.C. 2002).

In my view, prior Department officials misapprehended their responsibility when they: (1) took their focus off the fact that the CVMT was comprised a five individuals, and (2) mistakenly viewed the Federal government as having particular duties relating to individuals who were not citizens of the tribe. I decline to invoke the broad legal authorities cited above to further intrude into internal tribal citizenship and governance issues in the instant case. In making this decision, I also am mindful of the Supreme Court's recent guidance concerning: (1) the importance of identifying "specific rights creating or duty-imposing statutory or regulatory prescriptions" before concluding the United States is obligated to act in a particular manner in Indian affairs,

and (2) the central role Federal policy plays in administering Indian affairs. *United States v. Jicarilla Apache Nation*, 131 S. Ct. 2313, 2323-24, 2326-27 (June 13, 2011).

Application of Specific Legal Authorities

In my view, prior Department officials (from 2003 to the present) fundamentally misunderstood the role of the Federal government in addressing the CVMT citizenship and governance issues: (1) they misunderstood and ignored the legal authority of CVMT to govern itself through its General Council structure without being compelled to “organize” under the IRA; and (2) they confused the Federal government’s obligations to *possible* tribal citizens with those owed to *actual* tribal citizens.

The February 11, 2005, decision of Acting Assistant Secretary – Indian Affairs Michael D. Olsen stated that, until the Tribe organized itself, the Department could not recognize anyone as the Tribe’s Chairperson, and that the “first step in organizing the Tribe is identifying the putative tribal members.” (2005 Decision at 1-2, *discussed in* 51 IBIA at 112). The D.C. Circuit, after citing the Secretary’s broad authority under 25 U.S.C. § 2, endorsed this approach as a reasonable interpretation of 25 U.S.C. § 476(h) because “[t]he exercise of this authority is especially vital when, as is the case here, the government is determining whether a tribe is organized, and the receipt of significant federal benefits turns on the decision.” 515 F.3d at 1267. As I have stated above, I reject as contrary to § 476(h) the notions that a tribe can be compelled to “organize” under the IRA and that a tribe not so organized can have “significant federal benefits” withheld from it. Either would be a clear violation of 25 U.S.C. § 476(f).

The CVMT currently consists of the five citizens identified above. Under the current facts, the Department does not have a legitimate role in attempting to force the Tribe to expand its citizenship.³ Department officials previously referred to “the importance of participation of a greater tribal community in determining citizenship criteria.” (Superintendent’s 2004 Decision at 3, *discussed in* 51 IBIA at 111-112). The D.C. Circuit, referring to the Tribe’s governance structure that arguably would maintain a limited citizenship, stated “[t]his antimajoritarian gambit deserves no stamp of approval from the Secretary.” 515 F.3d at 1267. However, I know of no *specific statutory or regulatory authority* that warrants such intrusion into a federally recognized tribe’s internal affairs. (As to the more general sources of authority cited in support of Federal oversight of tribal matters, I have explained my views on the proper scope of those authorities above). “Courts have consistently recognized that one of an Indian tribe’s most basic powers is the authority to determine questions of its own membership.” *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 57, 72 n.32 (1978); *United States v. Wheeler*, 435 U.S., 313, 322 n.18 (1978); COHEN § 3.03[3] at 176, *citations omitted*. “[I]f the issue for which the determination is important involves internal affairs of the Indian nation, it is more consistent with principles of tribal sovereignty to defer to that nation’s definition.” *Id.* at 180. As discussed in the previous paragraph, I also believe that, based on an incorrect interpretation of § 476(h), the previous Administration’s views on the IRA’s application to this case were erroneous and led to an improper focus on expanding the size of the Tribe and altering the form of its government.

³ While I believe that it is *equitably* appropriate for the CVMT General Council to reach out to potential citizens of the Tribe, I do not believe it is proper, *as a matter of law*, for the Federal government to attempt to impose such a requirement on a federally recognized tribe.

Mr. Dixie invokes the *Alan-Wilson* IBIA cases to support the theory that the Secretary has a duty to ensure that the potential citizens are involved in the organization of an unorganized, but federally recognized tribe.⁴ 30 IBIA 241. But, in fact, *Alan-Wilson* works directly against Mr. Dixie's position, and this distinction provides additional support for my decision. Unlike CVMT, the Cloverdale Rancheria was a federally recognized tribe terminated under the California Rancheria Act. It was later restored pursuant to the *Tillie Hardwick* litigation and settlement, which required the Rancheria to organize its tribal government under the IRA.

30 IBIA 241, 248.

My review of the history of the CVMT compels the conclusion set out in the December decision and reaffirmed here: the CVMT has been continuously recognized, and its political relationship with the Federal government has not been terminated. The five acknowledged citizens are the only current citizens of the Tribe, and the Tribe's General Council is authorized to exercise the Tribe's governmental authority. In this case, again, the factual record is clear: there are only five citizens of CVMT. The Federal government is under no duty or obligation to "potential citizens" of the CVMT. Those potential citizens, if they so desire, should take up their cause with the CVMT General Council directly.

Given both parties' acknowledgment of the existence of other individuals who could potentially become tribal citizens, the Department's prior positions are understandable. The Department endeavored to engage both parties in a resolution of the tribal citizenship issues, including offers of assistance from the Department's Office of Collaborative Action and Dispute Resolution (CADR) – to no avail. By the time this matter was referred to me by the IBIA in January 2010, serious doubts existed about the likelihood of the parties ever being able to work together to resolve the issues involving the citizenship and governance of the Tribe.

Absent an express commitment from the parties to formally define tribal citizenship criteria, any further effort by the Department to do so would result in an unwarranted intrusion into the internal affairs of the Tribe. Moreover, given the unfortunate history of this case, most likely such efforts would not succeed in accomplishing this objective. While there may be rare circumstances in which such an intrusion would be warranted in order for the Secretary to discharge specific responsibilities, no such specific law or circumstances exist here.

Accordingly, unless asked by the CVMT General Council, the Department will make no further efforts to assist the Tribe to organize and define its citizenship. I accept the Resolution #GC-98-01 as the interim governing document of the Tribe, and as the basis for resuming government-to-government relations between the United States and the Tribe.

While I appreciate that the General Council Resolution may prove lacking as to certain aspects of tribal governance, I also recognize that this tribe is very small and uniquely situated. Many tribes have been able to govern effectively with limited or no written governing documents.

⁴ Mr. Dixie also invokes the case of *Seminole Nation of Oklahoma v. Norton*, 223 F.Supp.2d 122 (D.D.C. 2002) in support of his position. *Seminole Nation* involved a dispute where a particular faction of the Tribe asserted rights to tribal citizenship under an 1866 treaty. *Id.* at 138. There is no overriding treaty or congressional enactment governing tribal citizenship at issue in this dispute.

Conclusion

Based upon the foregoing analysis, I re-affirm the following:

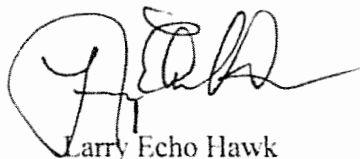
- CVMT is a federally recognized tribe whose entire citizenship, as of this date, consists of the five acknowledged citizens;
- The 1998 Resolution established a General Council form of government, comprised of all the adult citizens of the Tribe, with whom the Department may conduct government-to-government relations;
- The Department shall respect the validly enacted resolutions of the General Council; and
- Only upon a request from the General Council will the Department assist the Tribe in refining or expanding its citizenship criteria, or developing and adopting other governing documents.

In my December 2010 decision letter I rescinded several earlier decisions. I am persuaded that such attempts to rewrite history are fraught with the risk of unintended consequences. Past actions, undertaken in good faith and in reliance on the authority of prior Agency decisions, should not be called into question by today's determination that those prior Agency decisions were erroneous. Thus, today's decision shall apply prospectively.

This decision is final for the Department and effective immediately, but implementation shall be stayed pending resolution of the litigation in the District Court for the District of Columbia, *California Valley Miwok Tribe v. Salazar*, C.A. No. 1:11-cv-00160-RWR (filed 03/16/11).

Finally, I strongly encourage the parties to work within the Tribe's existing government structure to resolve this longstanding dispute and bring this contentious period in the Tribe's history to a close.

Sincerely,



Larry Echo Hawk
Assistant Secretary – Indian Affairs

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EXHIBIT “17”



INTERIOR BOARD OF INDIAN APPEALS

California Valley Miwok Tribe v. Pacific Regional Director, Bureau of Indian Affairs

51 IBIA 103 (01/28/2010)

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47 IBIA 91

46 IBIA 249



United States Department of the Interior

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CALIFORNIA VALLEY MIWOK)	Order Dismissing Appeal in Part and
TRIBE,)	Referring Appeal in Part to the
Appellant,	)	Assistant Secretary - Indian Affairs
)	
v.)	
	)	Docket No. IBIA 07-100-A
PACIFIC REGIONAL DIRECTOR,)	
BUREAU OF INDIAN AFFAIRS,)	
Appellee.	)	January 28, 2010

The California Valley Miwok Tribe (Tribe) (formerly known as Sheep Ranch Rancheria, and Sheep Ranch of Me-wuk Indians of California), under the direction of Silvia Burley as the Tribe's Chairperson,¹ appealed to the Board of Indian Appeals (Board) from an April 2, 2007, decision (Decision) of the Pacific Regional Director, Bureau of Indian Affairs (Regional Director; BIA). The Regional Director affirmed a November 6, 2006, decision of the BIA Central California Agency Superintendent (Superintendent) that BIA would "assist" the Tribe in organizing a tribal government. To do so, the Superintendent announced that BIA would sponsor a "general council meeting of the Tribe," to which BIA would invite tribal members (apparently numbering six) as well as "potential" or "putative" members (apparently numbering in the several hundreds). BIA decided the criteria for (and intends to make individual eligibility determinations for) the class of "putative" members who would be allowed to participate in the general council meeting, and whose involvement BIA deemed necessary in order to include the "whole tribal community" in the tribal organization and membership decisions. BIA concluded that these actions were necessary because until the tribal organization and membership

¹ Our caption of the appeal reflects the entity in whose name the appeal was filed. As will become apparent, Burley's position and authority to bring this appeal in the name of the Tribe is disputed by both BIA and by Yakima Dixie (Yakima), a tribal member who claims to be the "Hereditary Chief" of the Tribe. Our references in this decision to Burley as the "appellant" are simply for the sake of identifying actions and positions with the individuals involved, and do not imply a decision by the Board, one way or the other, on the underlying dispute over whether Burley has authority to bring this appeal on behalf of the Tribe.

issues were resolved, a leadership dispute between Burley and Yakima, *see supra* note 1, could not be resolved, and resolution of that dispute was necessary for a functioning government-to-government relationship with the Tribe.

Burley appealed from the Decision, objecting on three grounds: (1) the Decision, as partially implemented, violated the Tribe's Fiscal Year (FY) 2007 contract with BIA under the Indian Self-Determination and Education Assistance Act (ISDA), *see* Pub. L. No. 93-638, 25 U.S.C. § 450 *et seq.*, through which the Tribe performed governmental and enrollment functions; or, in the alternative, that the Decision constituted an unlawful reassumption of that contract, *see* 25 C.F.R. Part 900, Subpart P (Retrocession and Reassumption Procedures); (2) the Tribe is already organized, BIA's proffered "assistance" was not requested by the Tribe, and thus BIA's action constitutes an impermissible intrusion into tribal government and membership matters that are reserved exclusively to Indian tribes; and (3) the Regional Director erred in stating that the Tribe was never terminated and thus is not a "restored" tribe, which is a status that is relevant to the Tribe for purposes of Indian gaming. The Regional Director and Yakima² seek dismissal of this appeal on the grounds that Burley lacks authority to represent the Tribe, and that intervening Federal court decisions, in litigation brought by Burley against the Department of the Interior, are dispositive against her in this appeal.

We need not decide whether Burley has authority to represent the Tribe in claiming that the Decision, as partially implemented, violated the Tribe's FY 2007 ISDA contract because another jurisdictional bar precludes us from considering the claim: the Board does not have jurisdiction to review an ISDA breach-of-contract claim against BIA. Burley's assertion that the Decision constituted an illegal "reassumption" of the ISDA contract suffers the same fate because it is, in substance, simply a recharacterization of her breach-of-contract claim, and it rests on a misunderstanding of the applicable regulations concerning ISDA contract reassumption.

Burley's authority to represent the Tribe with respect to its second claim is closely related to the underlying merits of those claims, and because we conclude that we do not have jurisdiction over the subject matter of those claims, we also dismiss them on

² Yakima claims to represent a class of "putative" tribal members, but the record contains no basis upon which the Board can make a determination of which, if any, individuals have authorized Yakima to represent their interests in this appeal, or whether any other individuals would in fact qualify as interested parties. Yakima does qualify as an interested party, and whether or not he represents other individuals is not relevant to our consideration of his pleadings or our disposition of this appeal.

jurisdictional grounds, independent of whether or not Burley is authorized to represent the Tribe in this appeal. In 2005, before the Decision was issued, the Acting Assistant Secretary confirmed as final for the Department a decision made by BIA in 2004 that BIA does not consider the Tribe to be organized. With exceptions not relevant here, the Board does not have authority to review a decision of the Assistant Secretary. Moreover, the Department's position declining to recognize the Tribe as organized was upheld in Federal court.

The Regional Director's Decision, however, goes beyond what was decided or confirmed by the Assistant Secretary. To the extent that it does, our review would not necessarily be precluded by the Assistant Secretary's action. But another jurisdictional hurdle exists: the Decision decides what is effectively and functionally a tribal enrollment dispute, for purposes of determining who BIA will recognize, individually and collectively, as members of the "greater tribal community" that BIA believes must be allowed to participate in the general council meeting of the Tribe for organizational purposes. The Board lacks jurisdiction over tribal enrollment disputes. Thus, we lack jurisdiction over Burley's appeal regarding BIA's actions to assist the Tribe in organizing itself. Because this portion of the Decision effectively implicates a tribal enrollment dispute, we refer Burley's second claim to the Assistant Secretary.

With respect to Burley's third claim — that the Tribe is a "restored" tribe and that the Regional Director erred in stating otherwise — we conclude that Burley has not shown that the Tribe has been adversely affected by this statement in the Decision. Thus, the Tribe lacks standing to raise that claim in this appeal. Even assuming that the Tribe had standing, we would nevertheless dismiss this claim because it is not ripe for our review. By dismissing this claim, we leave for another day resolution of this issue regarding the Tribe's status.

Background

This appeal involves an Indian tribe whose legal status as a tribal political entity is undisputed as a matter of Federal law, *see* 74 Fed. Reg. 40,218, 40,219 (Aug. 11, 2009) (Federally recognized tribes list), but whose polity in fact — who or what individuals collectively constitute, or are entitled to constitute, the "Tribe" for purposes of participating in organizing a tribal government and establishing membership criteria — is bitterly disputed within the handful of individuals who have been recognized by BIA as the Tribe's currently enrolled members. Some background on the Sheep Ranch Rancheria and the history leading up to the present dispute will provide context for understanding our characterization of this appeal and, in particular, our conclusion that the Tribe's second claim should be referred to the Assistant Secretary.

I. Historical Background

In 1915, an Indian Agent forwarded to the Commissioner of Indian Affairs a census “of the Indians designated ‘Sheepranch-Indians’ . . . aggregating 12 in number,” which the Agent described as constituting “the remnant of once quite a large band of Indians in former years living in and near the old decaying mining town known and designated on the map as ‘Sheepranch.’” Administrative Record (AR), Tab 94. The Indian Agent recommended purchasing land for the Indians, and in 1916, the United States purchased approximately 0.92 acres in Calaveras County, California, which became known as the Sheep Ranch Rancheria. *See* AR, Tab 93.

In 1934, Congress passed the Indian Reorganization Act (IRA), which, among other things, required the Secretary to hold elections through which the adult Indians of a reservation decided whether to accept or reject the applicability of certain provisions of the IRA to their reservation, including provisions authorizing tribes to organize and adopt a constitution under the IRA. *See* 25 U.S.C. §§ 476 and 478. The IRA voter list for Sheep Ranch Rancheria identified only a single eligible voter, Jeff Davis, who voted in favor of the IRA.³ AR, Tabs 90-92. Neither Davis, nor any subsequent residents of the Rancheria, organized a tribal government pursuant to the IRA.

In 1966, during a period in which the Federal government sought to terminate the Federal trust relationship with various Indians and Indian tribes, BIA prepared a plan to distribute the assets of the Sheep Ranch Rancheria as a prelude to termination. *See* AR, Tab 88; *see generally* California Rancheria Act of 1958, Pub. L. No. 85-671, 72 Stat. 619, *as amended by* Act of Aug. 11, 1964, Pub. L. No. 88-419, 78 Stat. 390. The distribution plan recited that several Indian families (not identified) had lived on the Rancheria since it was purchased, but none of the land had been allotted or formally assigned to individuals, and for the 8 years preceding, the only house had been occupied by Mabel Hodge Dixie.⁴ BIA determined that Mabel was the only Indian entitled to receive the assets of the

³ The IRA defined “tribe” as referring to “any Indian tribe, organized band, pueblo, or the Indians residing on one reservation.” 25 U.S.C. § 479.

⁴ The 1915 census identified a Peter Hodge and his family as among the Sheepranch Indians, although any relationship between Mabel and Peter is not shown in the record.

Rancheria, and she voted to accept the distribution plan and was issued a deed to the land. AR, Tabs 86-88.⁵

II. BIA Dealings with the Tribe Between 1994 and 2003.

Mabel was the mother of Yakima, who grew up on the Rancheria. *See* AR, Tab 73 at 5-6. In 1994,⁶ Yakima wrote to the Superintendent, expressing a need for BIA assistance for home repairs, and describing himself as “the only descendant and recognized . . . member” of the Tribe. AR, Tab 76.

Sometime during the 1990s, Burley contacted BIA for information related to her Indian heritage, which BIA provided, and by 1998 — at BIA’s suggestion — Burley had contacted Yakima.⁷ On August 5, 1998, Yakima, “[a]s Spokesperson/Chairman” of the Tribe, signed a statement accepting Burley as an enrolled member of the Tribe, and also enrolling Burley’s two daughters and her granddaughter. AR, Tab 75.

In September of 1998, Yakima and Burley met at the Rancheria with BIA staff from the Sacramento Area (now “Pacific Regional”) Office to discuss organizing the Tribe. Among the issues discussed was developing criteria for membership in the Tribe. BIA staff suggested during the meeting that Yakima had both the authority and broad discretion to decide that issue. *See, e.g.*, AR, Tab 73 at 7-8, 24-25. Brian Golding, a BIA Tribal Operations Officer, characterized Yakima and his brother, Melvin, along with Burley and her adult daughter, as the “golden members” of the Tribe. Because Melvin’s whereabouts were unknown at the time, Golding stated: “that basically leaves us with three people.” AR, Tab 73 at 32. Golding continued, “usually what we’ll do is we’ll call that group of

⁵ In 1967, Mabel executed a quit claim deed to convey the land back to the United States, and following her death, the Department of the Interior probated the property and determined that it passed to Mabel’s husband and her four sons, as her heirs.

⁶ We cannot determine with certainty the date of the letter, but a barely legible portion of a date stamp appears to read “94.”

⁷ It appears that Burley may trace her ancestry to a “Jeff Davis” who was listed on the 1913 census: his age (58) in 1913 is consistent with his date of birth (1855) identified in genealogical information sent to Burley by BIA. *See* AR, Tabs 77 & 94. As noted, the sole eligible voter for the Sheep Ranch Rancheria IRA vote in 1935 was also a “Jeff Davis,” but the date of birth listed for him is not the same as that for the Jeff Davis identified in the genealogical information sent to Burley. *Compare* AR, Tab 92 *with* AR, Tab 77.

people a general council. They're the body. They're the tribe. They're the body that has the authority to take actions on behalf of the tribe. So in this case, we'd be looking at, possibly, three people." *Id.*

In a followup letter to Yakima, dated September 24, 1998, the Superintendent described what BIA considered to be the unusual circumstances in which the Tribe and BIA found themselves. Typically, according to the Superintendent, California tribes that had been unlawfully terminated by the Federal government regained Federal recognition through litigation, and a court judgment identified the class of persons entitled to organize the tribe — e.g., the distributees and their dependents, and their lineal descendants. Although the Sheep Ranch Rancheria land had been distributed to Mabel pursuant to a distribution plan, the Department apparently never published a final notice of termination and had accepted the land back from Mabel through a quit claim deed, thus essentially administratively "unterminating" the Tribe before it had been formally terminated. Unlike terminated tribes that were restored through litigation, there was no court decision for Sheep Ranch Rancheria to which the Tribe and BIA could look to determine who was a member of the Tribe or otherwise entitled to organize it.

Under the circumstances, BIA concluded that "for purposes of determining the initial membership of the Tribe," BIA must include Yakima and Melvin, as the remaining heirs of Mabel Hodge Dixie. AR, Tab 72 at 2 (unnumbered). In addition to those two, BIA recognized that Yakima had adopted Burley, her two daughters, and her granddaughter, into the Tribe, and therefore those adoptees who were of majority age also had "the right to participate in the initial organization of the tribe." *Id.* The Superintendent continued:

At the conclusion of [the meeting with BIA staff], you were going to consider *what enrollment criteria should be applied to future prospective members. Our understanding is that such criteria will be used to identify other persons eligible to participate in the initial organization of the Tribe.* Eventually, such criteria would be included in the Tribe's Constitution.

Id. (emphasis added).

The Superintendent stated that "given the small size of the Tribe, we recommend that the Tribe operate as a General Council," *id.* at 3, which could elect or appoint a chairperson and conduct business. In order to provide assistance, the Superintendent offered a \$50,000 ISDA grant available for improving tribal governments, and provided a draft resolution for the Tribe to use in requesting the grant. *Id.*

On November 5, 1998, Yakima and Burley signed a resolution establishing a General Council, consisting of all adult members of the Tribe, to serve as the governing body of the Tribe. AR, Tab 71. In less than 5 months, however, a leadership dispute arose between Burley and Yakima. In April of 1999, Yakima purportedly resigned as chairperson of the Tribe, concurred in General Council action appointing Burley as Chairperson, and then repudiated his resignation, while still giving Burley “the right to act as a delegate to represent” the Tribe, subject to his orders. *See* AR, Tabs 68-70.

There was sufficient cooperation, however, for Yakima, Burley, and the elder of Burley’s daughters, Rashel Reznor, to submit a petition to BIA asking for a Secretarial election to be held, pursuant to the IRA, 25 U.S.C. § 476, to vote on a proposed constitution. AR, Tab 66. The proposed constitution (1999 Yakima-Burley Constitution) identified the “base enrollees” as Yakima, Burley, Burley’s two daughters, Burley’s granddaughter, and (prospectively) the direct lineal descendants of these base enrollees. It also provided that all descendants of base enrollees and all descendants of any person who became a member subsequent to the adoption of the constitution “shall automatically become members of the Band at birth.” *Id.*, 1999 Yakima-Burley Constitution, Art. II, Sec. 3(B). Other persons “of Sheep Ranch blood” could also be adopted into membership by a 2/3 majority vote of the General Council, which consisted of all members 18 years of age or older. *Id.*, 1999 Yakima-Burley Constitution, Art. II, Sec. 3(C) & Art. III, Sec. 2. BIA did not call a Secretarial election to vote on the 1999 Yakima-Burley Constitution.

By October of 1999, any remaining cooperation between Yakima and Burley appears to have evaporated, and Yakima sought assistance from BIA to expel Burley and her family from the Tribe. *See* AR, Tabs 57, 62. In December of 1999, Yakima provided BIA with a tribal constitution, purportedly adopted on December 11, 1999 (1999 Yakima Constitution). Enclosed with the constitution were documents by which Yakima, as Chairperson, purported to enroll seven additional individuals as members of the Tribe. The 1999 Yakima Constitution identified the Tribe’s membership as (1) all persons who were listed as distributees and dependent members of their immediate families in the Sheep Ranch Rancheria Distribution Plan, (2) lineal descendants of those falling into the first category, (3) all persons enrolled by Yakima, and (4) all persons approved in the future by the Chairperson and Tribal Council to become members.

By letter dated February 4, 2000, the Superintendent returned the 1999 Yakima Constitution to Yakima without action, observing that the body that approved it did not appear to be the proper body to do so. The Superintendent agreed to a meeting with Yakima later in the month, with notice to Burley.

Burley and her daughter declined to participate in the meeting between BIA and Yakima, and on March 7, 2000, the Superintendent sent her a summary of the meeting. AR, Tab 8. The Superintendent reaffirmed BIA's view that the General Council consisted of Yakima, Burley, and Rashel. The Superintendent reported that BIA had rejected an assertion by Yakima that he had only given "limited enrollment" to Burley and her family, and also reported that BIA had advised Melvin, with whom BIA was now in contact, that as an heir of Mabel Hodge Dixie for the Rancheria land, he was entitled to participate in the organization of the Tribe.

Meanwhile, Burley and her daughter Rashel adopted their own tribal constitution, on March 6, 2000 (2000 Burley Constitution). The 2000 Burley Constitution identified the membership of the Tribe as Yakima, Burley, her two daughters, and her granddaughter, and provided that any further membership would be decided by a subsequent enrollment ordinance to be adopted by 2/3 majority vote of the Tribal Council. On October 31, 2001, the Superintendent wrote to Burley to "acknowledge receipt" of the 2000 Burley Constitution, as amended and corrected in September 2001. The Superintendent stated that BIA could not act on it without a formal request. The Superintendent concluded his letter by stating that "[t]he Agency will continue to recognize the Tribe as an unorganized Tribe and its elected officials as an interim Tribal Council until the Tribe takes the necessary steps to complete the Secretarial election process." AR, Tab 49 at 2 (unnumbered).

Between 1999 and 2003, BIA corresponded with Burley by addressing and recognizing her as the Tribe's Chairperson, or sometimes as "Interim Chairperson." *See, e.g.*, AR Tabs 8, 14 (Nov. 24, 2003, Letter from Superintendent), and 52. Eventually, as discussed in Part IV of this Background, BIA began to refer to Burley as a "person of authority" whom BIA considered as representing the Tribe for government-to-government purposes.

III. The Tribe's ISDA Contract

Beginning in 1999, and continuing through FY 2007, BIA executed an ISDA contract with the Tribe for improving tribal government, which apparently included such functions as developing a tribal enrollment ordinance and membership lists. Initially, BIA seems to have treated Burley as the Tribe's Chairperson for purposes of executing the contract. Later, when BIA began referring to her as a "person of authority," it continued to relate to the Tribe through Burley for purposes of executing annual funding agreements for the ISDA contract. The Decision that is the subject of this appeal was issued during FY 2007, when an ISDA contract funded for that year was in effect.

For FY 2008, the Superintendent returned without action a proposal from Burley to renew or re-fund the Tribe's ISDA contract, after concluding (in light of several court decisions) that Burley had not shown that the Tribe had authorized her to submit the ISDA contract proposal. *See California Valley Miwok Tribe v. Central California Agency Superintendent*, 47 IBIA 91 (2008). Burley's attempt to challenge, in court, BIA's decision not to renew the Tribe's ISDA contract for FY 2008, was unsuccessful. *See* Memorandum and Order, *California Valley Miwok Tribe v. Kempthorne*, No. Civ. S-08-3164 FCD/EFB (E.D. Cal. Feb. 23, 2009), *appeal docketed*, No. 09-15466 (9th Cir. Mar. 12, 2009).

For FY 2009, Burley again submitted a contract proposal and BIA again returned it without action on the same grounds relied upon for returning the FY 2008 proposal. The Tribe, through Burley, appealed that decision, and that appeal is pending before the Board in *California Valley Miwok Tribe v. Central California Agency Superintendent*, Docket No. IBIA 09-13-A.

IV. Superintendent's 2004 Decision and Acting Assistant Secretary's 2005 Decision

On March 26, 2004, in a letter that the Acting Assistant Secretary later relied upon as a final Departmental decision, the Superintendent wrote to Burley, acknowledging receipt on February 11, 2004, of a document purporting to be the Tribe's constitution, which the Superintendent understood had been submitted to demonstrate that the Tribe is an "organized" tribe. Although the letter was addressed to "Silvia Burley, Chairperson," in the text the Superintendent stated that BIA recognized Burley as "a person of authority" within the Tribe, but did "not yet view [the] tribe to be an 'organized' Indian Tribe." AR, Tab 40 at 1 (2004 Decision). The Superintendent stated that when a tribe that has not previously organized seeks to do so, BIA has a responsibility to determine that the organizational efforts "reflect the involvement of the whole tribal community." *Id.* He noted a lack of evidence of any outreach to Indian communities in and around Sheep Ranch or to persons who have maintained any cultural contact with Sheep Ranch. *Id.* at 2. The Superintendent further stated that "[i]t is only after the greater tribal community is initially identified that governing documents should be drafted and the Tribe's base and membership criteria identified. The participation of the greater tribal community is essential to this effort." *Id.*

The Superintendent expressed concern that the "base roll" submitted by Burley contained only five names, "thus, suggest[ing] that this tribe did not exist until the 1990's, with the exception of Yakima Dixie. However, BIA's records indicate with the exception not withstanding, otherwise." *Id.* According to the Superintendent, BIA's experience with

the Tribe's "sister Miwok tribes" led BIA to believe that "Miwok tradition favors base rolls identifying persons found in Miwok tribes," noting that the Amador County tribes used the 1915 Miwok Indian Census for that County; El Dorado County tribes used a 1916 Indian census; and Tuolumne County tribes used a 1934 IRA voter list. *Id.* The Superintendent emphasized "the importance of the participation of a greater tribal community in determining membership criteria." *Id.* at 3. The Superintendent advised Burley of her right to appeal the letter to the Regional Director. No appeal was filed.

On February 11, 2005, Principal Deputy and Acting Assistant Secretary - Indian Affairs Michael D. Olsen dismissed an "appeal" that Yakima had filed in 2003 with the Office of the Assistant Secretary to challenge BIA's recognition of Burley as Chairperson of the Tribe (2005 Decision). The 2005 Decision dismissed Yakima's appeal on procedural grounds, finding, among other things, that the 2004 Decision had rendered the appeal moot.⁸ The Assistant Secretary interpreted the 2004 Decision as making clear that BIA did not recognize Burley as chairperson, and that until the Tribe has organized itself, the Department could not recognize anyone as the Tribe's chairperson. The Assistant Secretary stated that "the Tribe is not an organized tribe," "BIA does not recognize any tribal government," and "[t]he first step in organizing the Tribe is identifying the putative tribal members." 2005 Decision at 1-2.

Burley, in the name of the Tribe, filed suit against the Department, challenging the 2004 Decision and the 2005 Decision, and the court accepted the two decisions as final Departmental action for purposes of judicial review. *See California Valley Miwok Tribe v. United States*, 424 F. Supp. 2d 197, 201 n.5 (D.D.C. 2006). The court rejected Burley's claim that the Department's refusal to recognize as valid the constitution proffered by Burley, the Department's refusal to consider the Tribe as organized, and the Department's insistence on participation of a "greater tribal community" in organizational efforts, constituted unlawful and improper interference in the internal affairs of the Tribe. The

⁸ Perhaps because he concluded that Yakima's appeal was moot, Olsen did not otherwise address his jurisdiction to consider such an appeal. Under 25 C.F.R. Part 2, an appeal from a Regional Director's decision ordinarily must be filed with the Board, after which the Assistant Secretary has a 20-day window in which to assume jurisdiction over the appeal. *See* 25 C.F.R. §§ 2.4(e), 2.20(c). Yakima did not file his appeal with the Board.

court dismissed Burley's suit for failure to state a claim, thus leaving the 2004 and 2005 Decisions intact.⁹

On appeal, the U.S. Court of Appeals affirmed the District Court's decision. *California Valley Miwok Tribe v. United States*, 515 F.3d 1262 (D.C. Cir. 2008). The court found reasonable the Department's position that the Secretary's authority under the IRA included the power to refuse to recognize the validity of Burley's proffered tribal constitution when it "does not enjoy sufficient support from [the] tribe's membership." *Id.* at 1267. The court noted that, by Burley's own admission, the Tribe had a potential membership of 250, and upheld the Secretary's decision to reject what the court characterized as the "antimajoritarian gambit" by Burley and her small group of supporters. *Id.*

V. BIA Decisions in 2006 and 2007 and Subsequent Actions

After the District Court had issued its decision in *California Valley Miwok Tribe v. United States*, but while Burley's appeal to the Court of Appeals was pending, the Superintendent issued his November 6, 2006, decision, AR, Tab 19, and, following Burley's appeal, the Regional Director upheld the Superintendent, in the April 2, 2007, Decision, AR, Tab 3, that is the subject of this appeal.

The Superintendent's 2006 decision was addressed to both Burley and Yakima, and characterized BIA's action as an offer to assist the Tribe in the Tribe's efforts "to reorganize a formal governmental structure that is representative of all Miwok Indians who can establish a basis for their interest in the Tribe and is acceptable to the clear majority of those Indians." AR, Tab 19 at 1. The Superintendent disclaimed any intent to interfere with the Tribe's right to govern itself, but found that the leadership dispute between Burley and Yakima threatened the government-to-government relationship between the United States and the Tribe. The Superintendent announced that the Agency

will publish a notice of a general council meeting of the Tribe to be sponsored by the BIA in the newspapers within the Miwok region. This will initiate the reorganization process. The notice shall invite the members of the Tribe and

⁹ The development of competing constitutions has not abated. In 2006, an 11-person group of 12 "initial members" of the Tribe aligned with Yakima purported to adopt a constitution, which recognized Burley as the 12th "initial member," but did not recognize Burley's daughters or granddaughter as members.

potential members to the meeting where the members will discuss the issues and needs confronting the Tribe.

Id.

The Superintendent listed several proposed issues for the general council to discuss, and described the necessary tasks for the general council as follows:

The general council first needs to determine the type of government your tribe will adopt. . . . Next, the general council needs to agree to the census or other documents that establishes the original members of the Rancheria. That census should be the starting point from which the tribe develops membership criteria. The immediate goal is determining membership of the tribe. Once membership is established and the general council determines the form of government, then the leadership issues can be resolved.

Id. at 2. The Superintendent concluded his letter by stating that BIA very much wished to have both Burley and Yakima participate, but that BIA would proceed with the process even if one or both of them declined to participate. *Id.*

Burley appealed the Superintendent's 2006 decision to the Regional Director, arguing that BIA had recognized her as a person of authority and thus there was no leadership dispute; that BIA previously had already decided which individuals had the right to organize the Tribe; that BIA lacked authority to organize an Indian tribe unless requested to do so by the tribe's government; and that BIA lacked authority to establish a class of individuals entitled to participate in organizing the Tribe as members of a "general council" convened by BIA. AR, Tabs 14, 17. The Superintendent responded to Burley's arguments by stating that

[i]t is not the goal of the Agency to determine membership of the Tribe. The purpose of the [Agency's] letter was to bring together the 'putative group' who believe that they have the right to participate in the organization of the Tribe It was not, and is not, the intent of the Agency to determine who the members of the Tribe will be. Then the 'putative' group can define the criteria for membership. . . .

AR, Tab 13 at 4.

In the Decision, the Regional Director first concluded that because BIA did not recognize a tribal government for the Tribe and because Burley and Yakima were at an

impasse, the government-to-government relationship was threatened, and thus it was necessary for BIA to assist the Tribe with the Tribe's organizational efforts. The Regional Director recounted the history of the Tribe, and in the course of that background, stated that a notice of termination was never published in the Federal Register or otherwise issued for the Sheep Ranch Rancheria, that the Tribe was included in a 1972 list of Federally recognized tribes, and therefore that BIA has never viewed the Tribe as having been terminated and then "restored" to Federal recognition. Decision at 2.

The Regional Director also recounted BIA's dealings with both Yakima and Burley, concluding that "both [had] failed to identify the whole community who are entitled to participate in the Tribe's efforts to organize." Decision at 4. The Regional Director agreed that it was not the Superintendent's goal to determine the membership of the Tribe, but instead to

bring together the "putative group" who believe that they have the right to participate in the organization of the Tribe We believe the main purpose was to assist the Tribe in identifying the whole community, the "putative" group, who would be entitled to participate in the Tribe's efforts to organize a government that will represent the Tribe as a whole. A determination of who is a tribal member must, however, [precede] any determination of who is a tribal leader.

Id. at 5. The Regional Director stated that "[i]n all fairness to the current tribal membership and the 'putative' group," he agreed with the Superintendent's proposed course of action. *Id.* Thus, the Regional Director affirmed the Superintendent's decision and remanded the matter for implementation.

On April 10 and 17, 2007, shortly after the Decision was issued and before Burley filed this appeal, BIA published notices in local newspapers announcing its plans

to assist the [Tribe] in its efforts to organize a formal governmental structure that is acceptable to all members. The first step in the organizational process is to identify putative members of the Tribe who may be eligible to participate in all phases of the organizational process of the Tribe. Therefore, if you believe you are a lineal descendant of a person(s) listed below, you will need to [submit specified documentation to BIA] . . . that will assist the Bureau Team in determining your eligibility.

Calaveras Enterprise, April 10 and 17, 2007, Ex. 1 to Appellant's Opening Brief.¹⁰ The notice described the putative members as lineal descendants of (1) individuals listed on the 1915 census of the Sheepranch Indians, (2) Jeff Davis (the sole individual on the IRA voter list in 1935), and (3) Mabel Hodge Dixie (the sole distributee under the 1964 Distribution Plan). The notice continued:

All individuals who have been determined to be eligible to participate in the organization of the Tribe will be notified by letter from the Agency. All individuals not determined eligible will be noticed of their right to appeal to the BIA, Pacific Regional Director within 30 days of receipt of decision. Upon rendering final decisions regarding appeals filed, the Agency will notify all individuals determined to be eligible of the organizational meeting which will include an agenda of the next actions to be taken by the group.

Id.

Burley, in the name of the Tribe, and represented by counsel, appealed the Decision to the Board. Burley, the Regional Director, and Yakima filed briefs.

VI. Arguments on Appeal

Burley characterizes the appeal as “rais[ing] the permissible scope of BIA involvement in internal Tribal government functions through unlawful reassumption of [ISDA] contract functions involving enrollment.” Opening Brief at 3. According to Burley, the issues raised include the Regional Director's findings that BIA, rather than the Tribe, can determine tribal membership; that BIA may designate a putative class of membership; that the Tribe is an unorganized Tribe; that BIA can determine the make up of tribal government and refuse to recognize the Tribe's judicial forum; that BIA can hold a general council meeting for the Tribe without permission from the Tribe's governing body; and “lastly,” that the Tribe was never terminated and restored. *Id.* at 3-4. Burley contends

¹⁰ Burley objected to the Board that BIA's public notices violated the automatic stay that attaches to BIA decisions, *see* 25 C.F.R. § 2.6, and were issued after BIA no longer had jurisdiction over the matter. While not conceding a violation, BIA has represented to the Board that it has refrained from taking any further action to convene a general council meeting. Independent of BIA's authority to publish them, the notices reflect, as a factual matter, BIA's understanding of the nature, scope, and intent of the Superintendent's November 6, 2006, decision and the Regional Director's Decision upholding the Superintendent.

that she was elected Chairperson of the Tribe and has been so recognized by BIA; that the five adult members of the Tribe adopted a general council form of government and thereafter the Tribe was no longer an “unorganized” tribe; that the Tribe is a party to an ISDA contract with BIA; and that BIA’s actions to implement the Decision by publishing the newspaper notices constitute an unlawful reassumption of contract functions because BIA “has engaged its own process of promulgating enrollment standards that differ from those of the Tribe,” which violates the terms of the ISDA contract. *Id.* at 11. Burley argues that BIA has overstepped its authority and impermissibly interfered with decisions on tribal membership and tribal governance that are reserved exclusively to Indian tribes. Burley also argues that the Regional Director erred in stating that the Tribe is not a “restored” tribe, because once fee title to the Rancheria land passed to Mabel Dixie, the Tribe was terminated, and therefore the Tribe necessarily must be a “restored” tribe.

The Regional Director contends that the appeal should be dismissed because the appeal cannot properly be brought in the name of the Tribe. The Regional Director argues that (1) the Decision was directed at Burley, as a person claiming to be the leader of the Tribe, and was not directed at the Tribe; (2) the appeal seeks to vindicate Burley’s own rights as an alleged elected official, and does not represent the interests of the Tribe as a whole; and (3) the Tribe lacks standing to appeal because it was not adversely affected by the Decision. In making the standing argument, the Regional Director contends that the Decision did not violate the ISDA contract or the Tribe’s right to determine its own membership, and that until the organizational process is complete, it is not possible to determine whether the Tribe was injured. The Regional Director also defends the Decision on the merits.

Yakima argues that the Superintendent’s 2004 Decision and the Assistant Secretary’s 2005 Decision, as final Departmental decisions, are dispositive of the issues raised in this appeal and thus prevent the Board from considering the appeal on the merits. Yakima also contends that this matter constitutes an enrollment dispute, and the Board lacks jurisdiction to adjudicate tribal enrollment disputes. *See* 43 C.F.R. § 4.330(b)(1).

Discussion

I. Jurisdictional Principles

The Board has jurisdiction to review an appeal from a non-emergency rescission and reassumption of an ISDA contract, *see* 25 C.F.R. § 900.150(e), but the Board does not have general jurisdiction over disputes that arise after an ISDA contract has been awarded, *id.* § 900.151(a) & (b), including claims that a Federal agency has violated an ISDA

contract. *See id.* Part 900, Subpart N (Post-Award Contract Disputes). As a general rule, the Board has jurisdiction to review a decision of a BIA Regional Director. *See* 25 C.F.R. § 2.4(e);¹¹ 43 C.F.R. § 4.330(a). But, except by special delegation or request from the Secretary or Assistant Secretary, the Board is expressly precluded from adjudicating tribal enrollment disputes, *see* 43 C.F.R. § 4.330(b)(1), or stated more precisely, from adjudicating challenges to BIA actions deciding tribal enrollment disputes. *See Vedolla v. Acting Pacific Regional Director*, 43 IBIA 151, 154 n.4 (2006).¹² In addition, the Board does not have jurisdiction to review a decision by the Assistant Secretary. *Ramah Navajo Chapter v. Deputy Assistant Secretary for Policy and Economic Development - Indian Affairs*, 49 IBIA 10, 11-12 (2009), and cases cited therein; *Felter v. Acting Western Regional Director*, 37 IBIA 247, 250 (2002).

With these jurisdictional principles in mind, we address each argument raised by Appellant in this appeal.¹³

¹¹ BIA's appeal regulations refer to decisions made by an "Area Director," but the position is now titled "Regional Director."

¹² In *Vedolla*, the Board noted that regardless of section 4.330(b), the Board lacks jurisdiction to directly review enrollment (or other) actions by Indian tribes.

¹³ Another jurisdictional principle applied by the Board is that it will only consider matters that are ripe for review. *See, e.g., U&I Redevelopment LLC v. Acting Northwest Regional Director*, 44 IBIA 240 (2007) (dismissing appeal for lack of ripeness); *Wind River Resources Corp. v. Western Regional Director*, 43 IBIA 1, 3 (2006) (describing the considerations for determining ripeness). The Board solicited briefing on this issue, and both the Tribe and the Regional Director contend that this appeal is ripe. Yakima contends that the appeal is not ripe because Burley is objecting only to a *process*, and not an outcome, and no definitive determinations "have . . . been made with respect to denominating the particular putative members and the broader community who might qualify as members." Answer of Interested Parties at 11. Yakima later contradicts himself, however, by asserting that "BIA has, now, formally defined the class of individuals with whom it will [meet] to organize the Tribe." *Id.* at 14. Except with respect to the Decision's conclusion that the Tribe is not a "restored" Tribe, *see infra* at 122-23, we agree that this appeal is ripe, and that no purpose would be served by dismissal without deciding those issues.

II. Analysis

A. Claims Based on Tribe's ISDA Contract

1. Does the Decision Violate the Tribe's ISDA Contract?

Burley contends that the Decision, and subsequent notices identifying the class of putative members whom BIA would invite to a general council meeting of the Tribe, violated the Tribe's ISDA contract because the contract includes enrollment functions. As noted above, the Board lacks jurisdiction to consider claims that BIA breached a tribe's ISDA contract, and thus we dismiss this claim without addressing whether Burley would otherwise be authorized to bring such a claim on behalf of the Tribe.¹⁴

2. Does the Decision Constitute an Impermissible Reassumption of the ISDA Contract?

Burley argues that the Decision, as partially implemented by the newspaper notices announcing criteria for "putative" members of the Tribe and announcing BIA's intent to convene a general council meeting, constitutes an impermissible "reassumption" of the Tribe's ISDA contract. The Regional Director argues that Burley does not have authority to represent the Tribe in asserting this claim and that the Tribe itself lacks standing because "until the organizational process is complete, we cannot know whether there has been an actual injury." Appellee's Opposition Brief at 9. We need not address the Regional Director's contentions because we conclude that Burley's impermissible-reassumption argument is simply a restatement of her breach-of-contract claim, over which we lack jurisdiction.

Under the ISDA regulations, "reassumption" means "*rescission*, in whole or in part, of a contract *and* assuming or resuming control or operation of the contracted program by

¹⁴ We note that an appeal was filed with the Civilian Board of Contract Appeals (CBCA) in the name of the Tribe, from the same actions challenged in this appeal (Superintendent's November 6, 2006, decision; Regional Director's April 2, 2007, Decision; and April 2007 newspaper notices), arguing that BIA's actions constituted an impermissible revision and/or amendment of the contract in violation of the contract and governing statute. The CBCA dismissed the appeal for lack of jurisdiction because the Tribe had made no claim to the awarding official and the awarding official had issued no decision. *See California Valley Miwok Tribe v. Department of the Interior*, CBCA 817-ISDA (Sept. 27, 2007) (dismissing appeal for lack of jurisdiction).

the Secretary without consent of the Indian tribe or tribal organization pursuant to the notice and other procedures set forth in subpart P.” 25 C.F.R. § 900.6 (emphases added). The “rescission” of a contract by one party refers to the “unilateral *unmaking* of a contract for a legally sufficient reason.” Black’s Law Dictionary 1332 (8th ed. 2004) (emphasis added). Subpart P of 25 C.F.R. Part 900 prescribes the specific circumstances under which an agency may rescind an ISDA contract, the specific procedural steps that must be followed, and the effective date of the rescission and reassumption. *See* 25 C.F.R. §§ 900.247 - .253.

In the present case, the Decision did not purport to rescind or terminate the Tribe’s ISDA contract for FY 2007, and the Regional Director does not argue on appeal that the contract was rescinded or terminated. Nor does Burley contend that BIA followed the proper procedures for rescinding the contract. Instead, Burley contends that BIA’s actions constituted unlawful interference with the Tribe’s ability to perform under the contract by essentially taking over enrollment activities. Burley describes this as a “reassumption,” but the actions described, in substance, do not fall within the regulatory definition of that term. In effect, Burley’s contention is a restatement of her allegation that BIA’s actions either breached or unlawfully interfered with the Tribe’s still-effective and still-valid FY 2007 ISDA contract.

Thus, for the same reason that we have dismissed Burley’s express breach-of-contract claim, we also dismiss Burley’s unlawful-reassumption claim: the Board lacks jurisdiction to consider what is in substance an ISDA breach-of-contract claim.

B. BIA’s Decision to Convene a General Council Meeting of the Tribe’s Current and Putative Membership and to Determine Criteria for Putative Membership

Burley contends that the Regional Director erred in stating that the Tribe is unorganized, and that because the Tribe (i.e., Burley’s faction) did not request assistance from BIA, BIA has no authority to convene a “general council” meeting of the Tribe, or to determine the class(es) of individuals who may participate in such a meeting. We conclude, based on the Assistant Secretary’s 2005 Decision, which included his acceptance of the Superintendent’s 2004 Decision as final for the Department, that the following determinations are not subject to further review by the Board in this appeal: (1) the Department does not recognize the Tribe as being organized or having any tribal government that represents the Tribe; (2) the Department does not recognize the Tribe as necessarily limited to Yakima, Melvin, Burley, her two daughters, and her granddaughter, for purposes of who is entitled to organize the Tribe and determine membership criteria; and (3) the Department has determined that it has an obligation to ensure that a “greater tribal community” be allowed to participate in organizing the Tribe. Each of these

determinations was either explicitly or implicitly accepted in the Assistant Secretary's 2005 Decision as final for the Department, *see supra* at 111-12, and the Board lacks jurisdiction to review a decision by the Assistant Secretary.

That does not end our inquiry, however, because the Regional Director's Decision arguably went beyond the above determinations by deciding more specifically what BIA would do to implement those determinations. In this appeal, Burley contends that BIA exceeded its authority in determining who would constitute the "greater tribal community," or class of "putative members," and in deciding that they could participate as part of a "general council" meeting of the Tribe, to decide membership and organizational issues.¹⁵

As evidenced by the decisions of the Superintendent and the Regional Director, and the public notices published by BIA in 2007,¹⁶ BIA apparently has decided to create a base roll of individuals who satisfy criteria that BIA has determined to be appropriate and who

¹⁵ On October 13, 2009, Burley filed a request that the Board "take judicial notice of the United States Supreme Court's October 5, 2009, denial of [a petition for a writ of certiorari] in the *Hendrix v. Coffey* matter." *See Hendrix v. Coffey*, No. Civ. 08-605-M, 2008 WL 2740901 (W.D. Okla. July 10, 1008), *aff'd*, 305 Fed.Appx. 495 (10th Cir. 2008) (unpublished), *cert. denied*, 130 S. Ct. 61, 2009 WL 1106742 (U.S. Oct. 5, 2009). Burley characterized the *Hendrix* decisions as reaffirming well-settled principles of law that Indian tribes have complete authority to determine all questions of their own membership, and ascribed significance to the Supreme Court's recent denial of Hendrix's petition for a writ of certiorari. Counsel for the Tribe, Kevin M. Cochrane, Esq., of Rosette & Associates, PC, subsequently certified that he had reviewed and endorsed Burley's request as one made in good faith and for which a reasonable legal justification exists. Because we lack jurisdiction to consider the merits of Burley's second claim, we decline to further consider Burley's request or Cochrane's certification. *But see Maryland v. Baltimore Radio Show*, 338 U.S. 912, 919 (1950) (Opinion of Justice Frankfurter) ("This Court has rigorously insisted that such a denial [of certiorari] carries with it no implication whatever regarding the Court's views on the merits of a case which it has declined to review.").

¹⁶ BIA published the newspaper notices after the Regional Director issued the Decision, but before the Tribe timely filed this appeal. Subsequently, the Tribe objected to BIA's action as violating the automatic stay. *See* 25 C.F.R. § 2.6. We agree with the Tribe that BIA should not have begun to implement a decision that was not effective and that was subject to appeal. BIA subsequently confirmed with the Board that it cannot take any action to assist the Tribe in organizing while Burley's appeal remains pending. *See* Appellee's Opposition to Appellant's Motion to Enforce Stay at 1; *see also supra*, note 10.

will be entitled to participate — effectively as members (albeit in a somewhat undefined capacity) — in a “general council” meeting of the Tribe to organize the Tribe. Although the facts of this case render BIA’s decision far from a typical enrollment adjudication, we conclude that, in substance, that is what it is. Whether or not some or all of the individuals BIA would determine, under the Decision, to be “putative members” of the Tribe will ultimately be enrolled, BIA’s determination of their “putative membership” apparently will effectively “enroll” them as members of the “general council” that is to meet. And that general council, as apparently envisioned by BIA, will have the authority to determine permanent membership criteria.

Understood in the context of the history of this Tribe, and BIA’s dealings with the Tribe since approximately 1999, this case is properly characterized as an enrollment dispute. *Cf. Vedolla v. Acting Pacific Regional Director*, 43 IBIA at 155 (Board lacks jurisdiction over what is, at its core, a tribal enrollment dispute, notwithstanding an appellant’s characterization to the contrary; matter referred to the Assistant Secretary); *Walsh v. Acting Eastern Area Director*, 30 IBIA 180 (1997) (dismissing appeal from alleged actions and inactions regarding the development of a proposed final base membership roll for the Catawba Indian Tribe of South Carolina, and referring matter to Assistant Secretary); *Deardorff v. Acting Portland Area Director*, 18 IBIA 411 (1990) (dismissing appeal from BIA decision holding that 58 individuals were qualified to be enrolled in the Crow Creek Band of Umpqua Tribe of Indians, and referring matter to the Assistant Secretary). Because the Board lacks jurisdiction to adjudicate tribal enrollment disputes, we dismiss this claim and refer it to the Assistant Secretary.¹⁷

C. Did the Regional Director Err in Stating that the Tribe is Not a “Restored” Tribe?

A determination whether a tribe is a “restored” tribe may have significant gaming-related implications when land is taken into trust for such a tribe. *See Butte County v. Hogen*, 609 F. Supp. 2d 20, 24 (D.D.C. 2009). It is unclear, however, whether the Regional Director intended the statement in his Decision that the Tribe is not a “restored” tribe to constitute a “decision,” or whether it was intended only as background. We

¹⁷ Even if we did not conclude that Burley’s second claim presents an enrollment dispute over which we lack jurisdiction, referral of this claim might still be required because of the discretionary character of BIA’s decision. *See* 43 C.F.R. § 4.330(b)(2). The Department has determined that a “greater tribal community” must be included in organizing the Tribe, but even if we limited our review to the *classes* of individuals that BIA decided to include, it is unclear what legal standard we would apply.

conclude that the Tribe lacks standing to appeal this portion of the Decision because there is no showing, on this record, that the Tribe was adversely affected by the statement on this issue in the Decision. *See* 25 C.F.R. § 2.3 (administrative appeals regulations apply to appeals by persons who may be adversely affected by a BIA decision). The Decision is directed at neither gaming on tribal lands nor taking land into trust for the Tribe. And although the statement that the Tribe is not a “restored” Tribe may well have been intended to signal BIA’s position on the subject, the Decision itself presents no context, nor any action that BIA intends to take to implement that position in a way that might have an actual adverse effect.

Even if we were to conclude that the Tribe had shown that it was adversely affected by the statement, we would nevertheless conclude on this record that the matter is not ripe for our review. The Board applies the doctrine of ripeness, and three considerations are relevant for determining whether a matter is ripe: will a delay cause hardship, will Board intervention interfere with further administrative action, and is further factual development of the issues required? *Wind River Resources, Corp. v. Western Regional Director*, 43 IBIA 1, 3 (2005). In the present case, the first and third criteria weigh in favor of dismissal for lack of ripeness. Because there is no indication in the record that BIA intends to take any action to “implement” the statement, delay will not cause hardship; nor has a factual record been developed for this issue. Given the lack of context for the Decision’s statement that the Tribe is not a “restored” tribe, it is unclear whether Board intervention would interfere with further administrative action, but considering the three factors together, we would conclude that this claim is not ripe. Thus, whether viewed as an issue of standing or of ripeness,¹⁸ we conclude that this claim should be dismissed, and review on the merits must wait.

Conclusion

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board (1) dismisses Burley’s claims related to the Tribe’s FY 2007 ISDA contract; (2) dismisses Burley’s claims that BIA improperly determined that the Tribe is “unorganized,” failed to recognize her as the Tribe’s Chairperson, and is improperly intruding into tribal affairs by determining the criteria for a class of putative tribal members and convening a general council meeting that will include such individuals; and (3) dismisses Burley’s claim that the Regional Director erred in stating

¹⁸ In *Wind River Resources*, we noted that the doctrines of standing and ripeness are closely related. *See* 43 IBIA at 3 n.2.

that the Tribe is not a “restored” tribe. We refer Burley’s second claim to the Assistant Secretary.¹⁹

I concur:

 // original signed
 Steven K. Linscheid
 Chief Administrative Judge

 // original signed
 Sara B. Greenberg
 Administrative Judge*

*Interior Board of Land Appeals, sitting by designation.

¹⁹ In this appeal, briefs filed on behalf of Yakima and purportedly other interested parties, *see supra* note 2, have been filed by Chadd Everone, a non-attorney who does not claim to be a member or putative member of the Tribe but who claims to serve as the “Deputy” to Yakima. *See, e.g.*, Interested Parties’ Response in Opposition to Appellant’s Request to Reopen Briefing at 1 (Oct. 5, 2009). On November 30, 2009, more than a year after briefing on the merits had concluded and after the Board had advised the parties that it had taken this case under consideration, Burley, through counsel, filed a Motion to Institute Disciplinary Proceedings Against Chadd Everone, asserting that Everone is not authorized to practice before the Board and that therefore all pleadings filed on behalf of Yakima should be stricken and not considered by the Board. Burley’s motion, at this late stage of the proceedings, is untimely and we decline to consider it further. We note that Burley’s motion selectively quotes 43 C.F.R. § 1.3, and does not address the Board’s interpretation of that provision. *See, e.g., Estate of Benjamin Kent, Sr.*, 13 IBIA 21, 23 (1984). Moreover, the motion apparently assumes that Yakima did not sign any of the pleadings himself. *But cf.* Interested Parties’ Answer Brief at 15. Finally, even were we to strike all pleadings filed on behalf of Yakima, we would not resolve this appeal differently.

EXHIBIT “18”

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United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Central California Agency
1824 Tribute Road, Suite J
Sacramento, CA 95815-4308

IN REPLY REFER TO:

SEP 24 1998

Yakima K. Dixie, Spokesperson
Sheep Ranch Rancheria
11178 School Street
Sheep Ranch, California 95290

Dear Mr. Dixie:

The purpose of this correspondence is to summarize the issues discussed during a meeting held with you and Silvia Burley on September 8, 1998, at your residence on the Sheep Ranch Rancheria in Sheep Ranch, California. The purpose of the meeting was to discuss the process of formally organizing the Tribe. In attendance at this meeting from my staff was Mr. Raymond Fry, Tribal Operations Officer, and Mr. Brian Golding, Sr., Tribal Operations Specialist.

Status of the Tribe

The Sheep Ranch Rancheria is a federally recognized Tribe, as it was not lawfully terminated pursuant to the provisions of the California Rancheria Act. The California Rancheria Act provided for the termination of specific Tribes by distributing the assets of the Tribes to those persons determined eligible, and in exchange, the recipients of the assets would no longer be eligible to receive services and benefits available to Indian people. The Plan of Distribution of the Assets of the Sheep Ranch Rancheria, approved by the Associate Commissioner of Indian Affairs on October 12, 1986, identified your mother, Mabel (Hodge) Dixie as the sole distributee entitled to participate in the distribution of the assets of the Sheep Ranch Rancheria. The Distribution Plan has not been revoked.

Membership

In those situations where an "unterminated" Tribe is pursuing reorganization, the persons possessing the right to reorganize the Tribe is usually specified by the decision of the court, as the majority of "unterminated" Tribes regain federal recognition through litigation. Usually, the court decision will state that the persons possessing the right to reorganize the Tribe are those persons still living who are listed as distributees or dependent members on the federally approved Distribution Plan. In some cases the courts have extended this right of participation to the lineal descendants of distributees or dependent members, whether living or deceased.

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In this case, the usual manner of determining who may reorganize the Tribe does not apply here as there is no such court decision. However, with the passing of Mabel (Hodge) Dixie, a probate was ordered, and the Administrative Law Judge issued an Order of Determination of Heirs on October 1, 1971, as reaffirmed by subsequent Order issued on April 14, 1993. The Order listed the land comprising the Sheep Ranch Rancheria as part of the estate of Mabel (Hodge) Dixie. The Order then listed the following persons as possessing a certain undivided interest in the Sheep Ranch Rancheria:

Merle Butler, husband	Undivided 1/3 interest	Deceased
Richard Dixie, son	Undivided 1/6 interest	Deceased
Yakima Dixie, son	Undivided 1/6 interest	
Melvin Dixie, son	Undivided 1/6 interest	
Tommy Dixie, son	Undivided 1/6 interest	Deceased

During our meeting, you explained to us that three of the heirs were deceased, and that the whereabouts of your brother, Melvin Dixie, were presently unknown.

We believe that for the purposes of determining the initial membership of the Tribe, we are held to the Order of the Administrative Law Judge. Based upon your statement that three of the heirs were deceased, the two remaining heirs are those persons possessing the right to initially organize the Tribe.

On August 5, 1996, as the Spokesperson of the Tribe, you accepted Silvia Burley, Rashel Reznor, Anjelica Paulk, and Tristan Wallace as enrolled members of the Tribe. Therefore, these persons as well, provided that they are at least eighteen years of age, possess the right to participate in the initial organization of the Tribe.

At the conclusion of our meeting, you were going to consider what enrollment criteria should be applied to future prospective members. Our understanding is that such criteria will be used to identify other persons eligible to participate in the initial organization of the Tribe. Eventually, such criteria would be included in the Tribe's Constitution.

Governance

Tribes that are in the process of initially organizing usually consider how they will govern themselves until such time as the Tribe adopts a Constitution through a Secretarial Election, and Secretarial approval is obtained. Agency staff explained two options for the consideration of the General Membership:

- 1) the members could operate as a General Council, retaining all powers and authorities, and delegating specific limited powers to a Chairperson, and

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- 2) the members could form an Interim Tribal Council, and delegate from the General Council various general powers and authorities to the Interim Tribal Council.

In this case, given the small size of the Tribe, we recommend that the Tribe operate as a General Council, as described in the first option above. Enclosed for your consideration, is a draft General Council resolution (Resolution #GC-98-01) specifying general powers of the General Council and rules for governing the Tribe.

A number of the provisions of the draft resolution may be changed by the Tribe to reflect the manner in which it desires to conduct business. For instance, the first "Resolved" clause on the second page lists seven (7) specific powers to be exercised by the General Council. For the most part, this list involves those powers that the General Council would exercise in order to accomplish the initial organization process. There is no mention of other powers, such as the power to purchase land, since such a power most likely would not be used during the organization process. Rather, such a power would be used after the Tribe organizes, and would be included in the Tribe's Constitution.

Another example of a change to consider is the fourth "Resolved" clause on the second page. This clause states that regular meetings of the General Council will be held on the second Saturday of each month. The Tribe may wish to change this to a day of the week that will best meet the Tribe's needs.

Once the General Council adopted such a resolution, the General Council would then proceed to elect or appoint a Chairperson. The General Council would then be able to proceed with the conduct of business, in a manner consistent with the authorizing resolution. Additional powers can be specified by the General Council through either an amendment to the authorizing resolution, or adoption of another authorizing resolution.

Grant Funding

We discussed the fact that the Bureau of Indian Affairs makes grants, under the provisions of the Indian Self-Determination and Education Assistance Act, as amended, to Tribes for the purpose of strengthening or improving Tribal government and developing Tribal capacity to enter into future contracts. Such grants can be used to cover costs incurred by the Tribe in establishing a Tribal office, equipment and furniture, supplies, and legal assistance. In this case, we advised the Tribe that the first grant would be made in the amount of \$50,000.

In order to apply for and receive funding from the Bureau, the Self-Determination Act requires that a Tribe indicate by resolution its desire to receive grant funding. Enclosed is a draft General Council resolution (Resolution #GC-98-02) which fulfills this requirement.

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We discussed the nature of congressional appropriations regarding the funding that Tribes receive. We recommended that the Tribe consider reprogramming funds from various programs into the Consolidated Tribal Government program. Such reprogramming would then provide the Tribe with the greatest flexibility in using the funds in the upcoming year. As a result of our discussion, you provided the Agency staff present with a letter proscribing your reprogramming preferences. A copy of this letter is enclosed for your records.

Bureau Costs Associated with Organizing

We discussed the Bureau's role in providing technical assistance to Tribes in the process of organizing the Tribe. The Bureau receives some funding from each of the Tribes in our jurisdiction as a means of providing a minimum amount of technical assistance. But in those cases where a Tribe is pursuing formal organization, such funds are insufficient to cover all costs.

We request that the Tribe consider the adoption of the enclosed draft General Council resolution (Resolution #GC-98-03). The purpose of this resolution is to authorize the Bureau to charge expenses related to the organization of the Tribe to the Tribe's FY 1998 Tribal Priority Allocation funding. One example of a cost supporting the organization process is the purchase of death certificates for the three deceased heirs. The death certificates are necessary for the initiation of the probate process. Another example of such costs is the hiring of a new Bureau employee, or the temporary assignment of an existing Bureau employee, to work directly with the Tribe in the organization process. Such work may focus on the enrollment process, development of administrative management systems, or on issues related to governance.

Other Issues

Probates: We discussed the status of the land, and the need for additional probates to be completed to determine the status of the estates of deceased heirs. We agreed to obtain copies of the death certificates of the deceased heirs. A request for death certificates was prepared, and we expect the processing of the request by the State Office of Vital Records within the next month. Once received, we will then proceed with preparing the probates.

The fact that there are probate actions remaining to be taken directly impacts your ability to enter into a homesite lease. This is relevant to the question you asked regarding Silvia's eligibility for assistance under the Housing Improvement Program (HIP). An applicant under the HIP must demonstrate ownership or control over land, either through an assignment or a homesite lease. In this case, as the land is considered as individually-owned trust land, you and the other heirs would have to enter into a homesite lease with Ms. Burley. Other eligibility criteria exists for the HIP that are beyond the purview of this letter. We have requested that the HIP send an application to Ms. Burley for her review.

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Septic Tank: With regard to the septic tank issue you brought to our attention, we researched our files and found that the house you are currently occupying was constructed under the HIP in 1967. The issue is addressed in a memorandum from the Agency Realty Officer to the Area Realty Officer, dated August 12, 1971, which states, "The 20' x 24' house was constructed in 1967 at a cost of \$8,500.00 and the septic tank, installed by Phoenix Health Service, would cost about \$1,500.00." We contacted the Indian Health Service, California Area Office, here in Sacramento, and inquired whether they will be able to provide maintenance services to you. We obtained their commitment to perform the work within the next couple of months. We will work with you to ensure that the work is completed in an appropriate manner.

Access to Rancheria: We discussed the notion that the driveway leading up to the Sheep Ranch Rancheria was not within the Rancheria. We agreed to look into the ownership of the driveway. Please find enclosed an Assessor's Parcel Map of a portion of the Sheep Ranch Townsite. This map shows a number of "paper" roads that do not exist today. We are currently researching the ownership of the paper roads to determine what rights the Tribe may have to assert a use right to the driveway.

Next Meeting: We agreed that another meeting was necessary to discuss the draft resolutions and additional details of the organization process. We propose that we meet on Friday, October 2, 1998, at 11:00 a.m., to be held at your residence in Sheep Ranch, California."

I thank you for your concern and positive participation in the organization process. I am certain that if we continue to work together, the organization process will be completed without undue delay. Toward this end, I extend the assistance of my staff, upon your written request.

Sincerely,


Dale Risling, Sr.
Superintendent

CVMT-2011-000176

EXHIBIT “19”



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

DEC 30 2015

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

Dear Ms. Burley:

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

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

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

Background

In 1916, the United States acquired a parcel of approximately one acre in Sheep Ranch, California, for the benefit of Mewuk² Indians living in that area of Calaveras County. The land became the Sheep Ranch Rancheria (Rancheria). The lone Indian residing on the Rancheria in 1935, Jeff Davis, was allowed to vote on whether to accept the Indian Reorganization Act (IRA). An Indian residing on the Rancheria in 1967, Mabel Hodge Dixie, was identified as the distributee of the Rancheria assets. Mabel's son, Yakima Dixie (Mr. Dixie), has been the

¹ See *CVMT v. Pacific Regional Director, BIA*, 51 IBIA 103 (IBIA 2010); *California Valley Miwok Tribe v. United States*, 424 F. Supp. 2d 197 (D.D.C. 2006) ("*CVMT I*"); *California Valley Miwok Tribe v. United States*, 515 F.3d 1262 (D.C. Cir. 2008) ("*CVMT II*"); *California Valley Miwok Tribe v. Jewell*, 5 F. Supp. 3d 86 (D.D.C. 2013) ("*CVMT III*").

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

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

The Sheep Ranch Rancheria

In 1915, Special Agent John Terrell sent the Commissioner of Indian Affairs a letter with "a census of the Indians designated 'Sheepranch Indians,'" (sic), describing the group as "the remnant of once quite a large band of Indians in former years living in and near the old decaying mining town known and designated on the map as 'Sheepranch.'"⁷ Importantly, Agent Terrell also noted that "to some extent the Indians of Sheepranch, Murphys, Six-Mile, Avery and Angles are interchangeable in their relations."⁸ All of those towns are located in Calaveras County, California.

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

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

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

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

⁴ 51 IBIA 103, 105 (IBIA 2010).

⁵ *CVMT III* at 99.

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

⁷ Attachment A: 1915 Terrell Census

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

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

¹⁰ Attachment B: 1929 Census.

¹¹ 48 Stat. 984 (1934).

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

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

Membership in CVMT is not limited to five people.

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

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

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

¹² 72 Stat. 619 (1958). 78 Stat. 390 (1964).

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

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

¹⁵ Attachment C.

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

¹⁷ *CVMT II* at 1263.

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

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

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

¹⁸ *CVMT III* at 98.

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

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

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

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

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

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

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

²¹ Attachment A.

²² Attachment A.

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

²⁴ Attachment I.

²⁵ *CVMT II* at 44; *CVMT III* at 97.

²⁶ *CVMT II* at 44; *CVMT III* at 98.

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

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

Conclusion

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

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

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

²⁷ Attachment K.

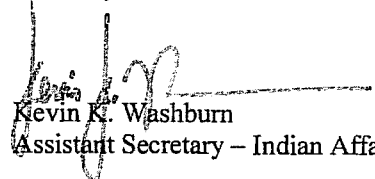
²⁸ Mr. Dixie did not provide evidence that outreach to the greater tribal community was part of the drafting or ratification of the Constitution. Rather, the text of the Constitution itself indicates that the organizers had established a tribal membership roll *prior* to ratifying the Constitution (Section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

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

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

This decision is a final agency action.

Sincerely,



Kevin K. Washburn
Assistant Secretary – Indian Affairs

Attachments:

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

³⁰ Attachment L.

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Director, BIA

Regional Director, Pacific Regional Office

Regional Solicitor, Pacific Southwest Regional Office

EXHIBIT “20”

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Civil Division**

THE CALIFORNIA VALLEY MIWOK TRIBE,
11178 Sheep Ranch Road
Mountain Ranch, CA 95246

THE TRIBAL COUNCIL,
11178 Sheep Ranch Road
Mountain Ranch, CA 95246

YAKIMA DIXIE,
11178 Sheep Ranch Road
Mountain Ranch, CA 95246

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EVELYN WILSON,
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ANTOINE AZEVEDO,
4001 Carribee Ct.
North Highlands, CA 95660

Plaintiffs,

v.

KEN SALAZAR, in his official capacity as
Secretary of the United States Department of the
Interior,
United States Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

LARRY ECHO HAWK, in his official capacity as
Assistant Secretary-Indian Affairs of the United
States Department of the Interior,
Department of the Interior
1849 C Street, N.W.

Case No. _____

Washington DC 20240

MICHAEL BLACK, in his official capacity as
Director of the Bureau of Indian Affairs within the
United States Department of the Interior,
Bureau of Indian Affairs
MS-4606
1849 C Street, N.W.
Washington, D.C. 20240

Defendants.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs Yakima Dixie ("Chief Dixie"), the California Valley Miwok Tribe ("Tribe"), and Tribe members Velma WhiteBear, Antonia Lopez, Michael Mendibles, Evelyn Wilson and Antoine Azevedo, individually and as members of the Tribal Council ("Council"), submit this Complaint against the Defendants, Ken Salazar, Secretary of the United States Department of the Interior ("Department"), Larry Echo Hawk, Assistant Secretary– Indian Affairs of the Department, and Michael Black, Director of the Bureau of Indian Affairs within the Department, and state and allege as follows:

INTRODUCTION

1. In *California Valley Miwok Tribe v. United States*, 515 F.3d 1262 (D.C. Cir. 2008), the Court of Appeals for the District of Columbia Circuit upheld the Secretary of the Interior's ("Secretary") decision that Sylvia Burley ("Burley") and her two daughters (collectively, the "Burley Faction") were not the legitimate government of the Tribe. The court held that the Secretary, in 2004 and 2005, properly rejected a purported tribal constitution that the Burley Faction had submitted "without so much as consulting [the Tribe's] membership." The Secretary therefore properly refused to recognize Ms. Burley as Chairperson of the Tribe, and properly refused to recognize the Tribe as "organized" under the Indian Reorganization

Act of 1934 ("IRA"). *See* Letter from Dale Risling Sr., Superintendent, Bureau of Indian Affairs Central California Agency, to Silvia Burley (Mar. 26, 2004) (the "2004 Decision") (a true and correct copy of which is attached hereto as Exhibit "A"); Letter from Michael Olsen, Acting Assistant Secretary – Indian Affairs, to Yakima Dixie, (Feb. 11, 2005) (the "2005 Decision") (a true and correct copy of which is attached hereto as Exhibit "B"). The Court of Appeals thus affirmed a decision by the District Court for the District of Columbia, dismissing Ms. Burley's challenge to the Secretary's decisions.

2. In briefs submitted to the Court of Appeals, the Secretary took the position that, "for an 'Indian tribe' to organize under the IRA, action by the tribe as a whole is required; action by an unrepresentative faction is insufficient." The Secretary argued, in support of the 2004 and 2005 Decisions, that she could not recognize Burley's purported tribal government, or its constitution, because "the undisputed facts show that the Burley Government was elected, and its governing documents adopted, by just three people and without the participation of the vast majority of the potential members of the Tribe." The Secretary also recognized that she had not only the authority but the obligation to "ensure the legitimacy of any purported tribal government that seeks to engage in [a] government-to-government relationship with the United States."

3. The Court of Appeals agreed with the Secretary, holding that "as Congress has made clear, tribal organization under the [IRA] must reflect majoritarian values," and that "[Burley's] antimajoritarian gambit deserves no stamp of approval from the Secretary."

4. Following the Court of Appeals' decision, on November 6, 2006, the Bureau of Indian Affairs ("BIA") issued a decision describing how it would assist the Tribe in organizing under the IRA. The Burley Faction appealed this decision to the BIA's Regional Director. On April 2, 2007, the Regional Director affirmed the decision.

5. On April 10 and 17, 2007, the BIA published a notice seeking personal genealogies and other information from potential Tribe members, which was to be used to identify those who were entitled to participate in the initial organization of the Tribe. More than 500 people responded. The BIA has taken no action as to these submittals.

6. The Burley Faction did not participate in the process initiated by the BIA, but instead appealed the Regional Director's April 2, 2007 decision to the Interior Board of Indian Appeals ("Board"). *California Valley Miwok Tribe v. Pacific Regional Director, Bureau of Indian Affairs*, 51 IBIA 103 (Jan. 28, 2010).

7. The Board held that the Secretary's previous, judicially approved decisions regarding the status of the Burley Faction and the requirement of majority participation were not subject to further review. It therefore dismissed all but one of Burley's claims for lack of jurisdiction. The Board referred a single, narrow issue from Burley's appeal to the Assistant Secretary – Indian Affairs (the "Assistant Secretary"): the process for identifying which members of the Tribal community were entitled to participate in the initial organization of the Tribe.

8. On December 22, 2010, the Assistant Secretary acted on Burley's appeal Letter from Assistant Secretary—Indian Affairs to Yakima Dixie (December 22, 2010) (the "December 22 Decision"), (a true and correct copy of which is attached hereto as Exhibit "C"). The Assistant Secretary did not address the narrow issue over which he had jurisdiction. Instead, he inexplicably repudiated each of the arguments that the Secretary had made before the District Court and the Court of Appeals. Without any reasoned explanation, he reversed each and every one of the Secretary's prior decisions that those courts had upheld. The Assistant Secretary rescinded the 2004 and 2005 Decisions denying recognition of the Burley Faction and its constitution. He declared that the Tribe was "organized" under a General

Council form of government, pursuant to a 1998 tribal resolution that was not signed by a majority of the Tribe's adult members (the "1998 Resolution"). He directed the BIA to carry on government-to-government relations with the Burley Faction. And he ordered the BIA to rescind its efforts to help the Tribe organize according to majoritarian principles.

9. Plaintiffs challenge the Assistant Secretary's action as arbitrary, capricious, and not in accordance with law. The December 22 Decision exceeds the scope of the issue referred to the Assistant Secretary on appeal, improperly revisits and overturns long-settled, judicially approved decisions, addresses issues barred by failure to file timely appeals with the Board, and violates the Secretary's responsibility to ensure that the United States conducts government-to-government relations only with valid representatives of the Tribe.

10. The December 22 Decision directly contradicts the Secretary's prior representations to this Court and cedes complete control of the Tribe to the Burley Faction, who have fought for more than a decade to deny the benefits of Tribe membership to anyone but themselves.

11. Plaintiffs therefore file this action, asking this Court to invalidate the Assistant Secretary's decision and to enjoin and invalidate its implementation.

JURISDICTION AND VENUE

12. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 because the asserted claims arise under the Constitution and laws of the United States.

13. This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1361 in that the Tribe seeks to compel officers and employees of the United States and its agencies to perform duties owed to the Tribe.

14. This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1362 because the Tribe is an Indian tribe duly recognized by the Secretary of the Interior, and the matter in controversy arises under the Constitution, laws or treaties of the United States.

15. Venue is proper in this Court under 28 U.S.C. § 1391(e) because the Secretary, the Assistant Secretary, the Director of the BIA, and the Department are located in this district.

16. Judicial review of the agency action is authorized by the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 702, 704 and 706. The Assistant Secretary's decision is final agency action under the APA and 25 C.F.R. § 2.6(c).

17. The requested declaratory and injunctive relief is authorized by 28 U.S.C. §§ 2201-2202.

18. Plaintiffs have exhausted their administrative remedies and are not required to pursue additional administrative remedies before seeking and obtaining judicial relief.

19. An actual case and controversy has arisen and now exists between the parties with regard to the Assistant Secretary's violations of the statutes and regulations cited herein.

PARTIES

20. Plaintiff California Valley Miwok Tribe, also known as the "Sheep Ranch Rancheria," the "Sheep Ranch Rancheria of Me-Wuk Indians of California," and the "Sheep Ranch Band of Me-wuk Indians of the Sheep Ranch Rancheria," is a federally recognized Indian tribe situated in Sheep Ranch, California, in Calaveras County. (The Burley Faction purported to enact a tribal resolution in 2001, changing the name of the Tribe from the Sheep Ranch Band of Me-wuk Indians to the California Valley Miwok Tribe. Plaintiffs dispute that the Burley Faction had the authority to enact such a resolution. But because the BIA now refers to the Tribe as the California Valley Miwok Tribe, Plaintiffs and members of the larger tribal community have used that name to avoid confusion. This Complaint will do the same.)

The Tribe consists of Indian members and their descendants, and/or their Indian successors in interest, for whose benefit the United States acquired and created the Sheep Ranch Rancheria. There is an ongoing dispute regarding the true membership and leadership of the Tribe.

21. Plaintiff Yakima Dixie is the Hereditary Chief and Traditional Spokesperson, and the historical Chairperson, of the California Valley Miwok Tribe.

22. Plaintiff Tribal Council is the duly authorized and legitimate governing body of the Tribe, appointed by Chief Dixie. The Council consists of Chief Dixie and Tribe members Velma WhiteBear, Antonia Lopez, Michael Mendibles, Evelyn Wilson and Antoine Azevedo.

23. Plaintiffs Velma WhiteBear, Antonia Lopez, Michael Mendibles, Evelyn Wilson and Antoine Azevedo are members of the Tribe and of the Tribal Council. Each is a lineal descendant of a historical member or members of the Tribe.

24. Defendant Ken Salazar is the Secretary of the United States Department of the Interior. Mr. Salazar is responsible for the supervision of the various federal agencies and bureaus within the Department, including the BIA. Mr. Salazar is an officer or employee of the United States and has a direct statutory duty to carry out the provisions of the Indian Reorganization Act of 1934 (“IRA”) and other relevant laws. Mr. Salazar is sued in his official capacity only.

25. Defendant Larry Echo Hawk is the Assistant Secretary – Indian Affairs of the Department and head of the Bureau of Indian Affairs. Mr. Echo Hawk issued the December 22 Decision that is challenged in this action. Mr. Echo Hawk is sued in his official capacity only.

26. Michael Black is the Director of the Bureau of Indian Affairs within the Department. Mr. Black is responsible for the day-to-day operations of the BIA, including its relations with federally recognized Indian tribes. Mr. Black is sued in his official capacity only.

RELEVANT FACTS

Tribal History and Indian Reorganization Act

27. In 1916, the United States purchased approximately one to two acres of land and created the Sheep Ranch Rancheria for the benefit of a small cluster of twelve to fourteen Miwok Indians that were found living in or near Sheep Ranch, California. The United States subsequently recognized the Sheep Ranch Band of Me-wuk Indians as a federal Indian Tribe.

28. In 1935, the Tribe voted to accept the IRA. The IRA allows Indian tribes to adopt a constitution, form a tribal government, and elect tribal officials, subject to substantive and procedural requirements in the IRA. Tribes thus “organized” under the IRA are eligible for certain federal benefits and services. Although it accepted the IRA, the Tribe did not take action to become “organized.”

29. Under the IRA, the Secretary has a duty to ensure that the Department recognizes only a legitimate tribal government that reflects the participation of a majority of the Tribe’s membership. This duty is informed and strengthened by the United States’ trust obligations to Indian tribes and their members.

The California Rancheria Act and Failure to Terminate the Tribe

30. In 1958, Congress enacted the California Rancheria Act, which authorized the Secretary to terminate the lands and trust status of enumerated Indian tribes on California Rancherias under certain conditions. Under the Act, tribes could accept termination in exchange for fee title to Rancheria assets and the provision of certain services by the federal government.

31. In 1965, the BIA listed Mabel Hodge Dixie as the only Indian living on Sheep Ranch Rancheria.

32. On or about 1966, the BIA began proceedings to "terminate" the Tribe pursuant to the California Rancheria Act, and the United States conveyed fee title in the Sheep Ranch Rancheria to Mabel Hodge Dixie. The BIA never completed the requirements for termination. In 1967, Ms. Dixie quitclaimed the Rancheria back to the United States, thereby preventing termination of the Tribe from becoming effective.

33. In 1971, Ms. Dixie died, and her son Yakima Dixie inherited the position of Hereditary Chief and Traditional Spokesperson of the Tribe.

34. In 1994, Congress enacted the Tribe List Act, Pub. L. 103-454; 108 Stat. 4791, 4792, which requires the Secretary annually to publish a list of federally recognized Indian Tribes. The Tribe was included on the 1994 list and has been included on each list published since that time. Inclusion of a tribe on the list does not mean that the tribe is "organized" under the IRA or that its membership has been determined.

Burley Seeks Control of the Tribe

35. In 1998, Chief Dixie was the only Indian living on the Sheep Ranch Rancheria. Burley contacted Chief Dixie and asked him to enroll Burley, her two daughters, and her granddaughter in the Tribe so they could receive federal education and health benefits available to Indian tribe members. Chief Dixie agreed. Chief Dixie, Ms. Burley and her daughters then began preliminary efforts to organize the Tribe under the IRA.

36. Soon thereafter, a series of disputes ensued as Burley attempted to gain sole control of the Tribe. In 1998, Burley submitted the 1998 Resolution, which purported to establish a General Council to serve as the governing body of the Tribe. The 1998 Resolution was invalid, however, because it was not signed by a majority of the Tribe's adult members. Burley then filed a document purporting to be the resignation of Chief Dixie as Tribal Chairperson. Chief Dixie immediately denied the validity of the document and continues to do

so. Over the next few years, Burley tried several times, unsuccessfully, to gain BIA approval of various Tribal constitutions that would have recognized her as the Tribe's leader and limited Tribe membership to Burley and a few others.

Chief Dixie's Efforts to Organize the Tribe

37. After several years of failed efforts to resolve the leadership disputes that had arisen with Burley, Chief Dixie began efforts in 2003 to organize the Tribe without Burley's assistance and with the participation of the entire Tribal community. Since late 2003, the Tribe has held open meetings each month. Attendance at the meetings ranges from approximately 30 to more than 100 members. Attendance records are kept, and meetings are recorded and archived. Although Burley was specifically invited to the initial meetings and has never been excluded from any meeting, she has never attended.

38. In addition to the general Tribal meetings, Chief Dixie convened a group of individuals who were recognized within the Tribal community as figures of authority, in order to form a Tribal Council. In addition to Chief Dixie, the Council consists of Plaintiffs Velma WhiteBear, Antonia Lopez, Michael Mendibles, Evelyn Wilson and Antoine Azevedo. Each of the members of the Tribal Council is a lineal descendant of a historical member or members of the Tribe. The Council met with the BIA in September 2003 and presented the BIA with documentation of their legitimate claims to Tribal membership and authority.

39. At the September 2003 meeting, Chief Dixie and the Council presented the BIA with a list of Tribal community members who should be allowed to participate in the initial organization of the Tribe, and requested that the BIA call an election pursuant to the IRA to select a Tribal government that could be recognized by the United States. The BIA did not act on the Council's request but continued to meet regularly with Chief Dixie and the Council to discuss efforts to organize the Tribe. Since its formation, the Tribal Council has met

approximately every other month to discuss Tribal policy, enact resolutions, and conduct other Tribe business.

40. Under the leadership of the Council, the Tribe has established many programs aimed at benefiting the full Tribal membership, strengthening the tribal community, and reestablishing historic ties with the larger Indian community. Extensive information about the Tribe's activities is available on the Tribe's website at <http://californiavalleymiwok.com/x-index.html>. Tribal activities include:

- a. Involvement in approximately ten Indian Child Welfare Act cases, in an effort to have children of Tribe members who are in protective services placed with families that have ties to Indian traditions. Burley has opposed the Tribe's efforts in these cases.
- b. Issuance of Tribal identification cards.
- c. Involvement in Indian health services, emergency services and food distribution programs, including the MACT Indian health services program, that benefit members of the Tribe and other Indian tribes.
- d. Participation, with other Miwok tribes, in an intratribal Miwok Language Restoration Group. Plaintiff Evelyn Wilson is the senior Miwok member who still speaks the Miwok language.
- e. A ceremonial Indian dance group (through Tribe members Gilbert Ramirez and his son Pete) that represents the Tribe at events throughout California.
- f. Consultation with Caltrans regarding possible Indian remains found at development sites.
- g. Consultation with the U.S. Forest Service to help identify native plants on state and federal land that have been used by Indians for medicinal and other purposes.

h. Classes in traditional crafts and skills, such as basket weaving, and continuing efforts to revive the gathering of native plants, pine nuts, and other materials for such crafts, as well as to protect the sites where those materials are gathered.

i. Potential involvement, in collaboration with Calaveras County and other local and state agencies, in the Collaborative Forest Landscape Restoration Program, a federally supported forest rehabilitation program.

j. Participation in a variety of other economically and socially beneficial programs and activities, including but not limited to the Calaveras Healthy Impact Products Solutions program.

Each of these activities will be harmed if the December 22 Decision is allowed to stand and the federal government recognizes the Burley Faction as the government of the Tribe.

The BIA Repudiates the Burley Faction

41. Burley responded to Chief Dixie's efforts to organize the Tribe around its legitimate members by submitting yet another proposed constitution, in February 2004, to the BIA—purportedly to demonstrate that the Tribe was already “organized” with Ms. Burley as its leader.

42. In a March 26, 2004 letter to Burley, the BIA declined to approve her latest constitution. The BIA explained that efforts to organize a Tribe must reflect the involvement of the whole tribal community: “Where a tribe that has not previously organized seeks to do so, BIA also has a responsibility to determine that the organizational efforts reflect the involvement of the whole tribal community. We have not seen evidence that such general involvement was attempted or has occurred with the purported organization of your tribe. . . . To our knowledge, the only persons of Indian descent involved in the tribe's organization efforts, were you and your two daughters It is only after the greater tribal community is

initially identified that governing documents should be drafted and the Tribe's base and membership criteria identified."

43. The BIA's letter identified several groups of Tribe members and segments of the tribal community who should be involved in the initial organization efforts. These groups included Chief Dixie and his brother Melvin Dixie; other individuals who had resided at Sheep Ranch Rancheria in the past, and their offspring; persons who had inherited an interest in the Sheep Ranch Rancheria; Indians who had once lived adjacent to Sheep Ranch Rancheria, and their descendants; and neighboring groups of Indians, of which the Tribe may once have been a part.

44. The BIA's letter also stated that "the BIA does not yet view your tribe to be an 'organized' Indian Tribe" and that, as a result, the BIA could not recognize Burley as the Tribe's Chairperson.

45. On February 11, 2005, the Assistant Secretary – Indian Affairs sent a letter to Chief Dixie and Burley in which he reiterated the decisions expressed in the BIA's March 26, 2004 letter. The Assistant Secretary stated, "In that letter, the BIA made clear that the Federal government did not recognize Ms. Burley as the tribal Chairman. . . . Until such time as the Tribe has organized, the Federal government can recognize no one, including yourself, as the tribal Chairman. I encourage you . . . to continue your efforts to organize the Tribe along the lines outlined in the March 26, 2004 letter so that the Tribe can become organized and enjoy the full benefits of Federal recognition. The first step in organizing the Tribe is identifying putative tribal members."

46. After the Assistant Secretary's 2005 determination, the BIA sought to work with Chief Dixie's Tribal Council and the Tribe to complete the organization process. Chief Dixie

and the BIA invited Burley to participate, but she again refused and instead filed suit challenging the Assistant Secretary's decision.

The District Court and Court of Appeals Uphold the BIA's Decision

47. In April 2005, the Burley Faction filed suit in the federal district court for the District of Columbia. The suit challenged the BIA's and Assistant Secretary's refusal to approve the Burley Faction's proposed constitution and to recognize its purported Tribal government, and sought a judgment that the Tribe was "organized." Notably, Burley did not contest in federal court the BIA's specific decision not to recognize her as the Tribal Chairperson. She thereby waived any challenge to that decision.

48. Around the same time, the Burley Faction also purported to disenroll Chief Dixie from the Tribe, for the purpose of denying him status to participate in the federal lawsuit. Ironically, in 2009, the Burley Faction purported to reinstate Chief Dixie as a member of the Tribe, in an attempt to deny him a basis to intervene in state court litigation in which Burley sought access to funds held in trust for the Tribe.

49. The district court dismissed the Burley Faction's claims in March 2006. The court found that the Secretary has "a responsibility to ensure that [she] deals only with a tribal government that actually represents the members of a tribe." *California Valley Miwok Tribe v. United States*, 424 F.Supp.2d 197 (D.D.C. Mar. 31, 2006). Likewise, the court found that the BIA has a "duty to ensure that the interests of all tribe members are protected during organization and that governing documents reflect the will of a majority of the Tribe's members." The court found the BIA's decisions consistent with that duty.

50. The district court noted that the Burley Faction had submitted a constitution that "conferred tribal membership only upon them and their descendants . . . [but] the government estimates that the greater tribal community, which should be included in the organization

process, may exceed 250 members." In light of the fact that the Tribe was receiving approximately \$1.5 million per year in state and federal funds at the time, the court concluded that Burley's motivation was self-evident: "As H.L. Mencken is said to have said: 'When someone says it's not about the money, it's about the money.'"

51. Burley challenged the district court's decision, and the Court of Appeals for the District of Columbia Circuit affirmed. *California Valley Miwok Tribe, supra*, 515 F.3d 1262. According to the Court of Appeals, the rejection of the Burley government and constitution fulfilled a cornerstone of the United States' trust obligation to Indian tribes: to "promote a tribe's political integrity, which includes ensuring that the will of tribal members is not thwarted by rogue leaders when it comes to decisions affecting federal benefits."

52. The Court of Appeals further explained: "In Burley's view, the Secretary has no role in determining whether a tribe has properly organized itself . . . That cannot be. . . . [T]he Secretary has the power to manage '*all* Indian affairs and *all* matters arising out of Indian relations.' . . . The exercise of this authority is especially vital when, as is the case here, the government is determining whether a tribe is organized, and the receipt of significant federal benefits turns on the decision. The Secretary suggests that her authority . . . includes the power to reject a proposed constitution that does not enjoy sufficient support from a tribe's membership. Her suggestion is reasonable, particularly in light of the federal government's unique trust obligation to Indian tribes" (emphasis in original). The court concluded: "Although [the Tribe], by its own admission, has a potential membership of 250, only Burley and her small group of supporters had a hand in adopting her proposed constitution. This antimajoritarian gambit deserves no stamp of approval from the Secretary."

The BIA Attempts to Assist the Tribe In Organizing

53. On November 6, 2006, after the district court had dismissed Burley's claims, the BIA informed the Burley Faction that it would assist the Tribe in organizing according to majoritarian principles, consistent with the decisions upheld by the court. The Superintendent of the BIA's Central California Agency wrote to Burley and Chief Dixie that the BIA "remain[ed] committed to assist the [Tribe] in its efforts to reorganize a formal governmental structure that is representative of all Miwok Indians who can establish a basis for their interest in the Tribe and is acceptable to a clear majority of those Indians." To help achieve that goal, the BIA would facilitate a public meeting of existing members and Putative Members—i.e., those members of the tribal community with a legitimate claim to Tribal membership based on their lineal descent from original members of the Tribe.

54. Instead of cooperating in this effort to organize the Tribe, the Burley Faction appealed the Superintendent's November 6, 2006 decision to the BIA's Pacific Regional Director. On April 2, 2007, the Regional Director affirmed the decision and remanded the matter back to the Superintendent to implement the actions mentioned in the November 6, 2006 decision. The Regional Director wrote, "We believe the main purpose [of the November 6, 2006 decision] was to assist the Tribe in identifying the whole community, the 'putative' group, who would be entitled to participate in the Tribe's efforts to organize a government that will represent the Tribe as a whole. . . . It is our belief that until the Tribe has identified the 'putative' group, the Tribe will not have a solid foundation upon which to build a stable government."

55. On April 10 and April 17, 2007, the BIA published public notice of an upcoming meeting to organize the Tribe. The notice requested that Putative Members submit documentation of their membership claim to the BIA (e.g., personal genealogies). The public

notice defined the Putative Members as lineal descendants of: (1) individuals listed on the 1915 Indian Census of Sheep-ranch Indians; (2) Jeff Davis (the only Indian listed as an eligible voter on the federal government's 1935 voting list for the Rancheria); and (3) Mabel Hodge Dixie.

56. According to the BIA, approximately 580 persons submitted personal genealogies to the BIA in response to the April 2007 public notices. Plaintiffs Velma WhiteBear, Antonia Lopez, Michael Mendibles, Evelyn Wilson and Antoine Azevedo each submitted genealogies and other documentation to the BIA in response to the public notices. No member of the Burley Faction submitted documentation in response to the public notices. The BIA has taken no action on the information submitted.

Burley Attempts to Relitigate Her Claims Before the Board

57. Burley appealed the Regional Director's April 2, 2007 decision to the Interior Board of Indian Appeals. Among other claims not relevant here, Burley argued that the BIA's decision to involve the Tribal community in the initial organization of the Tribe was an impermissible intrusion into Tribal government and membership matters, because the Tribe was *already* "organized"—an issue that the district court and Court of Appeals had already decided adversely to Burley in her earlier federal suit.

58. In January 2010, the Board decided Burley's appeal. The Board recognized that the Assistant Secretary's February 11, 2005 decision and the ensuing federal litigation had already finally determined the following issues: (1) that the BIA did not recognize the Tribe as being organized; (2) that the BIA did not recognize any tribal government that represents the Tribe; (3) that the Tribe's membership was not necessarily limited to the Burley Faction and Yakima Dixie; and (4) that the BIA had an obligation to ensure that a "greater tribal community" was allowed to participate in organizing the Tribe. The Board recognized that, to the extent Burley's appeal attempted to relitigate those issues, it had no jurisdiction over her

claims. Accordingly, the Board dismissed all of Burley's claims (including those claims not discussed here), except for a single, narrow issue.

59. According to the Board, the Burley appeal raised a solitary issue that had not already been decided by the Assistant Secretary: the process for deciding "who BIA will recognize, individually and collectively, as members of the 'greater tribal community' that BIA believes must be allowed to participate in the general council meeting of the Tribe for organizational purposes." The Board characterized this as a "tribal enrollment dispute" and therefore referred the issue to the Assistant Secretary for resolution.

The Assistant Secretary's December 22 Decision

60. The Assistant Secretary issued his decision in the Burley appeal on December 22, 2010. But instead of deciding the issue referred to him, the Assistant Secretary inexplicably, and without any reasoned explanation, reopened issues long settled and not subject to further appeal. The Assistant Secretary rescinded the March 26, 2004 and February 11, 2005 decisions by the BIA and Assistant Secretary, which had denied recognition of the Burley Faction and its constitution and declared that the larger Tribal community must be involved in the organization of the Tribe. Assistant Secretarial review of both decisions is time barred under binding regulations. Contrary to the Court of Appeals ruling, the Assistant Secretary declared that the Tribe was already "organized as a General Council" pursuant to the 1998 Resolution. He ordered the BIA to rescind its 2006 and 2007 decisions to help the Tribe organize according to majoritarian principles. And he directed the BIA to carry on government-to-government relations with the sham government headed by Burley.

Consequences of the Secretary's Unlawful Decision

61. As a result of the Assistant Secretary's unlawful December 22 Decision, the Plaintiffs have suffered and will continue to suffer great injury, including but not limited to the following:

62. Chief Dixie and the members of the Tribal council have been denied the opportunity to participate in the organization and governance of the Tribe.

a. Immediately after the Secretary issued his December 22 Decision, the Burley Faction issued a public notice calling for a "special election" to elect tribal officers. The public notice stated that only Ms. Burley, her two daughters, and Chief Dixie would be allowed to participate in the election of the Tribe's government. The public notice relied on the December 22 Decision as the basis for the Burley Faction's right to call the election.

b. On January 7, 2011, the Burley Faction conducted its "special election" among the three members of the Burley family. Neither Chief Dixie nor any member of the Tribal Council participated in the "special election." Except for Chief Dixie, the other individual plaintiffs were barred from participating.

c. On January 12, 2011, the BIA acknowledged receipt of the results of the Burley Faction's January 7 "special election" and recognized a "tribal council" consisting of Burley as Chairperson and her daughter, Rashel Reznor, as Secretary/Treasurer. It is telling that the BIA's letter does not mention the number of voters participating in this "election." Under the government recognized by the BIA, none of the Plaintiffs has any voice in the organization or governance of the Tribe.

63. Chief Dixie and the members of the Tribal Council have been and will be denied the benefits of Tribe membership, because the December 22 Decision allows the Burley

Faction to withhold funds, benefits and services that should be made available to them as Tribe members. Among other things:

a. The December 22 Decision allows the Burley Faction to exercise complete control over Tribe membership and to exclude Chief Dixie and the members of the Tribal Council from membership in the Tribe.

b. As a result of being denied Tribe membership, the members of the Tribal Council are not and will not be eligible to receive federal health, education and other benefits provided to members of recognized Indian Tribes.

64. The December 22 Decision, if upheld, could provide a basis for allowing Burley to divert funds held in trust for the Tribe by the State of California. Beginning in 1999, Burley represented to the California Gambling Control Commission (“Commission”) that she was the authorized representative of the Tribe and entitled to collect funds paid by the state to tribes that do not operate casinos or gaming devices. Burley received funds from the Commission, which were meant for the Tribe, between 1999 and 2005 (the “State Funds”). The State Funds totaled approximately \$1 million or more per year.

a. None of the Plaintiffs received any of the State Funds. The Plaintiffs do not know of any members of the Tribe who received or benefited from any of the State Funds except for Burley and her immediate family. The Plaintiffs do not know of any programs for the benefit of the Tribe or its members that were created or supported with the Funds.

b. In 2005, the Commission ceased distribution of the State Funds to Burley on the ground that the federal government did not recognize her as the appropriate representative of the Tribe. Burley has filed litigation in California Superior Court, seeking to compel the Commission to resume distribution of the State Funds to her, including approximately \$6.6 million of the State Funds that the Commission has withheld since 2005.

California Valley Miwok Tribe v. California Gambling Control Commission, No. 37-2008-00075326 (Sup. Ct. San Diego). Burley seeks to introduce the December 22 Decision as evidence that she is entitled to receive the State Funds.

c. If Burley receives the State Funds, Chief Dixie and the members of the Tribal Council will be denied the benefit of the State Funds, because the State of California has no control over the use of the State Funds once they are paid to a tribe.

d. If Ms. Burley receives the State Funds, the Tribe will be denied the Funds, because Ms. Burley is not a legitimate representative of the Tribe.

65. The December 22 Decision will allow Burley to divert federal funds intended for the Tribe. Beginning in 1999, and continuing through 2007, Burley received federal grant money intended for the Tribe, based on her representation that she was an authorized representative of the Tribe. The grant money was provided through a "self-determination contract" pursuant to Public Law 93-638 ("PL 638") to assist the Tribe in organizing under the IRA. Burley received from \$400,000 to \$600,000 per year.

a. Burley did not use the PL 638 funds to organize the Tribe consistent with the IRA. Instead, she sought to disenfranchise Plaintiffs and other members of the Tribal community and secured the benefits of Tribe membership only for herself and her immediate family.

b. The BIA has indicated its intent, based on the Secretary's decision, to enter into a new PL 638 contract with the Burley Faction to provide funds for organization of the Tribe. The Tribe will be denied its rightful use of the PL 638 funds, because those funds will be paid to Burley and her illegitimate government instead.

Plaintiffs' Request for Reconsideration

66. On January 6, 2011, the Plaintiffs requested that the Secretary immediately reconsider and stay the Assistant Secretary's December 22 Decision. The Secretary did not respond, and on January 21, 2011, Plaintiffs withdrew the request for reconsideration.

FIRST CAUSE OF ACTION

(Arbitrary and Capricious Agency Action in Violation of the APA)

67. Plaintiffs re-allege paragraphs 1 through 66, and incorporate those paragraphs herein as if set forth in full.

68. The APA provides that a court must hold unlawful and set aside agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. §706(2)(A).

69. The Assistant Secretary's December 22 Decision constitutes "final agency action."

70. The December 22 Decision violates APA section 706(2)(A) because it unlawfully reopened and addressed issues not within the scope or jurisdiction of the Board appeal from which the decision arose, including the status of the Tribe as not "organized," the BIA's and Department's refusal to recognize the tribal government led by Burley, and the BIA's decision to involve the entire tribal community in the organization of the Tribe. Under binding regulations of the Department, those issues were final, not subject to the jurisdiction of the Board, not subject to appeal, and not referred to the Assistant Secretary by the Board.

71. The December 22 Decision violates APA section 706(2)(A) because it fails to provide a reasoned analysis explaining why the decision completely reverses judicially approved, longstanding BIA and Department policy and prior BIA and Department

determinations in this case, regarding the status of the Tribe and the Burley government and the requirements for organization under the IRA.

72. The December 22 Decision violates APA section 706(2)(A) because it is precluded by the doctrine of *res judicata*. The status of the Tribe and of Burley's purported government are issues that were previously litigated and finally decided by a court of competent jurisdiction in a prior dispute between Burley and the Department. The Court of Appeals for the District of Columbia Circuit held that the Secretary properly refused to recognize the tribe as organized under the Burley Faction. *Res judicata* therefore bars Burley from attempting to relitigate those issues in another forum. The Assistant Secretary's December 22 Decision is precluded by the district court's and Court of Appeals' resolution of those issues.

73. The December 22 Decision violates APA section 706(2)(A) because it is barred by the doctrine of judicial estoppel, because the Secretary previously argued, before the District Court for the District of Columbia and the Court of Appeals for the District of Columbia Circuit, that the Tribe was not organized and that she could not recognize Burley's purported government. The December 22 Decision reverses the very same actions that the Secretary defended before the district court and the Court of Appeals.

74. The December 22 Decision violates APA section 706(2)(A) because it fails to address a prior appeal by Chief Dixie. In October 2003, Chief Dixie filed an appeal with the Assistant Secretary – Indian Affairs, challenging the BIA's recognition (at that time) of Ms. Burley as Chairperson. On February 11, 2005, the Assistant Secretary – Indian Affairs dismissed the appeal on procedural grounds. The Assistant Secretary found that the BIA's 2004 Decision had rendered Chief Dixie's appeal moot, because that decision made clear that the BIA did not recognize Ms. Burley as Tribal Chairperson, that the Tribe was not

“organized;” and that the United States did not recognize any Tribal government. Because the December 22 Decision purports to rescind the final 2004 Decision, the Assistant Secretary must reinstate and decide Chief Dixie’s appeal before recognizing any Tribal government.

75. The December 22 Decision violates APA section 706(2)(A) because it does not fulfill the Secretary's trust obligation to the Tribe and its members. The Secretary has a fiduciary duty to ensure that any tribal government he recognizes represents a majority of the tribal community. By recognizing a purported government that represents only three members of the Tribe, the Secretary (acting through his subordinate the Assistant Secretary) has breached his duty to the Tribe, the Tribal Council and the individual Plaintiffs.

76. The December 22 Decision violates APA section 706(2)(A) because it is inconsistent with the IRA. The IRA imposes substantive and procedural requirements that must be met before the Secretary may recognize a tribal government. By recognizing a tribal government that was not elected or ratified pursuant to those requirements, the Secretary (acting through the Assistant Secretary) has violated the IRA.

77. The December 22 Decision violates APA section 706(2)(A) because it unlawfully recognizes a tribal government based on the 1998 Resolution, which is invalid on its face. The 1998 Resolution identifies "at least" five individuals who are Tribe members, and recites that it was authorized by a majority of the Tribe's adult members. But it bears only two signatures. Moreover, one of those signatures purports to be that of Chief Dixie, who disputes the validity of the signature. Therefore, the 1998 Resolution cannot be the basis for a valid government recognized by the United States.

78. As a direct and proximate result of the December 22 Decision, Chief Dixie, the Tribal Council, and Velma WhiteBear, Antonia Lopez, Michael Mendibles, Evelyn Wilson and Antoine Azevedo have been and will continue to be denied their rightful opportunity to

participate in the organization and governance of the Tribe and will suffer irreparable injury and financial loss.

79. As a direct and proximate result of the December 22 Decision, Chief Dixie, Velma WhiteBear, Antonia Lopez, Michael Mendibles, Evelyn Wilson and Antoine Azevedo have been and will continue to be denied the benefits of Tribe membership and will suffer irreparable injury and financial loss.

80. As a direct and proximate result of the December 22 Decision, the Tribe and the members of the Tribe, including Chief Dixie, Velma WhiteBear, Antonia Lopez, Michael Mendibles, Evelyn Wilson and Antoine Azevedo, have been and will continue to be denied the use of the PL 638 funds available through the BIA, and the State Funds provided by the Commission, and will suffer irreparable injury and financial loss.

81. As a direct and proximate result of the December 22 Decision, the Tribe will be denied recognition to conduct traditional Tribal activities and official acts, and to intervene in legal and regulatory proceedings to protect its interests and those of its members, and will suffer irreparable injury and financial loss.

SECOND CAUSE OF ACTION

(Agency Action Unlawfully Withheld and Unreasonably Delayed in Violation of the APA)

82. Plaintiffs re-allege paragraphs 1 through 66, and incorporate those paragraphs herein as if set forth in full.

83. An agency's "failure to act" constitutes "agency action." 5 U.S.C § 551(13). The APA therefore provides that a court shall "compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C § 706(1).

84. The BIA's failure to adjudicate the status of the 580 Putative Members of the Tribe who submitted genealogies and other documentation to the BIA in response to the April 2007 public notices constitutes "agency action unlawfully withheld or unreasonably delayed."

85. Plaintiffs Velma WhiteBear, Antonia Lopez, Michael Mendibles, Evelyn Wilson and Antoine Azevedo submitted genealogies and other documentation to the BIA in response to the April 2007 public notices.

86. As a direct and proximate result of the BIA's failure to act on the information submitted by the Putative Members and to publish the names of those Putative Members who meet the criteria to participate in the initial organization of the Tribe, Plaintiffs Velma WhiteBear, Antonia Lopez, Michael Mendibles, Evelyn Wilson and Antoine Azevedo have been and will continue to be denied their rightful opportunity to participate in the organization and governance of the Tribe and will suffer irreparable injury and financial loss.

87. As a direct and proximate result of the BIA's failure to act on the information submitted by the Putative Members and to publish the names of those Putative Members who meet the criteria to participate in the initial organization of the Tribe, the Tribe will be denied the opportunity to organize itself and elect a legitimate representative government under the IRA and will suffer irreparable injury and financial loss.

88. As a direct and proximate result of the BIA's failure to act on the information submitted by the Putative Members and to publish the names of those Putative Members who meet the criteria to participate in the initial organization of the Tribe, Plaintiffs Velma WhiteBear, Antonia Lopez, Michael Mendibles, Evelyn Wilson and Antoine Azevedo have been and will continue to be denied the benefits of Tribe membership and will suffer irreparable injury and financial loss.

89. As a direct and proximate result of the BIA's failure to act on the information submitted by the Putative Members and to publish the names of those Putative Members who meet the criteria to participate in the initial organization of the Tribe, Plaintiffs Velma WhiteBear, Antonia Lopez, Michael Mendibles, Evelyn Wilson, Antoine Azevedo and the Tribe have been and will continue to be denied the use of the PL 638 funds available through the BIA, and the State Funds provided by the Commission and will suffer irreparable injury and financial loss.

90. As a direct and proximate result of the BIA's failure to act on the information submitted by the Putative Members and to publish the names of those Putative Members who meet the criteria to participate in the initial organization of the Tribe, the Tribe will be denied recognition to conduct traditional Tribal activities and official acts, and to intervene in legal and regulatory proceedings to protect its interests and those of its members, and will suffer irreparable injury and financial loss.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs respectfully request that this court issue an order:

A. Declaring that the Assistant Secretary acted arbitrarily, capriciously and otherwise not in accordance with law by acting to recognize the Tribe as “organized,” to recognize the Burley Faction as the Tribe’s government, to abandon the BIA’s efforts to involve the tribal community in organizing the Tribe, and to rescind prior final determinations regarding the Tribe;

B. Vacating the December 22 Decision and directing the Assistant Secretary and the BIA to resume efforts to involve the entire tribal community in organizing the Tribe;

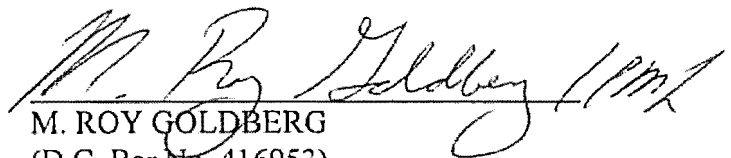
C. Preliminarily and permanently enjoining the Secretary, Assistant Secretary and BIA from taking any action to implement the December 22 Decision;

D. Directing the BIA to adjudicate the status of the Putative Members who submitted documentation of their claims to Tribe membership, and to publish the names of those Putative Members eligible to participate in the initial organization of the Tribe;

E. Awarding the Plaintiffs attorneys fees and reasonable costs incurred in connection with this action; and

F. Granting such other relief as the Court deems just and proper.

Respectfully submitted,



M. ROY GOLDBERG
(D.C. Bar No. 416953)
CHRISTOPHER M. LOVELAND
(D.C. Bar No. 473969)
Sheppard Mullin Richter & Hampton LLP
1300 I Street, N.W., 11th Floor East
Washington, DC 20005-3314
Tel: (202) 772-5313
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rgoldberg@sheppardmullin.com
cloveland@sheppardmullin.com

Dated: January 24, 2011

Of Counsel:

ROBERT J. URAM (*pro hac vice* pending)
Sheppard Mullin Richter & Hampton LLP
Four Embarcadero Center, 17th Floor
San Francisco, California 94111-4109
Tel: 415-434-9100
Fax: 415-434-3947
ruram@sheppardmullin.com

EXHIBIT “21”

EXHIBIT “22”



YAKIMA K. DIXIE

Sheep Ranch Rancheria of MiWok Indians of California
a.k.a. California Valley Miwok Tribe
11178 Sheep Ranch Rd., Mail P.O. Box 41
Sheep Ranch California 95250
209-728-2102

Bridge-loan Agreement & Prospectus

“Sheep Ranch ...” is a very small (<10 members), long-established (1916), federally recognized California Indian tribe that is qualified to receive benefits, including the right to establishment a Class III gambling facility.

Yakima K Dixie is the hereditary Chief and rightful Chairperson of the tribe by lineal descent. However, administrative control of the tribe was illegally transferred from him some time in 1999; and administrative procedures and litigation are now in progress to return control of the tribe to Yakima so that he may receive about \$1.2 million in income that currently accrues to the tribe from the California Gambling Commission and so that the tribe can be position to create a casino.

A sum, not to exceed \$250,000, is being sought, in the form of Bridge Loans, to pay for the expenses that are necessary to regain the control of the tribe to Yakima, to reorganize the tribe, and to negotiate the location and financial backing for a casino. \$2,500 is the minimum Loan amount. In addition to the repayment of the corpus of the loan and the interest thereon, a total of 50 basis points of the gross income to the tribe will be paid, as a Bonus Interest, on a *pro rata* basis to the lender(s) for a period of 5 years after the casino is created. Further, an additional 10 basis points is allocated as a Referral Bonus to lenders.

The offering is available to informed investor(s) who are capable of taking moderate degree of risk. It is assumed that a lender understands that one could loose the corpus of one's loan. This prospectus includes both the legal instrument and detailed background information.



YAKIMA K. DIXIE

Sheep Ranch Rancheria of MiWok Indians of California
a.k.a. California Valley Miwok Tribe
11178 Sheep Ranch Rd., Mail P.O. Box 41
Sheep Ranch California 95250
209-728-2102

Bridge-loan Prospectus

Synopsis. A sum, not to exceed \$250,000, is being sought, as a bridge-loan, to pay for the expenses that are necessary to regain the control of the tribe to Yakima, to reorganize the tribe, and to negotiate the location and financial backing for a casino. In addition to the repayment of the corpus of the loan, as a **Bonus Interest**, a total of 50 basis points or 0.50% of the gross income from gambling revenue to the tribe will be paid on a *pro rata* basis to the lender(s) for a period of 5 years after casino is created.

Security for the Loaned Money. Repayment of the loan is secured by the income which currently accrues to the tribe (about \$1.2 million annually) from the "Revenue Sharing Trust Fund" that is administered by the State of California under the California Gambling Control Commission¹. This money is paid from gambling revenue by the tribes, which currently have casinos, to "non-compact" tribes or tribes, which do not currently have casinos. This \$1.2 million royalty presently goes to the tribe but is under the control of the Chairperson whose appointment we are attempting to nullify in administrative appeal and litigation.

Estimated Time to the Repayment of the Loan. If our administrative appeal, which is currently in its final stage at the Bureau of Indian Affairs, is successful, then the loan can be retired within about 4 months, depending on the cycle of the disbursements from the Revenue Sharing Trust Fund. If a negotiated settlement is achieved, the time to repayment will be about the same. If our administrative appeal does not prevail and if we are forced to litigate the rightful Chairperson, then repayment may take about 1 year.

Management of the Loaned Money. The loaned money will be managed by an entity called "Friends of Yakima", which will be managed by Chadd Everone, who has been the chief coordinator for the efforts to date, in conjunction with Phil Peck, Bill Martin, and Yakima Dixie.

Referral Bonus. An additional 10 basis points (.001%) of Tribal gaming income for 5 years is allocated as a Referral Bonus to lenders who refer other investors.

¹ California Gambling Control Commission 2399 Gateway Oaks Drive, Suite 100 • Sacramento, CA 95833-4231 • Sacramento, CA 95852-6013 • Phone: 916-263-0700.

Calculation of the Bonus Interest on Gambling Income. In addition to the repayment of the corpus of the loan, a total of 50 basis points or 0.5% of the gross income from gambling revenue to the tribe will be paid, as Bonus Interest, on a *pro rata* basis to the lender(s) for a period of 5 years after the casino begins full commercial operations.

Table I - A Pro Forma Calculation of Income, Expenses and Bonus Interest

(Note: the figures below are taken from figures which were attributed to Cash Creek Casino.)

1A	B	C	D	E
2	Line Item	Formula	Yearly	5 year aggregate
3	"Net Win" or net gaming income		\$500,000,000	\$2,500,000,000
4	minus 2% for Nongaming Tribal Assist. Fund	[D3-(D3*.02)]	490,000,000	2,450,000,000
5	minus 3% for Statewide Trust Fund (?)	[D4-(D3*.03)]	475,000,000	2,375,000,000
6	minus 1% for Local Benefits Grant Trust	[D5-(D3*.01)]	470,000,000	2,350,000,000
7	minus Operating Expenses of 40% of net win	[D3*.5]	250,000,000	1,250,000,000
8	Gross Income	[D6-D7]	220,000,000	1,100,000,000
9				
10	24% of Gross Income to Operator	[D8*.24]	52,800,000	264,000,000
11				
12	76% of Gross Income to Tribe		167,200,000	836,000,000
13				
14	Total Bonus Interest of Lenders	[D12*0.005]	\$836,000	\$4,180,000
15	Pro Rata Share of Bonus Interest at:			
16	\$2,500	[D14*(B16/250000)]	8,360	41,800
17	5,000	[D14*(B17/250000)]	16,720	83,600
18	7,500	[D14*(B18/250000)]	25,080	125,400
19	10,000	[D14*(B19/250000)]	33,440	167,200
20	100,000	[D14*(B20/250000)]	334,400	1,672,000
21	250,000	[D14*(B21/250000)]	\$836,000	\$4,180,000

Calculation of the Referral Bonus. For lenders who refer other lenders, a Referral Bonus is created as follows. In addition to the repayment of the corpus of the loan and the interest thereon and the Royalty on Gambling Income, a total of 0.001 of the loan corpus will be paid on a *pro rata* basis to the referring lenders for a period of 5 years after the casino is created.

The calculation is as follows. If \$250,000 loan equals a Interest Bonus of 0.005 (i.e., 0.5%) and if 20% of the \$250,000 is for Referral Bonus, then the bonus would be \$50,000 which equilibrates to 0.001 (i.e., 0.1%).

Table II - A Pro Forma Calculation of Referral Bonus

(Note: the figures below build on the calculations in Table I.)

1A	B	C	D	E
2	Line Item	Formula	Yearly	5 year aggregate
3	76% of Gross Income to Tribe		\$167,200,000	\$836,000,000
4	Total Referral Bonus	0.001*D3	167,200	836,000
5	Referral Amounts (1 Unit = \$2,500)			
6	\$2,500	1/100*D4	\$1,672	\$8,360
7	5,000	2/100*D4	3,344	16,720
8	7,500	3/100*D4	5,016	25,080
9	10,000	4/100*D4	6,688	33,440
10	12,500	5/100*D4	8,360	41,800
11	15,000	6/100*D4	10,032	50,160
12	17,500	7/100*D4	11,704	58,520
13	20,000	8/100*D4	13,376	66,880
14	22,500	9/100*D4	\$15,048	\$75,240
15	\$25,000	10/100*D4	\$16,720	\$83,600
16				
17				
18				
19				
20				
21				

Pro Forma Allocation of Funds for 4 Months.

	Month 1	Month 2	Month 3	Month 4	Totals
Personnel:					
Chadd Everone - Virtually all aspects of this project are either done by or managed by Chadd. This includes: The Appeal of Chairmanship, Intervention in Suit, Probate of Estate, Tribal Organization, Negotiation with Investor. ²	\$4,000	\$4,000	\$4,000	\$4,000	\$16,000
Phil Peck - Expense associated with Investor liaison.	2,000	2,000	2,000	2,000	8,000
Bill Martin - Expenses associated with managing Yakima and implementing the objectives.	2,000	2,000	2,000	2,000	8,000
Velma Whitebear - Expenses associated with organizing the tribal membership.	2,000	1,000	1,000	1,000	5,000
Yakima Personal:					
Expenses - Clothing, transportation, phone, utilities, etc.	500	500	500	500	2,000
Yakima's Property:					
Property - Clean-up grounds, sewer repair, security doors, repair of porch, etc.	5,000	4,000			9,000
Yakima's Health:					
Custodian - To cook and clean.	1,500	1,500	1,500	1,500	6,000
M.D. Internist - comprehensive examination and follow-up.	1,000	500			1,500

Yakima's Security:

² Chadd will restrict his draw to \$2000 per month and defer the other \$2000 of his \$4000 allocation, pending the successful performance of all the other obligations of Friends of Yakima in the projections. At the end of this, if there are not funds available, he could be authorized to exchange this deferred income into one of the Loan Agreements.

2004-02-26-LoanAgreement

Resident Guard - salary plus trailer rental	2,000	2,000	2,000	2,000	8,000
Surveillance Equipment - cameras, lights, alarms.	5,000				5,000
<hr/>					
Legal Services:					
Thomas Wolfrum - General oversight, specific representation in Intervention.	2,000	2,000	1,000	1,000	6,000
<hr/>					
Other Expenses:					
Web-site - construction and maintenance.	1,000	500	500	500	2,500
Totals	28,000	20,000	14,500	14,500	77,000

Due Diligence

Considerable due diligence has been done on this situation to insure that the tribe is real, that Yakima is, indeed, the rightful authority for the tribe, that the revenue does accrue to the tribe from "Revenue Sharing Trust Fund" under the California Gambling Control Commission, and that a casino can be obtained. The individuals who have done most of the due diligence and who have an economic vested interest in the success of the project are:

Chadd Everone
2054 University Ave. #407
Berkeley, California 94704
510-486-1314
E-mail: cae@fis.org

Phil Peck
637 Bridgewater Cir.
Danville CA 94526
925-831-2930
E-mail: endorfin@sbcglobal.net

Bill Martin
203 Plaza Dr.
Lodi California 95240
209-365-9139
E-mail: hitlock7@sbcglobal.net

In addition to the above, the project has been evaluated by 4 attorneys of a prospective casino developer with 3 of those attorneys being specialists in Indian law. Their task was to address 4 main issues, and a summary of their report of February 6, 2004 is below.

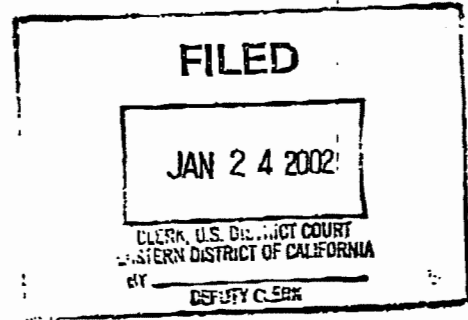
1. Is the Tribe federally recognized? Yes. The Tribe has been federally recognized since 1916. In the Federal Register of December 5, 2003 (Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs), it is identified as: "California Valley Miwok Tribe f.k.a Sheep Ranch Rancheria of MiWok Indians of California".

2. Does Yakima or Sylvia have the strongest claim to tribal leadership? Yakima clearly has the strongest historical claim to leadership. While the circumstances surrounding Yakima's purported renunciation of leadership to Sylvia are sufficiently ambiguous to permit interpretation favoring either party, it appears that Sylvia's assumption of leadership was fraudulently procured.

3. What is the status of the appeal process? The appeal submitted on Yakima's behalf appears to be well argued and placed in the proper hands. It is being considered by solicitor Keep as representative of the Secretary of Interior.

4. Does Yakima have the right and ability to enter into binding agreements on behalf of the Tribe? Yakima's position is that he is, and always has been, the leadership of the Tribe with the ability to bind the Tribe. The effectiveness of any contract will ultimately depend on federal recognition of Yakima's leadership, his ability to control whatever tribal membership results from the dispute resolution process, and his integrity and loyalty in continuing to abide by the contract.

EXHIBIT “23”



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SHEEP RANCH (RANCHERIA) MIWOK
INDIAN TRIBE OF CALIFORNIA;
YAKIMA DIXIE (CHIEF); MELVIN
DIXIE; and ROCKY DIXIE,

Plaintiffs,

NO. CIV. S-01-1389 LKK/DAD

v.

O R D E R

SILVIA BURLEY; TIGER BURLEY; and
RASHEL REZNOR,

Defendants.

Plaintiffs sue defendants for fraud and RICO violations based on the admission of two of the defendants as members of plaintiffs' tribe, their subsequent election to leadership positions, and use of tribal funds received from the U.S. government. Plaintiffs seek damages, an accounting, and declaratory relief. This case is before the court on defendants' motion to dismiss.

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Nov-10-04 02:56pm From U.S. ATTORNEY'S OFFICE Document 9-3 Filed 10/18/05 Page 2 of 11
Case 1:05-cv-00780-JTF Document 9-3 Filed 10/18/05 Page 2 of 11 F-706

I.

DISMISSAL STANDARDS UNDER FED. R. CIV. P. 12(b)(6)

On a motion to dismiss, the allegations of the complaint must be accepted as true. See Cruz v. Bero, 405 U.S. 319, 322 (1972). The court is bound to give the plaintiff the benefit of every reasonable inference to be drawn from the "well-pleaded" allegations of the complaint. See Retail Clerks Intern. Ass'n. Local 1625, AFL-CIO v. Schermerhorn, 373 U.S. 746, 753 n.6 (1963). Thus, the plaintiff need not necessarily plead a particular fact if that fact is a reasonable inference from facts properly alleged. See id.; see also Whealdin v. Wheeler, 373 U.S. 647, 648 (1963) (inferring fact from allegations of complaint).

In general, the complaint is construed favorably to the pleader. See Scheuer v. Rhodes, 416 U.S. 232, 236 (1974). So construed, the court may not dismiss the complaint for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of the claim which would entitle him or her to relief. See Hishon v. King & Spalding, 467 U.S. 69, 73 (1984) (citing Conley v. Gibson, 355 U.S. 41, 45-46 (1957)). In spite of the deference the court is bound to pay to the plaintiff's allegations, however, it is not proper for the court to assume that "the [plaintiff] can prove facts which [he or she] has not alleged, or that the defendants have violated the . . . laws in ways that have not been alleged." Associated General Contractors of California, Inc. v. California State Council of Carpenters, 459 U.S. 519, 526 (1983).

Nov-10-04 02:56pm From: U.S. ATTORNEY'S OFFICE
Case 1:05-cv-00739-JH Document 9-3 Filed 06/13/05 Page 3 of 14

1 In deciding whether to dismiss the court may consider only the
2 facts alleged in the pleadings, documents attached as exhibits or
3 incorporated by reference in the pleadings, and matters of which
4 the judge may take judicial notice. See Mullis v. United States
5 Bankr. Ct., 828 F.2d 1385, 1388 (9th Cir. 1987). The court has
6 discretion to consider extrinsic materials offered in conjunction
7 with a 12(b)(6) motion, however, in considering such materials the
8 court must treat the motion as one for summary judgment. See
9 Rosales v. United States, 824 F.2d 799, 802 (1987).

10 II.

11 DEFENDANTS' MOTION TO DISMISS

12 As an initial matter, the court may take judicial notice of
13 evidence that defendants Silvia Burley and Rashel Reznor are
14 recognized by the BIA as the sole members of the governing body of
15 the Sheep Ranch Rancheria of Me-Wuk Indians. See BIA July 12, 2000
16 Letter of Recognition, Burley Decl. Exh. C. The court may also
17 take judicial notice of evidence that there is no federally
18 recognized tribe known as the Sheep Ranch Rancheria of Miwok
19 Indians, which is alleged to be plaintiff here. See 65 Federal
20 Register 49 at 13301. Plaintiffs appear to argue that, given their
21 chosen spelling of their name, they are not a federally recognized
22 tribe and the court need not be concerned with issues of tribal
23 sovereignty that would otherwise defeat jurisdiction here. I
24 cannot agree.

25 Plaintiffs clearly allege in their complaint that they allowed
26 defendants Burley and Reznor to become members of their tribe, and

Nov-10-04 02:56pm From U.S. ATTORNEY'S OFFICE Case 1:05-cv-00739-JR Document 9-3 Filed 06/15/05 Page 4 of 14 PageID# 1029/068 F-706

1 that defendants conspired to place Burley and Reznor in leadership
2 positions and to take the federal funds directed to plaintiffs'
3 tribe. Moreover, if plaintiffs did not belong to a tribe that was
4 federally recognized, they would have no claim to the federal funds
5 that defendants allegedly fraudulently obtained. Thus, it appears
6 that this is a dispute regarding the proper leadership, membership,
7 and use of funds in an Indian tribe.

8 "Indian tribes retain elements of sovereign status, including
9 the power to protect tribal self government and to control internal
10 relations." Smith v. Babbitt, 100 F.3d 556, 558 (8th Cir. 1996)
11 (citing Montana v. United States, 450 U.S. 544, 564 (1981)).
12 Although Indian tribes have been divested of some sovereignty,
13 divestiture has occurred only in areas "involving the relations
14 between an Indian tribe and nonmembers of the tribe"
15 Montana, 450 U.S. at 564. That is not to say that the court has
16 jurisdiction here simply because plaintiffs allege that defendants
17 belong to a different tribe. Rather, "Indian tribes retain their
18 inherent power to determine tribal membership, to regulate domestic
19 relations among members, and to prescribe rules of inheritance for
20 members." Montana, 450 U.S. at 564. Nor can plaintiffs avoid the
21 issue of tribal sovereignty simply by couching their fraud
22 allegations in RICO terms. See Smith v. Babbitt, 100 F.3d 556, 558
23 (8th Cir. 1997) (RICO allegations were attempt to move dispute,
24 over which court would not otherwise have jurisdiction because of
25 tribal sovereignty, to federal court).

26 ////

1 On a final note, plaintiffs have already taken their complaint
2 regarding defendants' alleged fraud to the Bureau of Indian
3 Affairs, which directed plaintiffs to first exhaust their tribal
4 remedies. See BIA letter of February 4, 2000, Burley Decl. Exh.
5 D. Plaintiffs had the option of obtaining review of this agency
6 decision. See 25 C.F.R. § 2.8. However, by coming to court
7 instead, plaintiffs essentially seek judicial review of the
8 agency's action or inaction. BIA decisions are not "final so as
9 to constitute agency action subject to judicial review under
10 5 U.S.C. § 704, unless made effective pending decision on appeal
11 by order of the Board." 43 C.F.R. § 4.314.

12 Thus, by virtue of tribal sovereignty and the fact that
13 plaintiffs did not exhaust their administrative remedies, it
14 appears that this court lacks jurisdiction over plaintiffs'
15 claims.¹

16 Accordingly, the court hereby ORDERS as follows:

- 17 1. Defendants' motion to dismiss is GRANTED;
18 2. Plaintiffs' claims are dismissed with leave to file an
19 amended complaint not later than thirty (30) days from the date of
20 this order; and

21 ////

22 ////

23

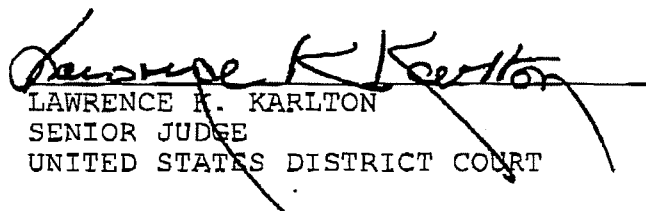
24 ¹ The court is in receipt of the Declaration of James Askew
25 filed by plaintiffs on Friday, January 11, 2002. However, this
26 declaration and the attached documents do not demonstrate that
there is no tribal sovereignty nor that plaintiffs have exhausted
their administrative remedies with the BIA.

Nov-10-04 02:56pm From-U.S. ATTORNEY'S OFFICE Case 1:05-cv-00739-JR Document 9-3 Filed 06/13/05 Page 6 of 11 016 554 2900 T-614 P-061/068 F-706

1 3. The Status Conference, currently set for January 28, 2002
2 is CONTINUED to March 25, 2002 at 4:00 p.m.

3 IT IS SO ORDERED.

4 DATED: January 23, 2002.

5
6 
7 LAWRENCE R. KARLTON
8 SENIOR JUDGE
9 UNITED STATES DISTRICT COURT
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Nov-10-04 02:56pm From: U.S. ATTORNEY'S OFFICE Case 1:05-cv-00739-JR Document 9-3 Filed 06/13/05 Page 7 of 11

ndd

United States District Court
for the
Eastern District of California
January 24, 2002

* * CERTIFICATE OF SERVICE * *

2:01-cv-01389

Sheep Ranch Miwok

v.

Burley

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

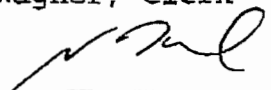
That on January 24, 2002, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office, or, pursuant to prior authorization by counsel, via facsimile.

James A Askew
Askew and Archbold
1776 West March Lane
Suite 350
Stockton, CA 95207-6450

SJ/LKK

David J Rapport
Rapport and Marston
PO Box 488
405 West Perkins Street
Ukiah, CA 95482

Jack L. Wagner, Clerk

BY: 
Deputy Clerk

Nov-10-04 02:57pm From: U.S. ATTORNEY'S OFFICE Case 1:05-cv-00739-JR Document 9-3 Filed 03/03/05 Page 8 of 11
 Filed 03/03/05 Page 8 of 11 F-706

1 ASKEW & ARCHBOLD,
 2 A PROFESSIONAL CORPORATION
 3 JAMES A. ASKEW - SBN 60469
 4 RICHARD M. ARCHBOLD - SBN 87784
 5 1776 West March Lane, Suite 350
 6 Stockton, California 95207-6450
 7 Telephone: (209) 955-2260

8 Attorneys for Plaintiffs SHEEP RANCH
 9 (RANCHERIA) MIWOK INDIAN TRIBE
 10 OF CALIFORNIA; YAKIMA DIXIE,
 11 MELVIN DIXIE, and ROCKY DIXIE

LODGED

UNITED STATES DISTRICT COURT

MAR 15 2002

EASTERN DISTRICT OF CALIFORNIA

CLERK, U.S. DISTRICT COURT
 EASTERN DISTRICT OF CALIFORNIA

11 SHEEP RANCH (RANCHERIA) MIWOK
 12 INDIAN TRIBE OF CALIFORNIA;
 13 YAKIMA DIXIE (CHIEF), MELVIN
 14 DIXIE, and ROCKY DIXIE,

Plaintiffs,

vs.

15 SILVIA BURLEY, TIGER BURLEY; and
 16 RASHEL REZNOR,

Defendants.

CIV. S-01-1389 LKK DAD

NOTICE OF VOLUNTARY
 DISMISSAL

19 NOTICE IS HEREBY GIVEN that pursuant to Fed.R.Civ.Pro. 41(a), plaintiff voluntarily
 20 dismisses the above-captioned action without prejudice.

23 DATED: March 14, 2002

ASKEW & ARCHBOLD
 A PROFESSIONAL CORPORATION

By

JAMES A. ASKEW
 Attorneys for Plaintiffs SHEEP RANCH
 (RANCHERIA) MIWOK INDIAN TRIBE OF
 CALIFORNIA; YAKIMA DIXIE; MELVIN
 DIXIE, and ROCKY DIXIE

IT IS SO ORDERED

NOTICE OF VOLUNTARY DISMISSAL

CVMT-2011-000285

PROOF OF SERVICE

I, declare under penalty of perjury that:

I am a citizen of the United States and am employed in the County of San Joaquin. I am over the age of eighteen years and not a party to the within action. My business address is 1776 W. March Lane, Suite 350, Stockton, CA 95207-6450.

On the date set forth below, I caused the attached **NOTICE OF VOLUNTARY DISMISSAL** to be served on the parties to this action as follows:

☒ **BY MAIL.**

I placed a true copy thereof, enclosed in sealed envelope with postage thereon fully prepaid, in the United States mail at Stockton, California, addressed to the parties as set forth on the attached service list. C.C.P. §§1013(a), 2015.5.

☐ **BY COURIER SERVICE.**

I retained _____, to personally serve a true copy thereof on the parties as set forth on the attached service list. C.C.P. §§1011, 2015.5.

☐ **BY FEDERAL EXPRESS.**

I retained **Federal Express** to personally serve a true copy thereof on January 11, 2002 to the parties as set forth on the attached service list. C.C.P. §§1013(c), 2015.5.

☐ **BY FACSIMILE TRANSMISSION.**

I am readily familiar with this law firm's business practices for collection and processing of documents by way of facsimile. I telefaxed a true copy thereof at said facsimile number(s) as set forth on the attached service list. C.C.P. §§1013(e), 2015.5 and C.R.C. §2008.

☐ **BY PERSONAL SERVICE.**

I personally served a true copy thereof on the parties as set forth on the attached service list at Stockton. C.C.P. §1101, 2015.5.

Executed on March 14, 2002 at Stockton, California.



CELIA I. LAZO

NOTICE OF VOLUNTARY DISMISSAL

Nov-10-04 02:57pm From: H. S. ATTORNEY'S OFFICE Case 1:05-cv-00789-IR Document 9-3 Filed 06/13/05 Page 10 of 11
11/10/04 10:35/068 F-706

SERVICE LIST

David J. Rapport
Rapport and Marston
P.O. Box 488
405 West Perkins Street
Ukiah, CA 9548

NOTICE OF VOLUNTARY DISMISSAL

CVMT-2011-000287

Nov-10-04 02:57pm From: U.S. ATTORNEY'S OFFICE
Case 1:05-cv-00739-JR Document 9-3 Filed 03/10/05 Page 14 of 14 036/068 F-706

ndd

United States District Court
for the
Eastern District of California
March 21, 2002

* * CERTIFICATE OF SERVICE * *

2:01-cv-01389

Sheep Ranch Miwok

v.

Burley

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

That on March 21, 2002, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office, or, pursuant to prior authorization by counsel, via facsimile.

James A Askew
Askew and Archbold
1776 West March Lane
Suite 350
Stockton, CA 95207-6450

SJ/LK

David J Rapport
Rapport and Marston
PO Box 488
405 West Perkins Street
Ukiah, CA 95482

SC 3/25/02 VAC

Jack L. Wagner, Clerk

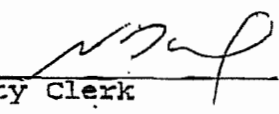
BY: 
Deputy Clerk

EXHIBIT “24”

[← Back to Original Article](#)

California's Tiniest Tribe Eyes Jackpot

September 28, 1999 | AMY PYLE | TIMES STAFF WRITER

SHEEP RANCH, Calif. — Yakima Dixie has spent much of his adult life in and out of jail. He lives month-to-month on a disability check in a 600-square-foot house heated by wood-burning stoves. The nearest store is seven miles away and he doesn't own a car.

But Dixie could get an annual \$1-million check for up to 20 years if voters in March approve a deal reached earlier this month between the governor and dozens of Indian tribes with gambling operations.

That agreement allows all tribes that forgo casinos, regardless of tribe size, to share gambling revenues. After his relatives either left the reservation or died, the resident population of Dixie's branch of the Sierra Miwok dwindled to just him.

The tribe grew to five when Dixie provisionally added four more members to qualify for federal funds last year, so he might have to share the money, but his remains the tiniest of the state's handful of small tribes.

Negotiation of the governor's agreement strayed briefly into discussion about a tribe size requirement for the revenue sharing, participants say. But the idea was rejected for reasons practical and political: It would provide incentives for tribes to discover long lost relatives and would dredge up an unsavory debate.

"Then you start talking about why are they so small," said Joshua Pane, a longtime lobbyist for Indians. "That's because these each are the remnants of 300,000 tribal peoples in the 1800s, and you know what took place. It would be sort of like saying, 'I'm sorry, there just aren't many Jews left in Poland.' "

Besides, Pane said, the public may be surprised at how few nongambling tribes sign up.

"You may be thinking, 'Oh, it's a million dollars; why not do it?' " Pane said. "But that's not the Indian way."

And indeed, right now the money holds little allure, says Dixie, 59. It's welfare of the worst kind, he says: charity from gambling tribes that should have helped their fellow Indians all along, not just when forced to do so. Look at the nearby Jackson Rancheria, where several dozen Miwoks have become very wealthy off their casino, he said.

"They've got mansions up there; they drive big, fancy cars," he said. "I'll be walking to the store and, when they see me, they slow down a little bit and maybe they smile or wave, then they step on the gas."

At his most suspicious, Dixie figures bigger casinos agreed to the governor's compact to try to ward off potential competition from other tribes, which must promise not to open a casino in the year they take the revenue check. And Dixie has ideas about maybe getting a casino of his own.

The Years Have Taken Their Toll

Dixie is a contrast of old and young. His eyes are weary, face weathered. He has no teeth. But his body remains lithe from long hikes to shop and fish and from daily workouts with weights.

When he was 7, his mother left his father and moved him and three brothers from nearby Angel's Camp to join about 90 other Indians--relatives and friends--in Sheep Ranch. The rancheria had been set aside for California Indians without land in 1916, but the house on it was run-down, lacking water, plumbing and electricity.

After Dixie's mother complained, the federal government in 1966 built the tiny house where he now lives. Soon after, Dixie went to jail for a residential burglary, which was followed by other offenses, including second-degree murder committed during a fight, which sent him to prison. By the time he got out, both his mother and father were dead and, in 1994, his last aunt died when she was almost 100.

Even if Dixie were to get a windfall, he has no cravings for a big house, a hot car or a trip around the world. His dreams are different: to buy the ranch next door, build a cultural center, sweat lodge and office, expand the tribe to a size where children will gather acorns and dance the bear dance again as he did when he was young.

"When I leave this Earth," he said, "I don't want to leave [that] all forgotten."

That's why Dixie was so responsive several years back when a Miwok woman he'd known as a child drove up. In California, fewer than a fifth of the estimated 320,000 Native Americans are official members of the state's 100 federally recognized tribes. The woman had been searching for a tribe that would accept her so she could get an Indian scholarship for herself and her daughter.

The idea fit Dixie's plan to expand and form a tribal council, which he had learned he would need to tap into the approximately \$160,000 set aside annually for each small tribe by the U.S. Bureau of Indian Affairs. He enrolled her, her two daughters and one daughter's baby.

(He also hopes to include his only son, who is not automatically a member because legally tribes are more like nations than families, charged with setting their own membership rules. In Dixie's case, he is still working on his tribe's bylaws, and the addition of new members is under review by the U.S. Bureau of Indian Affairs.)

Case 2:16-cv-01345-WBS-CKD Document 44-2 Filed 03/03/17 Page 253 of 396

Visions of Wealth Just Disappear

Last year, the childhood acquaintance heard about an investor from South Dakota who described himself as a multimillionaire. The man came to Dixie's house and sat in his sacred circle—a canopy of prune plum trees shading five worn chairs and a coffee can of burned sage.

Here's my proposal, the man said: Because Sheep Ranch Rancheria is too small and isolated, I'll buy 1,000 acres at a major crossroads and deed it to the tribe. Then I'll build a casino, a hotel, maybe a golf course. It would mean "at least, at least" \$5 million a year for the tribe, Dixie says he was told.

Just last month that deal disintegrated without warning, but Dixie believes that if he has patience, other investors will come courting.

Those who have closely watched the frenzy to get a piece of California's gaming action are skeptical about such schemes. No such land swap has ever occurred in California, and it would require approval from both the governor and the U.S. Department of the Interior.

"Every tribe in the state has had so-called millionaires approaching them with naive plans on how they could strike it rich in gaming," said tribal attorney Howard Dickstein. "I personally have been approached on an almost daily basis for five years; 99% of them are either crackpots or uninformed."

Dixie shrugs. It's not as though a pile of money could solve all his problems, anyway.

It could remove the minor irritations. Right now, every interaction with the modern world is slowed by his poverty: no fax, no computer, not even a typewriter, and he's had a telephone only since 1988.

But there's much more.

Dixie not only spent more than half of his adult life in jail, but since his 1984 parole from prison he has continued to have brushes with the law for such alleged crimes as vandalism, public drunkenness and brandishing a weapon.

He has suffered severe epileptic seizures since his early 20s, leading him to be officially declared unable to work in the early 1990s, after six years of working on a pig farm.

His wife is long-estranged. His younger brother was crushed by a train. His son is in jail.

It goes on and on.

The dream of a casino was the best thing that had happened to Dixie in a long time, maybe ever. Such dreams die hard.

"I had it all planned out," he said. "But now, I don't know."

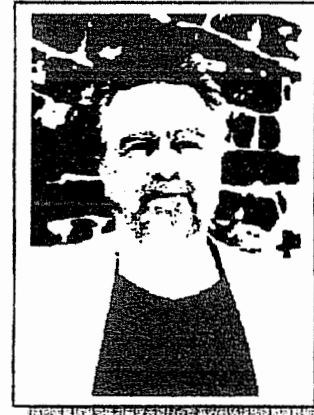
EXHIBIT “25”

CHADD EVERONE, Int. Ph.D.

2054 UNIVERSITY AVE., P.O. Box 13512
 BERKELEY, CALIFORNIA 94712-4512
 TELE: 510-486-1314 E-MAIL: CAE@FIS.ORG

December 27, 2000

Silvia Burley
 Tele 209-834-0197 (0189)
 Fax 209-834-0318



This is a note to introduce myself and acknowledge our conversation.

As I mentioned, I, personally, do not have any financial or functional interest in the business affairs of your tribe. I am an associate of Bill Martin, who is involved in my Life-Extension Program and who is interested in my research efforts. I do, however, have some skill in negotiating unusual business situations. In the course of interacting with Bill, I have come to learn about his involvement with Yakima and the various "factions" in the situation; and yesterday, he requested that I attend a meeting with James Askew, the attorney for Yakima who will be representing his claim to the tribe before the BIA and federal court. One of the issues was to go over the suit by North American Sports Management (i.e., Ginsburg, Dietrich, et al.) to evaluate how that might impact the construction of Yakima's litigation. In the course of their discussions, it occurred to me that (irrespective of the merits of anyone's particular position) litigation will not resolved this situation in the near future and that if the various interests can not be resolved soon, then, because of time limitations, the prospect of any casino will be lost and all parties will injured in that regard. Further, because of the uncertainty about the legal chairmanship, the standing with the BIA might be jeopardized and therefore any federal income might be lost and any royalty for state gambling could be nullified. In other words, everyone is jeopardized by litigation and consequently it is worth it to try to come to a negotiated settlement.

All agreed, but none felt comfortable with call you. So, being the father of this great proposal, I fell to me to make the call; and that is what I did.

To answer your question about Bill Martin, he and Leroy Chapelle are business associates. I have know Bill for about 4 years, again largely in connection with my medical program. He has practiced as an electrical contractor in Contra Costa County for some 40 years. Leroy is a retired attorney. They are the ones who have talked directly with Brian Goldman and others at the BIA. To my knowledge, there are only three factions in this situation, which I list in the table below.

The Three Factions		
Yakima Dixie, et al.	Silvia Burley, et al.	John Dietrich, et al.
Bill Martin and Leroy	Tiger Burley and William	North American Sports

Chapelle, having an agreement with Yakima to develop a casino and having financed Yakima's legal expenses. Rocky and Melvin.	Pink	Management, Inc., Alan Ginsburg, Robert Dawson, and Harold Chesnin
The Bureau of Indian Affairs is a fourth faction; and the State of California would be a fifth.		

If you know of anyone else who has an interest or is involved, then let me know.

Perhaps this is naive on my part, but given the criticality of timing and the potential of everyone being seriously damaged, I believe that if there is to be a resolution in which all parties gain something, then everyone should put aside tactics and posturing and simply lay their cards on the table and, based upon the facts of the matter, see if a practical solution can be made. In any such negotiation, everything would be confidential and there would be no commitment, except in the case that an agreement resulted.

I think that it would be best if we proceeded in the following manner. First, you and Yakima should meet privately to reset your relationship on some kind of a talking basis. The initial meeting should not be long or involved - simply "hello, sorry that we are in such a difficult situation, let's try to find some kind of a workable solution" - short, simple, and putting aside any discussion about blame, fault, or merit. (Yakima could easily claim that you stole the tribe and you could easily claim that if you had not made your moves, then there would not be any tribe. But save all of that until after a workable agreement is finalized. Besides, if you cannot come to an agreement, then you can deal with all of that in court.) Second, I should evaluate each party's issues and positions and then relay that back and forth to all concerned. I would do that assessment individually without a group meeting. If there is some kind of a consensus about how to proceed, then I would formulate that into a *pro forma* agreement and each party would acknowledge concurrence. None of these transactions could be used in any court proceedings; thus, one's legal standing would not be affected. Once concurrence was gained, then a meeting would be held between all parties to read the agreement and sign it. In principle, this is fairly simple, but in implementation it will be complex. But it cannot get too complex, because, again, "time is of the essence".

Nice to meet you; hopefully, this business conflict can be resolved without resort to litigation.

Best wishes,

Chadd

Chadd Everone, Im., Ph.D.

EXHIBIT “26”



CALIFORNIA GAMBLING CONTROL COMMISSION
GAMBLING CONTROL COMMISSION

November 30, 2005

Chad Everone, Deputy
2054 University Ave., #407
Berkeley, California 94907

Re: Representation

Dear Mr. Everone:

As I indicated in my letter of November 7, 2005, I would not normally communicate directly with a represented party; however, the circumstances in this situation require it.

Over the course of the past four months, I have been contacted by the following lawyers, all indicating that they represented you and/or Mr. Dixie: Dale Campbell, Peter Glick, Peter Meinicke, Liz Walker, and Thomas Wolftrum.

You and Mr. Dixie, of course, are entitled to representation by counsel of your choosing. You are also entitled to be represented by more than one lawyer. In the present situation, however, there appears to be no coordination among counsel, and no indication as to whom I am to deal with. This situation is confusing for the California Gambling Control Commission and for me as their counsel.

Therefore, I would appreciate it if you would make an effort to coordinate your communication with the Commission through your counsel. Stated simply, it would be helpful if I received some indication from you and/or your counsel as to who I should communicate with regarding issues affecting Mr. Dixie and the California Valley Motor Race.

Thank you for giving this matter your prompt attention.

Sincerely,

Cyrus J. Rickards
Cyrus J. Rickards
Chief Counsel

cc: Peter Glick
Dale Campbell
Peter Meinicke
Thomas Wolftrum
Liz Walker

EXHIBIT “27”

Synopsis
(July 7, 2006)

Since the last Synopsis of June 25, 2006 {See: <http://www.federatedtribes.com/yakima/2006-06-25-Synopsis.pdf> }, events have progress rather dramatically.

The Interpleader Complaint. Recall that the suit in Interpleader, by the California Gambling Control Commission, was dismissed. This Complaint was to determine the rightful authority for the distribution of the money from the Revenue Sharing Trust Fund (now amount to some \$1.5 million). The Court enunciated the position that the money may not be released until the BIA determines who is the recognized authority for the Tribe. The Dismissal was on June 16, 2006. Shortly thereafter, on June 19, Silvia Burley wrote a letter to the Chairman of the Commission requesting that the funds be released to her. On June 27, 2006, the Chief Counsel for the Commission wrote to Silvia Burley and denied her request, saying: "The monies will continue to be held in the Revenue Sharing Trust Fund (RSTFR) and will be sent to the Tribe as soon as there is either a federally-recognized Tribal government, or the Bureau of Indian Affairs recognizes a representative or person of authority within the Tribe, for all purposes." - see { <http://www.federatedtribes.com/yakima/2006-07-27-RickardsToBurley.pdf> }. Thus, these funds are definitely frozen until we get resolved the issue of the recognized authority.

Organization of the Tribe. As previously mentioned, on June 23, 2006, we (Yakima, Velma, Antonia, and myself) met with Superintendent Burdick and the two Tribal Operations Specialists. They confirmed that the plan for the organization of the Tribe is in D.C. and was a high priority. As a follow-on to that, a Petition has been sent to Asst. Sec. Olsen requesting Clarifications and Expedition - see {<http://www.federatedtribes.com/yakima/2006-07-07-Olsen-Petition.html>}. Also, an appeal on certain (now probably obsolete) determinations is proceeding through the Interior Board of Indian Appeals.

Tribal Activities. The Tribe has applied for a Community Services Block Grant from the Northern California Indian Development Council, Inc. in the amount of \$1,500. This is in progress.

Chadd

Sent by mail and e-mail

EXHIBIT “28”

2006-07-11-Budget



FRIENDS OF YAKIMA
2054 UNIVERSITY AVE. #407
BERKELEY, CALIFORNIA 94704
510-486-1314

July 11, 2006

Albert:

On April 25, 2006, an agreement was instituted between Albert Seenoo (d.b.a. Midstate Consultants, LLC) and Yakima Dixie (Sheep Ranch Rancheria) and Friends of Yakima in which we made (what I would call) a "place-holder agreement". Albert provided \$30,000 in working capital, and we gave him an extension on the option to reinstate the original agreement that was made several years prior or to make another "place-holder agreement". It was agreed that after a couple of months, we were to evaluate the progression of events and decide whether to reinstate that original agreement or further extend the place-holder agreement or to withdraw. Phil has been very adroit at managing these negotiations; and he will be contacting you to proceed forward.

As a basis for which option is appropriate, I am forwarding this summary and a budget out-line of anticipated expenses for the next 6 months.

During the period of this agreement, two significant advances in our position have occurred. First, after arduous negotiations and actual litigation, we were able to have definitively frozen the more than \$1.5 million in Revenue Sharing Trust Fund money that has accrued to the Tribe. This money is now locked until "... there is either a federally-recognized Tribal government, or the Bureau of Indian Affairs recognizes a representative or person of authority within the Tribe, for all purposes." ¹ It is our understanding that, immediately upon the BIA making such a designation, these funds will be released. So, the next issues is: whom will the BIA recognized as the authority for the Tribe?

The second advance in our position is in regard to the recognized authority. At our last meeting with the Superintendent of the BIA (June 23, 2006 ²), he informed us that he and the Regional Director have sent a plan for the organization of the Tribe to Washington, that this matter was a high priority to the BIA, and that they would be recognizing a "Putative Member Class" of individuals with whom the BIA would establish a government-to-government relationship. I believe that this can only mean that the Yakima Dixie faction will prevail as the dominant authority and give us control of the Tribe. It is highly probable that the opposition, Silvia Burley, will either refuse to participate or, if she does participate, will be marginalized to a minority interest. In an attempt to make sure that this is the case, we are taking actions to communicate with the D.C. officials who are involved (See footnote 2).

Other elements of tribal organization are advancing and we will be discussing an assignment to this Tribe of a compact that has been held by another tribe but which does not have a suitable location for a casino. If something like this assignment can be done, it would greatly accelerate the business opportunity.

Chadd

¹ Document at: <http://www.federatedtribes.com/yakima/2006-07-27-RickardsToBurley.pdf>

² Document at: <http://www.federatedtribes.com/yakima/2006-07-11-Synopsis.pdf>

2006-07-11-Budget

Budget for the next 6 months							
Application	Month						Total
	7	8	9	10	11	12	\$
Chadd Everone							
Constitution: Prepare for final Submittal to BIA.							
Washington D.C.: Negotiation and perhaps trip on issue of tribal authority.							
Sacramento: Negotiation with Burdick regarding authority, Constitution, and Secretarial Supervised Election.							
Compact: Wm. Pink prospect, Governor's Office.							
Board of Indian Appeals: Seeking to overturn a Determination by C. Gregory.							
Tribal Organization: Continuation of efforts including the 180 prospective members.							
	4,000	4,000	4,000	4,000	4,000	4,000	24,000
Bill Martin/A. Avalos							
Care of Yakima/Melvin and Sheep Ranch.							
	1,000	1,000	1,000	1,000	1,000	1,000	6,000
Peter Glick - attorney							
Back Billings: Interpleader	10,895						10,895
Preparation for Silvia Suit: Recover of tribal assets.			2,000				2,000

EXHIBIT “29”

Synopsis
(August 16, 2006)

Since the last Synopsis of July 11, 2006 {See: <http://www.federatedtribes.com/yakima/2006-07-11-Synopsis.pdf> }, virtually all of the barriers to the determination by the BIA of the rightful authority for the Tribe have been resolved; and we now await that determination from Washington, which we are told should be done by November, 2006. The status of things was reviewed in my memo to Superintendent Burdick, which outlined the agenda for our meeting with him on August 14, 2006 {See: <http://www.federatedtribes.com/yakima/2006-08-14-Burdick-memo.pdf> }.

Augmenting that memo, the following is noted.

We are entering into negotiations with the Governor's office with respect to a gaming compact for the Tribe. Peter Melnicoe and Arlo Smith are assigned to that objective. See my cover letter to the Governor's office at: <http://www.federatedtribes.com/yakima/2006-08-07-Synopsis.pdf>

In addition to proceeding unilaterally on a compact, we have initiated a discussion with another tribe that already has a compact (but no casino) about joint-venturing a casino; and we will see where that takes us. Further, Phil Peck, Property Specialist, has been actively searching for suitable locations within the "foot-print" of the tribe; and recently, he showed various locations to Bill Martin and myself. The whole issue of finding land and having it taken into federal trust is something which we are only now beginning to investigate.

In March 2006, I filed an Appeal with the Interior Board of Indian Appeals regarding a determination that the Regional Director made on what is called PL-638 grant application. That appeal is proceeding into the end-stage of the evidentiary phase of adjudication; and we will see what the Answers are to my filings by the Opposition. As a parallel to this proceeding, it was brought to my attention that we should file a competing PL-638 Grant Application for the forth-coming fiscal year, something which might force the BIA to decide which fraction's application the BIA will accept and thereby expedite the determination of authority. With the help of William Pink, we will file such an application.

Finally, our D.C. attorneys (Walker/Vollmann) are filing an amicus curiae brief on Silvia's appeal of the dismissal of her suit in the D.C. court. Also, they are attempting to nudge forward the officials in D.C. with regard to the administrative determination.

Chadd

EXHIBIT “30”

~~YAFIOO~~/ MAIL

Print - Close Window

From: "KARLA BELL" <kbelllaw@msn.com>
To: silburley@yahoo.com, DVG@aol.com, phillipt@crosslink.net,
californiavalleymiwoktribe@yahoo.com, tigerplk@yahoo.com
CC: Craypi@aol.com
Subject: Re: C. Ray Investigation
Date: Thu, 31 Aug 2006 01:32:46 -0700

All,

Below are Chris Ray's notes from his call with Chapelle. He will provide me with an update after his meeting today 8/31.

Karla D. Bell
Law Offices of Karla D. Bell
4712 Admiralty Way, Suite 580
Marina del Rey, CA 90292
(310) 577-2555
(310) 577-3210 fax

This electronic message transmission contains information from the Law Offices of Karla D. Bell which may be confidential or privileged. The information in this message is only for the use of the intended recipient.

If you are not the intended recipient, be aware that any disclosure, copying, distribution or other use of the contents of this electronic message is strictly prohibited. If you have received this electronic transmission in error, please notify us immediately by telephone at (310) 577-2555. Thank you.

>From: Craypi@aol.com
>To: kbelllaw@msn.com
>Subject: Re: C. Ray Investigation
>Date: Wed, 30 Aug 2006 22:43:35 EDT
>
>I called Chapelle at 5:40 PM, he answered, advised me Bill Martin will call

>back ASAP with the conference call. 1 Minute later, Martin called and put
>Chapelle and I on a 3 Way call. The following were the highlights of the
>conversation: (Bill Martin spoke majority of time)
>
>They are very near in getting Compact Papers signed to gain access to the
>1.8 Million dollars they were successful in holding back from Sylvia Burley
>Tribe. Everone has been working full time on this and is being paid all his
>living expenses. Everone is so smart, just like an attorney for Indian Law,
>and
>he has filed 150-200 Court Documents related to this lawsuit.
>
>BIA Superintendent who is "in their corner" is Troy Berdick, although he is
>indecisive and says Washington DC will make the final decision on the
>tribe.
>Their DC attorney is Liz Walker of Virginia. Walnut Creek , CA
Attorney is
>Tom
> Wolfer who they owe " a lot" of money to.
>
>Martin states the 1.8 Million will be used to pay off a huge attorney debt
>caused by the opposition who is filing lawsuit after lawsuit.
>
>Their Gambling Commission Attorneys (previous Commission Attorney) Pete
Pete
>Melincoe and (Previous Gambling Control Commissioner) Arlo Smith who had
>the
>contacts at the Commission to stop the payments to Sylvia Burleys Tribe.
>
>Martin states Arlo Smith and Pete Melincoe are working with people in the
>Governor Office to get the compact with the governor.
>
>The original investor is a guy named Mr. Kuna from Sacramento who started
>the case going with \$150,000. He was brought in early by a Everone
>associate
>named Michael Babcock.
>
>Martin invited me to invest \$25,000 now and \$25, 000 in 30 days.

Return is

>5%, and if a casino is built, my return will be 25 times that amount
(?).

>

>Martin invited me to meet with he and Everone on August 31, 2006 in
>Lafayette Calif, at Peetes Coffee at 9:30 am.

>

>End of Conversation.

>

>Advised Tiger Paulk, and per Attoney Karla Bell, find out 1. Who at
the

>Governor Office is helping them. 2. How are Arlo Smith and Pete
Melicoe

>being

>paid, what is their financial arrangement, or concessions.

>

>Wish me Luck....

>

>Chris Ray

>

>

EXHIBIT “31”

Subj: **Re: C. Ray Investigation**
 Date: 8/31/2006 6:03:53 P.M. Pacific Daylight Time
 From: Craypi
 To: kbelllaw@msn.com

Karla and All,

I met with Chadd Everone and Bill Martin at 9:30 AM in Lafayette CA (Peete Coffee). Prior, I had set up a body recording device and tested it 4 times - without problems. I talked with Martin and Everone for approx. 1 plus hrs. The following are highlights of the conversation:

Everone did most of the talking and is very impressed with himself. Martin acted in a supporting role to Everone. Everone started explaining how they came across this giving credit to Chapelle who read the LA Times Article about Yakima and his plight back in 1999. Chapell had been living in San Diego, and coincidentally, he and Martin were in Southern California looking to get into the California Cardroom business. Chapelle and Martin (after reading the LA Times article, head up to Calaveras County and sign up Yakima to represent him in getting an Indian Casino. Only after signing up Yakima did Chapelle (later) find out (from the BIA) that the Tribe was under control of Sylvia Burley. That was when Martin enlisted the help of Everone who came up with a plan to take the tribe out of Sylvia's control by saying Yakima only gave up "spokesperson's" role to Sylvia and not the Chair.

Everone then went to work using the UC Berkeley Law Library to study up on Indian Law to begin his quest for removing the Sylvia Burley as Chairperson of the Tribe. Everone describes his last 6 plus years as (something like) turning fiction into reality using the court system, BIA and the California Gambling Commission to agree with his requests. He explained after every legal set-back, he would wait 30 days and re-file or appeal the decision - and it worked. He learned the system and used it.

Everone and Martin both stated Sylvia Burley has "embezzled" monies received for the tribe and used the money for her and her husbands own use.

Everone stated Arlo Smith and Pete Melincoe are ex-Commission Member and Ex-Chief Legal for the Gambling Commission. They were very influential in meeting with current Commission Attorney Cy Rickerts to stop the casino payments to Sylvia Burley. Both are currently "on the payroll" and bill Everone by the hour (@ \$ 200.00 per hour). Everone stated he can not always pay each of their bills, but will eventually pay them from the 1.8 Million monies that have been frozen by the Commission. Everone did say that their bills may be converted to investor type shares in the casino. Everone states the legal costs have exhausted all their monies and they are seeking investors (like myself). Everone also stated both Smith and Melicoe are handling the "compact negotiations" with the governors office. When I pressed Everone for a name in the governors office, he said he did not know who they were dealing with.

Attorney Glick is their main litigator in Sacramento and is paid by the hour (\$350.00) (no other deals are with him)

Everone stated a Contra Costa County developer named Mr. Cena (or Sena) is politically connected to Mr. Miller, a Congressional Representative from Martinez, California. Mr. Cena has provided (approx) \$200,000 in financial assistance to Everone. Everone states Cena is part-owner of the Peppermill in Reno, Nevada and other Nevada/Reno Casinos. Recently, Cena flew Miller (in his private jet) to a DC dinner with Sen. Feinstein and Pelosi to gather support.

Another financial backer is a guy named Mr. Kuna (or Cuna) from Rocklin, California.

Everone also advised they are dealing with a Southern Ca Tribe (unknown which tribe) to approach the Governor to approve compacts for both tribes and stated they may join each other? A guy named Michael Lombardi (from So. Calif) is connected with this same Southern Ca tribe and is well known in the industry in helping tribes.

Money Part-

They asked for investment monies and provided me with a prospectus without asking how much I could give.

Thursday, August 31, 2006 America Online: Craypi

They said my return would be by November 2006. I then asked them why would I give monies to Yakima who can't stay out of jail, and how is he going to run an Indian Casino? Both laughed and Everone stated he controlled Yakima and the casino venture and told me not to worry about that.

I told them I would give them an answer in a few days.

It appears they are working hard on DC and Sacramento Politicians to gather support from BIA's decision on the tribe status which they say will come in November 2006.

The tape recording had static and is being processed at a lab that specializes in digital recordings. We will see that result and I will transcribe that tape. Photos of our meeting was obtained by my employee Larry Young.

I will keep you informed.

Chris Ra

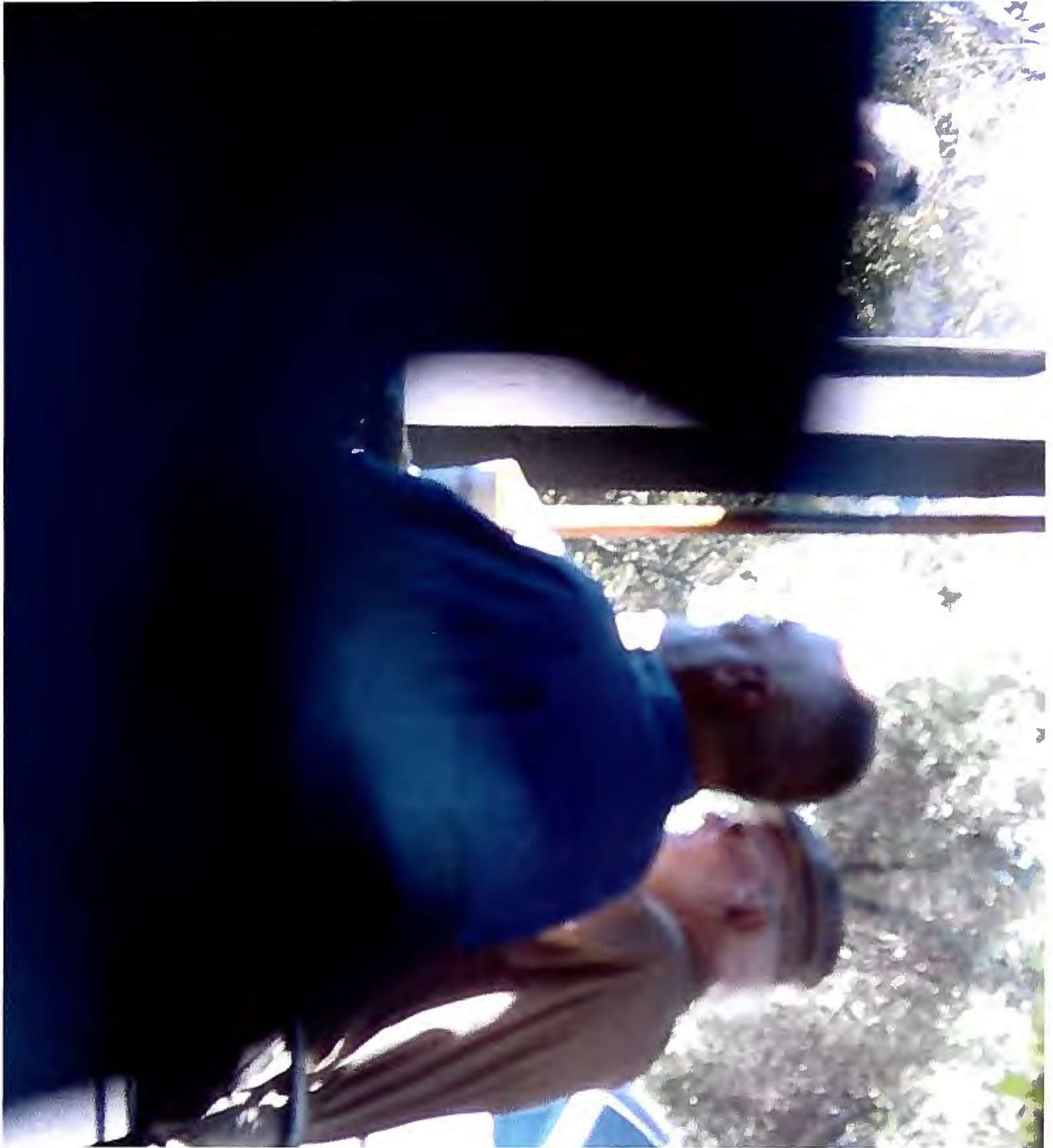




EXHIBIT “32”

Subj: **Fwd: Addenda**
Date: 9/13/2006 6:28:35 A.M. Pacific Daylight Time
From: ArticleWriter1
To: Craypi

Forwarded Message:

Subj: **Addenda**
Date: 9/11/2006 4:23:46 P.M. Pacific Daylight Time
From: cae@fis.org
To: articlewriter1@aol.com
Sent from the Internet (Details)

Chris:

In terms of your consideration, I neglected to provide some substantiation on two important elements: 1) The Revenue Sharing Trust Fund and 2) the Developer.

1) The California Gambling Control Commission maintains the Revenue Sharing Trust Fund and that is the primary security for the repayment of the lender's money. I may have mentioned that I have hired Peter Melnicoe and Arlo Smith (the former Chief Counsel and the former Commissioner of that agency, respectively); and they were instrumental in getting the money frozen. See that determination.
<http://www.federatedtribes.com/yakima/2006-06-27-CCGC-Determination.pdf>

Melnicoe and Smith are now tasked to negotiate with the Governor for a compact. Recently, I asked Melnico to call the Commission and obtain a current accounting; and his response is below.

"The California Gambling Control Commission is presently holding \$1,340,703.17 for the California Valley Miwok Tribe. The payment for the third quarter of 2006 should augment that amount by an additional \$275,000."

You can see the accounting at the Commission's site - see page 2, California Valley Miwok:
http://www.cgcc.ca.gov/rstfi/2006/RSTF%20Distrib%2019th_CommStaffReport.pdf

2) The Developer/Operate is a substantial and known entity.
<http://www.seenohomes.com>
<http://www.peppermillreno.com>

The "placeholder" agreement which we have with him is posted as follows; and this is a confidential document.
<http://www.federatedtribes.com/yakima/2006-05-17-Midstate.pdf>

Finally, in terms of due-diligence; I can assure that there are few deals which have been investigated as thoroughly as this one. I know for a fact that Seeno spent over \$40,000 on legal consulting to assure himself that we and the deal were legitimate; and Melnicoe and Smith and a variety of other interests have investigated it thoroughly, including Phil Peck, with whom you spoke.

If you want to discuss specific issues further, feel free to call or meet. To be candid, if you were to come in now, it would put us in a

Wednesday, September 13, 2006 America Online: Craypi

strategically good posture with the Developer.

Thanks, Chadd

EXHIBIT “33”

From: Chadd Everons [cae@fis.org]
Sent: Friday, September 29, 2006 8:51 AM
To: Chris Ray
Subject: Sheep Ranch Tribe

Chris

I have not received the prospectus. In case you still might be interested, here is a status report. In terms of the financial arrangements, my associated, Bill Martin, indicated that in lieu of the deferred bonus of 20 times corpus over a 5 year period, as described in the prospectus, he would be willing to give double double one's money for this last round of financing, which would mean that upon recover of the \$1.6 million that is currently frozen, one's loan times 2 would be repaid. If this is of interest, please let me know.

The current situation (i.e., as of right now, September 28, 2006)

After some three years of prosecuting the rightful authority for the Tribe, all of the legal and administrative obstructions by the opposition (Silvia Burley) have now failed and are out of the way. Her last two court maneuvers were dismissed; and the BIA is moving forward with its determination on the authority for the tribe, which almost certainly will give control to Yakima's faction, and that means to us. Sensing that the time was right, our attorneys, who are tasked with dealing with the Governor on a gaming compact, contacted Silvia and her attorneys a couple of days ago and offered to open a discussion on settlement. They took the offer, almost immediately, and her attorneys are flying in (one from Washington and the other from Southern

California) to meet with our attorneys on October 3. Silvia's attorneys must also realize that their efforts are going to fail, otherwise, they would not have been so eager to meet and spend the time, effort, and money to do so. (A settlement is not necessary in order for us to prevail, but it would accelerate our casino efforts, and it would take a great load off of the shoulders of the

BIA.) Irrespective of any settlement, the BIA is in the process of finalizing the government's determination on the tribal authority. We expect that issue to be finalized by the end of November and, again, that our group will be the recognized authority. In addition, we have advanced the tribal organization, have a developer on the shelf, are making moves to negotiate a compact with the Governor, and in all ways are positioned to bring this into rapid fulfillment.

Up to this point, the effort has been financed by some money by Seeno (non refundable) but

mostly by about \$350,000 in loaned money from individuals, such as yourself, according to the prospectus. That is a fair sum of money; but it is insignificant in terms of the potential that comes with a casino and which, obviously, is a unique and very rare opportunity. In the immediate future, there are a variety of other things (administrative and legal) which must be

done to aggressively push this thing home; and I want to raise a final \$100,000 to do that. Now is not the time to glide to a landing; rather it must be forced into place, and that entails more money. As you know, the money for the Tribe in the Revenue Sharing Trust Fund has been frozen; and it now amounts to over \$1.6 million; and that will be there to repay the lenders immediately upon gaining authority for the Tribe. So that is the security for the loans.

What I propose is that you and/or your contacts invest in this final offering; and I have provided a schedule of the repayment formula according to different amounts, which is the same as is in the prospectus. Obviously, this deal is much more secure now than it was when you originally invested; and if you can contact me at 509-425-1100

are capable and interested in participating. We can discuss that when I call, which I anticipate will be tomorrow, Friday.

There are few opportunities to "make a financial killing" and this, I sincerely believe, is one of them. See the calculations and the prospectus.
I hope you are well. Best wishes

Chadd

EXHIBIT “34”

California Valley Miwok Tribe, California
(formerly the Sheep Ranch Rancheria of Me-Wuk Indians of California)
11178 Sheep Ranch Rd.: Sheep Ranch, California 95250
209-728-8726

November 29 2006

To Whom It May Concern:

The two lawyers, listed below, do not represent me nor my Tribe nor other members of the Tribe; and any representation that they do is invalid and to be ignored.

Clinton T. Bailey
8383 Wilshire Boulevard #830
Beverly Hills, California 90211
310-927-8543
ctbesq@yahoo.com

Philip Kaufler
8383 Wilshire Boulevard #830
Beverly Hills, California 90211
323-655-0961
kaufler@earthlink.net

On November 27, 2006, both of the above made an unscheduled visit to my place a Sheep Ranch and made various representations which were false and improper. I had assumed that they had come in concert with my existing legal representation. Upon reading the contract which they had me sign, I immediately rescinded it.

I, the other members of the Tribe, and the Tribe, itself, have more than adequately legal representation by the following attorneys:


Thomas Wolfrum, Walnut Creek, California - appointed by tribe resolution as General Counsel
Peter Glick, Sacramento, California - under contract by me and functions as litigator
Peter Melnicoc and Arlo Smith - appointed by my Deputy Chadd Everone for compact negotiations dealings with the California Gambling Control Commission.

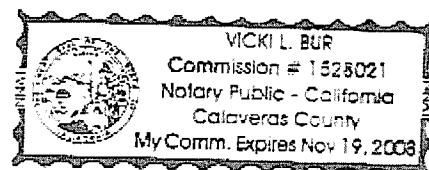
Liz Walker and Tim Vollmann, Washington, D.C. - appointed by me for litigation and representation.

Chadd Everone is my Deputy and Consul General to the Tribe - appointed by me and by tribal resolution, coordinating the legal representation and negotiations with the BIA.

Velma WhiteBear is the Executive Director for the tribe - appointed by tribal resolution.

No new legal agreements or contracts should be made without due consideration and a tribal resolution.


Yakima Dixie, Chief



11/29/06 Vicki L. Bur Notary

EXHIBIT “35”

2007-06-07-Rickards.lwp



California Valley Miwok Tribe, California
(formerly the Sheep Ranch Rancheria of Me-Wuk Indians of California)
Mail: 11178 Sheep Ranch Rd.; Mountain Ranch, California 95246
209-728-8726
{www.californiavalleymiwok.com}

June 7, 2007

Chadd Everone, Deputy
2140 Shattuck Avenue #602
Berkeley, California 94704



Dean Shelton, Commission Chairman
Attn. Cyrus J. Rickards, Chief Counsel
State of California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833-4231
Tele: 916-263-0700
Fax: 916-263-0499
<crickards@cgcc.ca.gov >

c.c. John Cruz, Stephanie Shimazu, Alexandra Vuksich

Chairman Shelton and Counsel Rickards:

Consider this letter to be a formal request for a hearing by the Commission, as soon as possible, on the matter of distributing RSTF money to Tribe in the custody of Silvia Burley.

I received a copy of your letter to Karla Bell, dated June 4, 2007. We appreciate being notified of this, obviously, important event; and I wish that we had been informed during the decision process to make our views known, earlier. As we approach a definitive determination by the BIA of the organizing group of members, this would seem to be a last-ditch effort on the part of Silvia Burley to pilfer tribal assets. It is possible that your Commission is not aware of how close the BIA is to identifying a person(s) of authority for all purposes for this Tribe; and hopefully, the information here will appraise you of how inappropriate the Commission's decision is to distribute the funds, at this time. We request that you postpone implementing the disbursement of funds from the RSFT until the matter can, at least, receive a fair hearing before the Commission. I have asked our attorneys, Liz Walker (in Washington D.C.) and Peter Melnicoe and Arlo Smith, to help shepherd our response to this issue; and I hope that you will accept their entry into this matter on behalf of Yakima Dixie, the putative member class, and the Tribe. As you know, this has been an extremely arduous process; and I will review only the most recent events that are relevant to determining the tribal authority.

2007-06-07-Rickards.lwp

- 46 • On November 6, 2007, Superintendent Burdick announced to Yakima Dixie and to
 48 Silvia Burley the intention of the BIA to move forward with organizing the tribe
 under the Indian Reorganization Act. (In 1935, this Tribe voted to become organized
 50 under that Act but never did so, until recently due to Mr. Dixie's promulgation and as
 opposed by Ms. Burley.)

<http://www.californiavalleymiwok.com/2006-11-06-BIA-Mandate.pdf>

- 52 • On November 10, 2007, Silvia Burley filed an Appeal of that Burdick Mandate, in
 54 which she opposed the BIA being involved in helping the Tribe to become organized.

<http://www.californiavalleymiwok.com/2006-11-10-Burley-Appeal.pdf>

56 Ms. Burley's position is and always has been that because the BIA did recognize her
 58 as a Spokesperson at one time that that designation is immutable and permanent. She
 seems to reason that because the Tribe has a form of sovereign immunity that, *ipso*
 60 *facto*, she is a sovereign person and not subject to any limitations from external
 sources, capable of dis-enrolling the individual who originally gave her tribal status,
 62 ignoring any rights and status of other Miwok Indians with a claim to membership,
 distribution money and benefits only to herself and her daughters, and in all manners
 64 acting *sui juris*. She does not accept the fact that the U.S. government, being a sover-
 eign entity itself (indeed, the superior sovereign in this case) that it has the inherent
 66 right to identify the people with whom it decides to deal as authorities for the Tribe.

- On March 7, 2007, Ms Burley and her two daughters write a letter to Bureau in which
 68 they are critical of the BIA down-grading their recognition of Silvia Burley.

"References to our Chairperson from your office have evolved from
 70 Chairperson until August 0f 2004 to Spokesperson in November of 2004
 to "person of authority" in 2006 and now, simply "Silvia Burley."

<http://www.californiavalleymiwok.com/2007-03-07-BurleyToBurdick.pdf>

72 Indeed, at the Annual Tribal Budge Conference of the BIA in March 2007, the official
 74 roster of tribes does not list any authority or address for California Valley Miwok Tribe,
 which, among the 54 tribes listed, is the only one without any authority or address. See
 76 enclosure and URL below.

<http://www.californiavalleymiwok.com/2007-03-27-BIA-BudgetConf.pdf>

- 78 • On February 23, 2007, Superintendent Burdick called a meeting between Yakima
 80 Dixie and Silvia Burley in an attempt to explore a negotiated settlement.

<http://www.californiavalleymiwok.com/2007-02-23-BIA-Notice.pdf>

82 Mr. Dixie accepted the meeting.
 84

- On February 27, 2007, Ms. Burley declined to attend such a meeting, and the meeting
 86 was canceled.

2007-06-07-Rickards.lwp

<http://www.californiavalleymiwok.com/2007-02-27-Burley-BIA-meeting.pdf>

88

- On April 2, 2007, Regional Director Gregory denied Silvia Burley's Appeal of November 10, 2006. In this denial, he gives a fairly thorough and, according to my understanding, accurate exposition of the history of the Tribe (presumably because he assumed that she would file an Appeal with the Interior Board of Indian Appeals). On page 1, he provides the premise for his denial.

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"It is a well established BIA policy that the federal government not intervene in internal tribal disputes where there is no threat to government-to-government relationship. However, in this situation, where the BIA does not recognize a tribal government we feel that such a threat appears imminent, and we believe that the better course of actions would be to allow the Agency to assist the Tribe to sort out the situation. Therefore, based on our analysis, it was concluded that I remand this matter back to the Superintendent and allow the Agency to continue with its plans to assist the Tribe with its organizational efforts."

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On page 2, he states:

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106

"The BIA has recognized Mr. Yakima Dixie, one of the two remaining heirs, as the spokesperson of the Tribe until April 1999. This recognition was based on the fact that Yakima Dixie is a lineal descendant of the sole distributee, his mother Mable Hodge Dixie."

On page 3:

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"On August 5, 1998, by letter signed by Yakima Dixie, as Spokesperson/Chairman of the Sheep Ranch Rancheria informed the Agency that he had accepted you and your daughters; Rashel K Reznor and Angelica J. Paulk, and granddaughter Tristian S. Wallace as enrolled members of the Tribe. However, he did not provide the criteria he used to determine your eligibility to be enrolled in the Tribe; what documentation that you provided to substantiate your eligibility to be enrolled and his authority to initiate this enrollment action."

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As you can see, the Director suggests that Yakima may not have properly enrolled Silvia Burley. The Director then goes on to discuss Mr. Dixie's purported resignation letter of April 20, 1999 (which we have demonstrated is invalid, *per se* and *per quod*, and, according to a professional document examiner, is probably a forgery). He cites Mr. Dixie's notification of April 21, 1999 that "he cannot and will not resign as Chairman of the Tribe" and a series of events that are associated with the tribal authority. It seems quite clear that, while Silvia Burley is "considered as a person of authority ... for the purpose of receiving P.L. 93-638 contract/grants and services", this does not mean that she is a person of authority for all purposes and that a proper authority for the Tribe cannot be determined until a "putative" group is identified, which now (as of mid-April 2007) *has been* identified. I have included this letter as an exhibit.

<http://www.californiavalleymiwok.com/2007-04-02-RegionToBurley.pdf>

2007-06-07-Rickards.lwp

130

132 • On April 11, 2007 and other dates, the BIA published a Public Notice, a copy of
 133 which I have included herein. Because the on-going dispute in tribal authority had no
 134 prospect of being resolved within the tribe (*an issue which rests solely on the shoul-*
 135 *ders of Silvia Burley*) and because this jeopardizes the relationship between the
 136 government and the tribe, the BIA must exercise its trust responsibility to name a
 137 "putative" member class for the purpose of helping the tribe to become organized in a
 138 manner which represents the legitimate Miwok community and which, therefore, can
 139 be recognized by the BIA. To resolve the dilemma, the BIA named 14 historic (i.e.,
 140 deceased) individuals who are on record as being known to the BIA as members.
 141 There are only 14 individuals who are known to the BIA. Then, the BIA solicits open
 142 submittals for anyone to demonstrate that one is a lineal descendant of such a
 143 denominated person. The cut-off date for submittals was May 25, 2007. Once the
 144 BIA has confirmed lineal descent, then the Bureau will call a meeting of that group
 145 and deal with that group for the organization of the Tribe. I have included this notice
 146 as an exhibit.

147 [http://www.californiavalleymiwok.com/2007-04-11-BIA-PublicNotice-AmadorL](http://www.californiavalleymiwok.com/2007-04-11-BIA-PublicNotice-AmadorLedgerDispatch.pdf)
 148 [edgerDispatch.pdf](http://www.californiavalleymiwok.com/2007-04-11-BIA-PublicNotice-AmadorLedgerDispatch.pdf)

148

149 • On May 25, 2007, I forwarded my analysis to the Superintendent. As far as I can
 150 determine, Silvia Burley is not a lineal descendant of any of the persons which the
 151 BIA has identified in its Public Notice, above. Indeed, most of the persons, who have
 152 been active in the organization, are not lineal descendants of the named persons,
 153 which does not mean that they will not become members once the organizing group is
 154 established. In particular, see page 7 for a genealogical chart. I have included this
 155 letter as an exhibit. Consequently, Ms. Burley would not be a tribal member and,
 156 therefore, could not be a person of authority. Realizing now that Ms. Burley does not
 157 belong to this Tribe, Mr. Dixie will repudiate any affiliation which she might have
 158 with the Tribe.

159 <http://www.californiavalleymiwok.com/2007-05-25-Burdick-memo.pdf>

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161 We believe that there is overwhelming evidence which supports the Commission to stay
 162 any distribution of funds from the RSTF until the BIA makes definitive conclusions
 163 about legitimate membership. Given the history of this case, if the BIA has not as yet
 164 explicitly identified an authority, the Commission should not have the obligation (nor
 165 indeed the authority) to release these funds to anyone. And we expect this to be resolved
 166 in the very near future.

168

169 Sincerely, Drafted by,

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172

 Chadd Everone, Deputy

 Yakima Dixie, Chief

EXHIBIT “36”

2009-04-20-Sylvia-Quast-DOJ



California Valley Miwok Tribe, California
(formerly the Sheep Ranch Rancheria of Me-Wuk Indians of California)
11178 Sheep Ranch Rd. (Sheep Ranch)
Mountain Ranch, California 95246
209-728-8726
{www.californiavalleymiwok.com}

April 20, 2009

Chadd Everone, Deputy
2140 Shattuck Ave. #602
Berkeley, California 94704
510-486-1314



Sylvia Quast, Esq.
Assistant U.S. Attorney
501 "I" Street, Suite 10-100
Sacramento, California 95814
Tel: (916) 554-2740; E-mail <Sylvia.quast@usdoj.gov>

Regarding the suit:

California Valley Miwok, Tribe v. Dick Kempthorne, et al.
United States Court of Appeals for the Ninth Circuit - Case #09-15466

Ms. Quast:

I represent what can be called the Yakima Dixie group or Putative Member Class of this Tribe. As you may know, there has been a prolonged dispute between this group and Ms. Silvia Burley regarding who is to be the Federally recognized authority for the Tribe. This dispute culminated in what we call the Olsen Mandate of February 11, 2005. See:

<http://www.californiavalleymiwok.com/2005-02-11-BIA-Determination.pdf>

Therein, Michael Olsen (Principal Deputy, Acting Assistant Secretary - Indian Affairs) determined that was no Federally recognized authority for the Tribe, that the issue of authority would have to be resolved by tribal re-organization under the umbrella of the BIA, and that the BIA would not recognize any intra-tribal remedy regarding issues of tribal membership. This was a final agency action and not subject to appeal. Since that Determination, Ms. Burley has made every possible effort to obstruct tribal re-organization, asserting that because, at one time the BIA address her as Chairperson, *ipso facto*, she had to be the Federally recognized authority, cloaking herself, personally, in the mantle of sovereignty. Her efforts have included suits against the Federal government, IBIA appeals, and suits against the State of California. Our group has "stalked" these proceeding as either Intervenor, *Amicus Curiae*, or Interested Party and as Plaintiff in one instance against the State of California. All of Burley's efforts have failed with the exception of the three pending actions as identified by the color green in the schematic of litigations, which is appended. Those actions are: A) Burley v. the BIA (IBIA appeal #07-100-A); Burley v. California Gambling Control Commission in the California Court of Appeals - 4th district (case #D054912); and c) your action.

2009-04-20-Syvia-Quast-DOJ

56 The IBIA case #07-110-A is the linch-pin and once that is adjudicated the others, I would assume,
58 would collapse. I last spoke to the clerk of the IBIA on April 17, 2009; and the case is #9 in the
docket, which I calculate would mean about 2 months away.

60 From the Orders on your case, it appears that Ms. Burley must file her opening brief by tomorrow,
62 April 21, and you must file your response by May 21. In discussion with Superintendent Troy
64 Burdick on April 17, 2009, he made the side comment that even if the IBIA were to make its Deter-
66 mination, your action, if still out-standing, might delay tribal organization until your action is
68 resolved - i.e., another year. Consequently, we would request that you do everything possible to
70 expedite your proceedings. Burley's tactic is clearly to obstruct and delay, and several of the tribal
elders have died during this delay. Also, people are getting mightily peeved at the BIA for allowing
this procedural obstruction to supersede the substance of this matter. It seems that Silvia Burley has
been given every consideration for 4 years since the Olsen Determination, while the legitimate
members are given short shrift. Also, an expedited proceeding in your case would prevent us from
having to file for *Amicus* status

72 If there is any information which might help you, either I or our attorney, Tim Vollmann who
74 presented our *amicus* brief in the U.S. Court of Appeals in this matter, might be able to be of some
use.

76 Sincerely,

78
80 *Chadd Everone*

2009-03-29-Litigations

Here is a charting of the various litigations in which we have been engaged, directly or indirectly as an interested party, Intervenor, or *amicus curiae*. Chadd

Legend:

BIA	means	Bureau of Indian Affairs
IBIA	means	Interior Board of Indian Appeals
SCC-SD	means	Superior Court of California, San Diego
SCC-Sacto	means	Superior Court of California, Sacramento
CSCA	means	California
USDC-E	means	United States District Court - Eastern District (Sacramento)
USCA-9th	means	United States Court of Appeals - 9th Circuit
USDC-DC	means	United States District Court - District of Columbia
USCA-DC	means	United States Court of Appeals - District of Columbia
Intra-tribal	means	Administrative Hearing with the Tribe
CGCC	means	California Gambling Control Commission
	means	Completed
	means	Pending

#	Date	Jurisdiction	Case # and litigants	2001												2002												2003															
				1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12				
1	2001-07-18	USDC-E	#01-1389 Dixie vs. Burley												Dismissed																												
2a	2002-10-29	USDC-E	#02-0912 Burley vs. USA																																								
2b	2003-10-07	USDC-E	#02-0912 Intervenor Burley vs. USA																																								

2009-03-29-Litigations

#	Date	Jurisdiction	Case # and litigants	2001												2002												2003													
				1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12		
3	2003-10-30	BIA	Appeal																																						

#	Date	Jurisdiction	Case # and litigants	2004												2005												2006																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																						
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2009-03-29-Litigations

#	Date	Jurisdiction	Case # and litigants	2007												2008												2009														
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6c	2005-06-16	USCA-DC	#06-5203 Appeal of #05-cv-00739	District Court #6a Affirmed																																						
6d	2006-10-11	USCA-DC	#06-5203 AmicusCuriae.pdf	Argued by Vollmann																																						
8	2006-03-29	IBIA	#06-07-A Dixie v BIA PL638	Withdrawn & Dismissed																																						
9	2006-11-10	IBIA	#07-100-A Burley v. BIA	Pending ->																																						
10a	2008-01-07	SCC-SD	#37-2008-00075326 Burley v.CGCC												Removed																											
10b	2008-01-22	USDC-E	#2:08-cv-00984 Burley v CGCC												Remanded																											
10c	2008-06-02	USDC-E	#2:08-cv-00984 Dixie Intervention															Obviated																								
10d	2008-07-28	SCC-SD	#37-2008-00075326 Burley v.CGCC																																							
10	2009-03-12	CCA-4th	D054912 Burley v. CGCC																																							
11	2008-03-28	IBIA	#08-58-A Burley v. BIA PL-638												Dismissed																											
12	2008-10-29	IBIA	#09-13-A Burley v. BIA PL 636																																							
13a	2008-12-19	USDC-E	# 2:08-cv-03164 Burley v. BIA PL 638																																							
13b	2009-03-11	USCA-9th	Case #09-15466 appealing 13a																																							

EXHIBIT “37”

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO - CENTRAL DISTRICT

--oOo--

CALIFORNIA VALLEY MIWOK TRIBE,)	
Plaintiff,)	
vs.	)	Case No.
CALIFORNIA GAMBLING CONTROL	)	37-2008-00075326-
COMMISSION,	)	CU-CO-CTL
Defendant.)	
)	

Deposition of
CHADD ALLEN EVERONE
February 8, 2012

--oOo--

Reported by: MARY BARDELLINI, CSR No. 2976

Page 2		Page 4	
1	APPEARANCES	1	For Yakima Dixie:
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11		11	Also Present:
12	SINGLETON & ASSOCIATES (Not Present)	12	Silvia Burley
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23		23	
24		24	
25		25	
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1	For the Defendant:	1	INDEX OF EXAMINATION
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3	DEPARTMENT OF JUSTICE	3	By Mr. Corrales 8
4	OFFICE OF THE ATTORNEY GENERAL	4	By Mr. Houston 126
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24		24	
25		25	

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<p>1 INDEX OF EXHIBITS</p> <p>2</p> <p>3 Plaintiff's</p> <p>4 Exhibit Description Page</p> <p>5 1 Copy of business card of Chadd Everone 45</p> <p>6 2 Letter dated December 27, 2000, to Silvia 53</p> <p>7 Burley from Chadd Everone, 2 pages</p> <p>8 3 The Will & Testament of Yakima K. Dixie, 53</p> <p>9 5/5/04, 6 pages</p> <p>10 4 E-mail dated September 13, 2006, to 67</p> <p>11 ArticleWriter1@aol.com from Chadd Everone,</p> <p>12 2 pages</p> <p>13 5 E-mail dated September 11, 2006, to Chris 74</p> <p>14 Ray from Chadd Everone, 1 page</p> <p>15 6 E-mail chain, 3 pages 83</p> <p>16 7 E-mail dated September 29, 2006, to Chris 100</p> <p>17 Ray from Chadd Everone, 2 pages</p> <p>18 8 Bridge-loan Agreement & Prospectus, 18 107</p> <p>19 pages</p> <p>20 9 Synopsis, January 29, 2007, 4 pages 117</p> <p>21</p> <p>22 --oOo--</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 BE IT REMEMBERED that, pursuant to Notice of</p> <p>2 Taking Deposition, on Wednesday, the 8th day of</p> <p>3 February, 2012, commencing at the hour of 9:30 a.m., at</p> <p>4 the Offices of CALIFORNIA ATTORNEY GENERAL, 1300 I</p> <p>5 Street, Sacramento, California, before me, Mary</p> <p>6 Bardellini, a Certified Shorthand Reporter in and for</p> <p>7 the State of California, personally appeared</p> <p>8 CHADD ALLEN EVERONE,</p> <p>9 called as a witness by the Plaintiff herein, pursuant to</p> <p>10 all applicable sections of the Code of Civil Procedure</p> <p>11 of the State of California, and, who, being by the</p> <p>12 Certified Shorthand Reporter first duly and regularly</p> <p>13 sworn to tell the truth, the whole truth, and nothing</p> <p>14 but the truth, was examined and testified as follows:</p> <p>15 EXAMINATION</p> <p>16 BY MR. CORRALES:</p> <p>17 Q. Good morning, Mr. Everone. Would you please</p> <p>18 give us your full name.</p> <p>19 A. Chadd Everone, E-V-E-R-O-N-E. Middle name is</p> <p>20 A-L-L-E-N.</p> <p>21 Q. Have you ever gone by a different name?</p> <p>22 A. Well, my birth name was Ludwig, last name</p> <p>23 L-U-D-W-I-G.</p> <p>24 Q. When you say your birth name was Ludwig, did</p> <p>25 you change your name?</p>
Page 7	Page 9
<p>1 INDEX OF QUESTIONS INSTRUCTED NOT TO ANSWER</p> <p>2 Page Line</p> <p>3 93 15</p> <p>4 124 14</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 A. I did.</p> <p>2 Q. When was that?</p> <p>3 A. March 22nd, 1972.</p> <p>4 Q. You changed your name from Ludwig Allen</p> <p>5 Everone --</p> <p>6 A. Chadd Allen Ludwig.</p> <p>7 Q. So your last name was Ludwig?</p> <p>8 A. Yes.</p> <p>9 Q. All right. Now, do you understand that the</p> <p>10 deposition today is being taken under penalties of</p> <p>11 perjury?</p> <p>12 A. Pardon me?</p> <p>13 Q. Do you understand that the testimony today is</p> <p>14 being taken under the penalties of perjury?</p> <p>15 A. I do.</p> <p>16 Q. Do you know what a deposition is?</p> <p>17 A. Yes.</p> <p>18 Q. Have you given a deposition before?</p> <p>19 A. Yes.</p> <p>20 Q. Let's kind of set some ground rules because I</p> <p>21 think it's important for us to have a clear record.</p> <p>22 Now, a deposition is an opportunity for</p> <p>23 attorneys to ask witnesses questions in litigation, and</p> <p>24 this is one of those settings.</p> <p>25 We have a court reporter, who is an officer of</p>

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1 without a license?

2 **A. The answer is I did not believe. In fact, I**

3 **knew that I was not.**

4 Q. Okay. Did you ever go to law school?

5 **A. I did not.**

6 Q. Did you ever try and obtain a license for the

7 practice of law?

8 **A. Never.**

9 Q. Okay. Now, on the card it says deputy and

10 consul general, California Valley Miwok Tribe, comma,

11 California. Why the California at the end?

12 **A. That's the official name of the tribe in the**

13 **Federal Register.**

14 Q. Did you understand that the Federal Register

15 lists names of federally-recognized tribes together with

16 its location?

17 **A. Yes.**

18 Q. And after each tribe, whether the tribe is in

19 San Diego, whether it's in San Francisco, at the end of

20 the name of the tribe there's a comma and then the name

21 of the location; did you understand that?

22 **A. I did not understand that.**

23 Q. And so the name that you took directly out of

24 the Federal Register, California Valley Miwok Tribe,

25 comma, California, is what appears in the Federal

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1 Register?

2 **A. That's the name that appears in the Federal**

3 **Register.**

4 Q. And that's what you put on the card?

5 **A. It is.**

6 Q. And did you know that the last word,

7 California, was simply the location as it appears on the

8 Federal Register?

9 **A. I'd have to look at the Federal Register**

10 **listing to see if it pertains to other tribes. There's**

11 **tribes and bands and groups and things like that, so I**

12 **don't know.**

13 Q. All right. Now, but the card, the name that

14 you put on the card is -- you're calling this the

15 California Valley Miwok Tribe in reference to the

16 intervenor tribe; that's what you mean?

17 **A. As the card says, Sheep Ranch Rancheria of**

18 **Miwok Indians of California.**

19 Q. It's not the tribe that is being headed by

20 Silvia Burley. This is the tribe that --

21 **A. It's not the plaintiff tribe.**

22 Q. Right. It's the intervenor tribe. That's what

23 you meant?

24 **A. That's what I meant.**

25 Q. Now, let me ask you this question, sir. I'm

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1 going to go back to the questions I asked you concerning

2 written statements that you made to Miss Burley. And

3 I'm going to mark as Exhibit Number 2 a letter -- I only

4 have one copy -- a letter that purports to be signed by

5 Chadd, C-H-A-D-D --

6 **MR. MELNICOE:** I'm going to need to confer with

7 my client for a second, Counsel.

8 (Discussion held off the record between

9 counsel and witness.)

10 **MR. CORRALES:** Okay.

11 **BY MR. CORRALES:**

12 Q. And it purports to be dated December 27, 2000.

13 And the letterhead is Chadd Everone, and there's a

14 picture, a copy of a picture of a person on the right --

15 upper right-hand corner. Do you recognize this letter,

16 sir?

17 **A. I recognize the picture. The December 28 --**

18 **well ...**

19 Q. Do you recognize the letter as a letter you

20 sent?

21 **A. Well, you know, I don't recall sending letters**

22 **to Silvia, but it's likely that I did, so I will say**

23 **that it is.**

24 Q. The last page has -- says best wishes and then

25 Chadd and then Chadd Everone, IM, Ph.D., but it has a

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1 stamp on there Chadd. Is that your handwriting or is

2 that electronic?

3 **A. That's electronic.**

4 Q. Is that typically your custom and practice to

5 do it by electronic signature?

6 **A. If it's an electronic document.**

7 Q. Is this your picture?

8 **A. Yes. Does this go to --**

9 **MR. MELNICOE:** To the court reporter.

10 (Plaintiff's Exhibit 2 was marked for

11 identification.)

12 **BY MR. CORRALES:**

13 Q. Going to show you what I will have marked next

14 in order. This purports to be the Will and Testament of

15 Yakima Dixie.

16 **MR. MELNICOE:** Let's pass this around. You've

17 got multiple copies of this one?

18 **MR. CORRALES:** I've got only one copy of that

19 for you to share.

20 (Plaintiff's Exhibit 3 was marked for

21 identification.)

22 **BY MR. CORRALES:**

23 Q. And this is -- looks like it's --

24 **A. Written February 9, 2004. That's the date up**

25 **at the upper right.**

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<p>1 when you drafted this?</p> <p>2 A. It was important that Yakima memorialize all</p> <p>3 the official agreements and all of the legal situations</p> <p>4 that pertained to him, that is to say his inheritance in</p> <p>5 the land, the members of the tribe, and the agreements</p> <p>6 that he had made on behalf of the tribe. That's all.</p> <p>7 Q. And did you expect, by virtue of this Will,</p> <p>8 that those agreements would continue to operate should</p> <p>9 Mr. Dixie die?</p> <p>10 A. Those agreements have already changed, so the</p> <p>11 answer to that --</p> <p>12 Q. I'm talking about the time you drafted this.</p> <p>13 A. I had no intention.</p> <p>14 Q. Were you expecting those agreements to continue</p> <p>15 to operate or be in effect if Mr. Dixie should die as a</p> <p>16 result of this Will?</p> <p>17 A. I don't know if I had expectations or not.</p> <p>18 These were just agreements that he had made, legal</p> <p>19 agreements that he had made.</p> <p>20 MR. CORRALES: Let's see. All right. Why</p> <p>21 don't we take a couple of minutes. We've been going for</p> <p>22 about an hour. Come back in about five minutes.</p> <p>23 (Recess taken.)</p> <p>24 MR. CORRALES: Why don't we go back on the</p> <p>25 record.</p>	<p>1 Q. B.A.?</p> <p>2 A. Yes.</p> <p>3 Q. In what?</p> <p>4 A. In political science or B.S. probably,</p> <p>5 bachelor's degree in political science.</p> <p>6 Q. You think it was a B.S.?</p> <p>7 A. Uh-huh.</p> <p>8 Q. Any other degrees?</p> <p>9 A. No.</p> <p>10 Q. Okay. On the letter that I showed you, Exhibit</p> <p>11 Number 2, you see it in front of you there, sir?</p> <p>12 A. Yes.</p> <p>13 Q. You say Chadd Everone, IM, Ph.D. What is --</p> <p>14 what Ph.D. did you obtain?</p> <p>15 A. I did not obtain one in the academy. I just</p> <p>16 took that based upon postgraduate work at Sac State.</p> <p>17 Q. So you don't have a Ph.D.?</p> <p>18 A. I don't have one from a university.</p> <p>19 Q. Well, when you say you have a Ph.D., where did</p> <p>20 you get it?</p> <p>21 A. Actually, I got it by completing my thesis work</p> <p>22 and submitting it to an independent group of advisors.</p> <p>23 Q. And --</p> <p>24 A. So I just assumed that title.</p> <p>25 Q. You assumed the title of Ph.D., but you don't</p>
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<p>1 BY MR. CORRALES:</p> <p>2 Q. Mr. Everone, you understand you're still under</p> <p>3 oath?</p> <p>4 A. I do.</p> <p>5 Q. Mr. Everone, tell me a little bit about your</p> <p>6 educational background.</p> <p>7 A. Well, I graduated high school in Madrid, Spain.</p> <p>8 Q. Spain. What year was that?</p> <p>9 A. 1958.</p> <p>10 Q. Okay.</p> <p>11 A. Then I went to the University of Madrid for a</p> <p>12 couple of years, two years. Came to Berkeley a couple</p> <p>13 of years.</p> <p>14 Q. You say you came to Berkeley --</p> <p>15 A. Went to the University of California, Berkeley.</p> <p>16 Q. Okay.</p> <p>17 A. Then went back to Spain for about a year.</p> <p>18 Q. University of Madrid?</p> <p>19 A. Yes. And then on to California State</p> <p>20 University at Sacramento. That's it.</p> <p>21 Q. Did you receive any degrees?</p> <p>22 A. B.A.</p> <p>23 Q. From which university?</p> <p>24 A. From the University of California -- sorry,</p> <p>25 California State University.</p>	<p>1 really have one?</p> <p>2 A. Okay.</p> <p>3 Q. Is that correct?</p> <p>4 A. I would say that the assumption is having one.</p> <p>5 Q. Well --</p> <p>6 A. It's an honorary --</p> <p>7 Q. Did you actually get a certificate --</p> <p>8 A. No.</p> <p>9 Q. -- that says you have a Ph.D.?</p> <p>10 A. No.</p> <p>11 Q. What does IM stand for?</p> <p>12 A. That was a term that I used for some time.</p> <p>13 It's an abbreviation for immortalist.</p> <p>14 Q. What does that mean?</p> <p>15 A. Well, there was a school of philosophy in --</p> <p>16 around the 1970's, they were called the immortalists,</p> <p>17 and it was associated with people who wanted to invent</p> <p>18 non-aging human beings and live forever. So that's what</p> <p>19 I used at the time to identify myself with that school</p> <p>20 of thought.</p> <p>21 Q. Is that the school of thought that you claim</p> <p>22 gave you a Ph.D.?</p> <p>23 A. No.</p> <p>24 Q. All right. Did you ever stop designating</p> <p>25 yourself as a Ph.D.?</p>

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<p>1 A. Yes. It became irrelevant after awhile.</p> <p>2 Q. When you say irrelevant, what do you mean by</p> <p>3 that?</p> <p>4 A. Well, it wasn't related to what I was doing.</p> <p>5 Wasn't related to what I was doing with this tribe.</p> <p>6 Wasn't related to what I was doing in terms of research.</p> <p>7 Q. Did you stop using Ph.D. in your letter</p> <p>8 designations because it was false?</p> <p>9 A. No.</p> <p>10 Q. Anybody ever tell you that it was false?</p> <p>11 A. No.</p> <p>12 Q. But you don't have a Ph.D., do you?</p> <p>13 A. I don't have a Ph.D. from a university.</p> <p>14 Q. You don't have a certificate that says you have</p> <p>15 a Ph.D.?</p> <p>16 A. No.</p> <p>17 Q. So when you wrote this letter and you had that</p> <p>18 letterhead on there, and you signed it Chadd Everone,</p> <p>19 IM, Ph.D., you typed that, right?</p> <p>20 A. I did.</p> <p>21 Q. And that was false, right?</p> <p>22 A. I claim it was not.</p> <p>23 Q. You claim it was. At the time it was false,</p> <p>24 wasn't it?</p> <p>25 A. I do not. There is no official Ph.D. title or</p>	<p>1 And this is --</p> <p>2 MR. MELNICOE: Counsel, let's stop right here</p> <p>3 for a second.</p> <p>4 MR. CORRALES: I need to identify this for the</p> <p>5 record.</p> <p>6 MR. MELNICOE: Sure.</p> <p>7 MR. CORRALES: From Chadd Everone, cae@fis.org,</p> <p>8 to articlewriter1@aol.com, and it's a one -- two-page</p> <p>9 document.</p> <p>10 MR. MELNICOE: This is obviously a confidential</p> <p>11 document, Counsel. Would you please identify where it</p> <p>12 was obtained?</p> <p>13 MR. CORRALES: When you say it's obviously a</p> <p>14 confidential document, what do you mean? There is no</p> <p>15 word on here that says confidential.</p> <p>16 MR. MELNICOE: There's --</p> <p>17 THE WITNESS: A blackout.</p> <p>18 MR. MELNICOE: It's to articlewriter1@aol.com,</p> <p>19 and you seem to have a copy of it. Was this obtained by</p> <p>20 hacking the website of the tribe or the --</p> <p>21 MR. CORRALES: Are you making an objection or</p> <p>22 making a speech?</p> <p>23 MR. MELNICOE: I'm making both.</p> <p>24 MR. CORRALES: Well, you can't make a speaking</p> <p>25 objection. I haven't even asked the witness a question</p>
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<p>1 license. There is no such thing in law.</p> <p>2 Q. But you didn't have a Ph.D. when you signed</p> <p>3 that letter, did you?</p> <p>4 A. I've already answered that question.</p> <p>5 MR. MELNICOE: Yeah, I think he's covered it,</p> <p>6 Counsel. Asked and answered.</p> <p>7 BY MR. CORRALES:</p> <p>8 Q. So when you signed Chadd Everone, IM, Ph.D.,</p> <p>9 that was a false statement, right?</p> <p>10 A. I've already answered that question.</p> <p>11 Q. And your answer is it was not a false</p> <p>12 statement?</p> <p>13 A. That's right.</p> <p>14 Q. Because you believe you had a Ph.D. even though</p> <p>15 you didn't have one; is that what you're saying?</p> <p>16 A. That's your interpretation.</p> <p>17 Q. That's what you said. I think we can move on.</p> <p>18 All right.</p> <p>19 Let's go to the next in order, which is 4.</p> <p>20 (Plaintiff's Exhibit 4 was marked for</p> <p>21 identification.)</p> <p>22 BY MR. CORRALES:</p> <p>23 Q. This purports to be a copy of an e-mail, and</p> <p>24 I'll ask you some questions about this.</p> <p>25 Looks like I have an extra copy here, Counsel.</p>	<p>1 so --</p> <p>2 MR. MELNICOE: I'm not sure I'm going to let</p> <p>3 him answer.</p> <p>4 MR. CORRALES: You do so at your own peril,</p> <p>5 Mr. -- who is it, Mr. Melnicoe, former Commission</p> <p>6 attorney.</p> <p>7 MR. MELNICOE: I'll confer with him to see if</p> <p>8 there's a lawyer-client issue here.</p> <p>9 MR. CORRALES: I don't believe there is.</p> <p>10 MR. MELNICOE: Well, you don't believe there</p> <p>11 is, but we'll decide whether there is or isn't.</p> <p>12 MR. CORRALES: Good luck.</p> <p>13 MR. McCONNELL: Why don't you go outside and</p> <p>14 talk with him.</p> <p>15 (Recess taken.)</p> <p>16 MR. MELNICOE: Back on the record. Proceed,</p> <p>17 Counsel.</p> <p>18 MR. CORRALES: All right.</p> <p>19 BY MR. CORRALES:</p> <p>20 Q. Do you recognize this e-mail, sir?</p> <p>21 A. I guess I do, yes.</p> <p>22 Q. It says to articlewriter1, Chris. Did you</p> <p>23 recall writing an e-mail to a Chris?</p> <p>24 A. Yes.</p> <p>25 Q. All right. And it says, on the first</p>

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1 paragraph: First, I believe that Melnicoe contacted
2 Rickards in order to obtain the current balance in the
3 Revenue Sharing Trust Fund, or he could have contacted
4 the accounting department.

5 Why did you write that, sir, to Mr. Chris?

6 **A. I don't recall why I wrote that. Chris Ray is**
7 **his name, is a --**

8 **Q. I'll get into that in a minute. So you don't**
9 **recall why you wrote that.**

10 You also said: Irrespective, Rickards has made
11 his determination about the freezing of the funds until
12 the BIA determines the authority, so he really does not
13 have much involvement in this matter until that happens.

14 Did you have a conversation with Mr. Rickards
15 at the Commission about that subject?

16 **A. No. No, I did not. I've never spoken with Mr.**
17 **Rickards.**

18 **Q. How did you get that information?**

19 **A. I don't recall.**

20 **Q. Did you tell Chris, in this e-mail, that you**
21 **were taking it upon yourself to ensure that the Revenue**
22 **Sharing Trust Fund money was frozen so that the**
23 **plaintiff tribe couldn't have access to it?**

24 **A. It says here that the fund -- I guess -- I**
25 **don't know what I was trying to do other than to say**

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1 **that the funds were frozen, and they would be available**
2 **to repay, if we prevailed, to repay the lenders if we**
3 **prevailed.**

4 **Q. It says -- you mentioned Melnicoe --**

5 **MR. MELNICOE: Melnicoe, by the way.**

6 **MR. CORRALES: Melnicoe?**

7 **MR. MELNICOE: Yeah.**

8 **MR. CORRALES: Okay.**

9 **BY MR. CORRALES:**

10 **Q. You use -- you mentioned Melnicoe. Who is**
11 **Melnicoe?**

12 **A. That's my counsel here, Peter Melnicoe.**

13 **Q. And how was he involved in connection with this**
14 **e-mail?**

15 **A. Early on or at some point around this time,**
16 **perhaps, I had requested that -- I discovered --**

17 **MR. MELNICOE: I think we're getting into**
18 **lawyer-client privilege here, Counsel.**

19 **MR. CORRALES: Not yet.**

20 **MR. MELNICOE: We're awfully close.**

21 **MR. CORRALES: He hasn't said anything about a**
22 **conversation that he had with you. I'm asking him what**
23 **your involvement was.**

24 **BY MR. CORRALES:**

25 **Q. You can proceed.**

1 **A. Well, I had asked both Arlo Smith and Peter**
2 **Melnicoe --**

3 **Q. Go ahead.**

4 **A. -- to consult with the tribe on negotiating a**
5 **Compact for the tribe.**

6 **Q. Who is Mr. Melnicoe? Who did you understand**
7 **him to be at the time?**

8 **A. Former Chief Counsel for the California**
9 **Gambling Control Commission.**

10 **Q. Okay. And what was it that you wanted Mr.**
11 **Melnicoe to do?**

12 **A. I had nothing specific other than to negotiate**
13 **a Compact for the tribe if we prevailed in securing the**
14 **authority for the community, the tribal community.**

15 **Q. And Rickards here in your e-mail means Cyrus**
16 **Rickards, the Chief Counsel for the Commission at that**
17 **time, correct?**

18 **A. Yes.**

19 **Q. And did you expect that Mr. Melnicoe would have**
20 **influence over the Commission because of his prior**
21 **position as Chief Counsel for the Commission?**

22 **A. No, because the Compact negotiations would be**
23 **negotiated with the Governor. Being that they were**
24 **experienced with these kinds of negotiations, I figured**
25 **that they would have expertise in writing up Compacts,**

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1 **negotiating them, and expediting them.**

2 **I had no intent of either Arlo Smith or Peter**
3 **Melnicoe to deal with Cy Rickards or attempt to deal at**
4 **all with the Revenue Sharing Trust Fund.**

5 **Q. You said Arlo Smith. Who is he?**

6 **A. He's former Commissioner --**

7 **MR. MELNICOE: Uh-huh.**

8 **THE WITNESS: -- of the Gambling Control**
9 **Commission.**

10 **BY MR. CORRALES:**

11 **Q. So you had Mr. Arlo Smith work together with**
12 **Mr. Melnicoe --**

13 **A. Melnicoe.**

14 **Q. -- to contact the Commission?**

15 **A. No. As I explained, I had asked them to be**
16 **involved in Compact negotiations with the Governor, not**
17 **with the Commission.**

18 **Q. Not with the Commission?**

19 **A. Not with the Commission. You don't negotiate**
20 **Compacts with the Commission.**

21 **Q. So this had nothing to do with getting the**
22 **money frozen?**

23 **A. Nothing.**

24 **Q. Did you ever --**

25 **A. That decision had already been made, I guess.**

EXHIBIT “38”

CALIFORNIA GAMBLING CONTROL COMMISSION

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

*Memorandum*

DATE: April 25, 2016

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

VIA: Stacey Luna Baxter
Executive Director

FROM: Rachelle Ryan
Associate Analyst, Administration Division

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

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

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

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

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

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

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

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

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

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

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

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

² Periods in Arrears are categorized according to the applicable Tribal Compact provisions.

Attachments:

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

Exhibit 1**Revenue Sharing Trust Fund Distribution****Total Amount of Distribution for the Quarter Ended March 31, 2016**

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

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

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

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

Exhibit 1**Revenue Sharing Trust Fund Distribution****Total Amount of Distribution for the Quarter Ended March 31, 2016**

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

Footnotes:

¹ Distribution to the Tribe is currently pending.² No longer an eligible recipient Tribe; however, previously received RSTF distributions.

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

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

Exhibit 2**Revenue Sharing Trust Fund****Amount of Revenue from Each Compact Tribe Received by the Commission through the Quarter Ending March 31, 2016**

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

Footnotes:

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

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

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

Footnotes:

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

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

EXHIBIT “39”



IN REPLY REFER TO:

Tribal Government Services

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Pacific Regional Office

2800 Cottage Way

Sacramento, California 95825

JUN 09 2016

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

Dear Ms. Burley:

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

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

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

Sincerely,

Regional Director

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

EXHIBIT “40”

CIVIL

**U.S. District Court
Eastern District of California - Live System (Sacramento)
CIVIL DOCKET FOR CASE #: 2:16-cv-01345-WBS-CKD**

Paulk et al v. Jewell et al
Assigned to: Senior Judge William B. Shubb
Referred to: Magistrate Judge Carolyn K. Delaney
Cause: 28:1362 Indian Tribal Controversy

Date Filed: 06/16/2016
Jury Demand: None
Nature of Suit: 899 Other Statutes:
Administrative Procedures Act/Review
or Appeal of Agency Decision
Jurisdiction: U.S. Government Defendant

Plaintiff**Anjelica Paulk**

represented by **Manuel Corrales , Jr.**
Law Offices of Manuel Corrales, Jr.
11753 Avenida Sivrita
San Diego, CA 92128
858-521-0634
Fax: 858-521-0633
Email: mannycorrales@yahoo.com
ATTORNEY TO BE NOTICED

Plaintiff**Silvia Burley**

represented by **Manuel Corrales , Jr.**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff**Rashel Reznor**

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Plaintiff**Tristian Wallace**

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Plaintiff**California Valley Miwok Tribe**

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Plaintiff

General Council

represented by **Manuel Corrales , Jr.**

(See above for address)

ATTORNEY TO BE NOTICED

V.

Defendant

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US Department Of Justice Enrd

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Defendant

Michael Black

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V.

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California Valley Miwok Tribe

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**California Valley Miwok Tribe Tribal
Council**

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Robert J. Uram
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

EXHIBIT “41”

corporationwiki



FRIENDS OF YAKIMA INC.

Active Henderson, NV

Friends of Yakima Inc. Overview

Friends of Yakima Inc. filed as a Domestic Corporation in the State of Nevada on Tuesday, March 30, 2004 and is approximately twelve years old, according to public records filed with Nevada Secretary of State.

Key People

Excel

Name

Chadd Allen Everone	President	Director	Secretary
Phil Peck			Treasurer
Albert B. Avalos	Director	Secretary	
Bill B. Martin			Secretary

Known Addresses

Excel



2140 Shattuck Ave Berkeley, CA 94704

2360 Corporate Cir Henderson, NV 89074

Corporate Filings

Nevada Secretary of State

Filing Type: Domestic Corporation

Status: Active

State: Nevada

State ID: C8378-2004

Date Filed: Tuesday, March 30, 2004

Registered Agent Incorp Services, Inc.

Source



Nevada Secretary of State
Data last refreshed on Friday, March 18, 2016

EXHIBIT “42”



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240

IN REPLY REFER TO:

In reply, please address to:
Main Interior, Room 6513

Peter Kaufman, Esq.
Deputy Attorney General
110 West A Street, Suite 1100
San Diego, CA 92101

DEC 12 2008

Dear Mr. Kaufman:

This letter is in response to your telephone inquiry requesting information on the status of the leadership for the California Valley Miwok Tribe (CVMT). CVMT presents the Bureau of Indian Affairs (BIA) with a unique situation. The following summarizes the history of the Tribe and the current leadership dispute.

CVMT began as a rancheria set up for 12 individual Indians in 1916. The government set aside .92 acres of land on which those twelve individuals could live. In 1935, the sole adult member of the rancheria voted not to reject the Indian Reorganization Act (IRA).¹ In 1966, the Federal government undertook to terminate the rancheria by, among other things, distributing the assets of the rancheria to the rancheria's residents. Ultimately, the Federal government failed to take the steps necessary to complete terminate of the Federal relationship with the rancheria and the rancheria continued to exist. There was one resident, Mabel Hodge Dixie. For reasons that are not relevant to your inquiry, the government did not convey the property to Ms. Dixie successfully and ultimately held it in trust for her. When she died, her heirs inherited the 0.92 acre held in trust by the government. In 1998, Ms. Dixie's son, Yakima Dixie, resided on the rancheria land and was its only known member. That same year, Silvia Burley, a distant relative of Mr. Dixie, approached Mr. Dixie about adopting her, her two daughters, and her granddaughter into the Tribe so that they would be eligible for Indian health and education benefits. Mr. Dixie adopted Ms. Burley and her family.

Mr. Dixie and Ms. Burley became interested in organizing the tribe formally-- that is establishing a tribal government. In 1999, the two of them approached the BIA for assistance. At that time, Mr. Dixie acted as the Tribe's leader and he held the title of "Chairman." On April 20, 1999, Ms. Burley submitted a purported letter of resignation from Mr. Dixie. The next day, Mr. Dixie asserted he never resigned his position and refused to do so. He claims that Ms. Burley forged his name on the resignation letter. After Mr. Dixie's purported resignation, Ms. Burley became leader of the Tribe, having been elected by herself and one of her daughters. Ms. Burley claimed the title of

¹ While it is common for people to refer to the Indians of a reservation as voting to accept the IRA, the act applied to a reservation unless a majority of the Indians voted against its application within a year, later extended for another year. See 25 U.S.C. § 478.

"Chairman." The BIA accepted her in this position but noted the leadership dispute between her and Mr. Dixie. On March 7, 2000, the BIA wrote in a letter to Ms. Burley that it would not interfere in the dispute unless the dispute continued without resolution and the government-to-government relationship between the United States and the Tribe became threatened. If the government-to-government relationship were to become threatened, the BIA advised, it would advise the Tribe to resolve the dispute within a reasonable period of time.

Ms. Burley and her daughters responded by attempting to organize the Tribe. Initially, they sought to organize the government under the provisions of the Indian Reorganization Act, but the BIA failed to call the requisite election on the proposed constitution.

In 2002, counsel purporting to represent the California Valley Miwok Tribe and Ms. Burley filed suit in the United States District Court for the Eastern District of California claimed the United States had breached its trust responsibilities and violated the California Rancheria by conveying the less than one acre of land to Ms. Dixie in 1967 when the tribe had potentially 250 members. The court dismissed the suit on grounds that it was filed beyond the six-year statute of limitations. The Ninth Circuit Court of Appeals affirmed in an unpublished opinion. *See California Valley Miwok Tribe v. United States*, No. 04-16676, 2006 WL 2373434 (9th Cir., Aug. 17, 2006))

Ultimately, in 2003, Ms. Burley tried to organize the Tribe under the Tribe's inherent sovereign authority without the supervision of the BIA. Ms. Burley submitted the Tribe's constitution to the BIA for informational purposes. The BIA reviewed the constitution and determined that it was not valid because Ms. Burley had failed in the process of developing and adopting the constitution to include other Indians with legitimate ties to the Tribe. On March 26, 2004, the BIA informed Ms. Burley that the Tribe remained unorganized and had no government. Because the Tribe had no government, it could not have a governmental leader. The BIA would not recognize Ms. Burley as Chairman, that is, the governmental leader of the Tribe. Instead the BIA would deal with her as a "spokesperson" or "person of authority" for the Tribe for the purposes of awarding Federal contracts.

Meanwhile, Mr. Dixie continued to assert that he was the hereditary leader of the Tribe and that he had never resigned his position. In March 2005, a representative of the Assistant Secretary – Indian Affairs decided Mr. Dixie's appeal of the BIA's acceptance of Ms. Burley as tribal Chairman. In the letter dismissing Mr. Dixie's appeal, the Deputy Assistant Secretary informed Mr. Dixie that Ms. Burley was not the governmental leader of the Tribe. In fact, the letter explained, the Tribe could have no governmental leader until it had a government developed through an organizational process that included the broader tribal community of other Indians with legitimate ties to the Tribe.

Thus, the BIA faced a stand-off between Ms. Burley, who insisted the Tribe had organized properly under her constitution, and Mr. Dixie, who claimed to be the hereditary leader of the Tribe. Ms. Burley sued the BIA in Federal district court in the District of Columbia, claiming that the BIA improperly denied her constitution's validity.

The district court granted the BIA's motion to dismiss for failure to state a claim. The Court of Appeals affirmed. See *California Valley Miwok Tribe v. United States*, 424 F. Supp. 2d 197 (D.D.C. 2006), *aff'd* 515 F.3d 1262 (D.C. Cir. 2008)

When the district court granted its motion to dismiss, the BIA worked with both Ms. Burley and Mr. Dixie to assist the Tribe in organizing itself. After initial efforts by the BIA to find a mutually agreeable solution, Ms. Burley chose not to cooperate. The BIA decided to initiate the organization process by identifying those persons who are lineal descendants of the original twelve Indians for whom the government established the rancheria, the single resident who voted in 1935 on the IRA, and the sole distributee, Mabel Hodge Dixie. Ms. Burley appealed the BIA's decision to the Interior Board of Indian Appeals (IBIA), *California Valley Miwok Tribe v. Pacific Regional Director*, Docket No.: IBIA 07-100-A. Under the Departments regulations, a decision of a Regional Director that has been appealed to IBIA is not final and effective except under certain circumstances, not present here, which effectively stayed the BIA's effort to assist the Tribe in organizing itself. See 25 C.F.R. § 2.6(a).

When the BIA is faced with a situation such as this, when it cannot determine who the legitimate leader of the Tribe is, the BIA must first defer to the Tribe to resolve the dispute. See, e.g., *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 65 (1978); *Fisher v. District Court*, 424 U.S. 382, 386-89 (1976); *Smith v. Babbitt*, 100 F.3d 556, 559 (8th Cir. 1996); *Wheeler v. Department of the Interior*, 811 F.2d 549 (10th Cir. 1987). The difficulty with CVMT is that because it has no government, it has no governmental forum for resolving the dispute. In similar situations, the BIA would turn to a tribe's general council, that is, the collective membership of the tribe. *Johannes Wanatee v. Acting Minneapolis Area Director*, 31 IBIA 93 (1997). But because CVMT has not even taken the initial step of determining its membership, a general council meeting is not possible.

The only answer is for the BIA to wait for the Tribe to organize itself. The Tribe will be able to do so once the IBIA decides Ms. Burley's appeal. The IBIA has a significant workload but the briefing on Ms. Burley's appeal was completed essentially a year ago and the D.C. Circuit Court opinion of earlier this year has been served as supplemental authority in the IBIA proceedings so we could expect a decision at any time. In the meantime, neither the BIA nor any court has authority to resolve the leadership dispute that is crippling the Tribe. See, *Goodface v. Grassrope*, 708 F.2d 335 (8th Cir. 1983).

I hope that this letter provides all the information you need. Should you need additional information or have further questions, please contact Jane Smith (202-208-5808), the member of my staff handling this matter.

Sincerely,



Edith R. Blackwell
Associate Solicitor, Indian Affairs

EXHIBIT “43”

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO - CENTRAL DISTRICT

--oOo--

CALIFORNIA VALLEY MIWOK TRIBE,)	
Plaintiff,)	
vs.	)	Case No.
CALIFORNIA GAMBLING CONTROL	)	37-2008-00075326-
COMMISSION,	)	CU-CO-CTL
Defendant.)	
	)	VOLUME II

Continued Deposition of
YAKIMA KENNETH DIXIE
February 7, 2012

--oOo--

Reported by: MARY BARDELLINI, CSR No. 2976

APPEARANCES

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By: MANUEL CORRALES, JR.
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SINGLETON & ASSOCIATES
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Attorney at Law
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terry@terrysingleton.com

Videographer:
JORDAN MEDIA, INCORPORATED
By: TERI WEESNER
1228 Madison Avenue
San Diego, California 92116

Also Present:
Silvia Burley
Tiger Paulk
Michael Mendibles

For the Defendant:
STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
By: NEIL D. HOUSTON
Deputy Attorney General
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For the Witness:
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jrusk@sheppardmullin.com

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BE IT REMEMBERED that, pursuant to Notice of Taking Deposition, on Tuesday, the 7th day of February, 2012, commencing at the hour of 3:15 p.m., at the Offices of CALIFORNIA ATTORNEY GENERAL, 1300 I Street, Sacramento, California, before me, Mary Bardellini, a Certified Shorthand Reporter in and for the State of California, personally appeared

YAKIMA KENNETH DIXIE,

called as a witness by the Plaintiff herein, pursuant to all applicable sections of the Code of Civil Procedure of the State of California, and, who, being by the Certified Shorthand Reporter first duly and regularly sworn to tell the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

THE VIDEOGRAPHER: We are on the record. This is the digital video deposition of Yakima Dixie, testifying in the matter of California Valley Miwok Tribe versus the California Gambling Control Commission, et al., in the Superior Court of the State of California, County of San Diego, Central Branch, Case Number 37-2008-00075326-CU-CO-CTL.

This deposition is being held at 1300 I Street, 15th Floor, Sacramento, California.

Today is February 7th, 2012. The time is 3:15.

My name is Teri Weesner, Legal Video Specialist with

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Jordan Media, Incorporated, at 1228 Madison Avenue in San Diego, California.

The certified shorthand reporter today is Mary Bardellini in association with Kramm Court Reporting, San Diego, California.

Would counsel please state their appearances for the record.

MR. CORRALES: Yes. My name is Manuel Corrales. I represent plaintiff, California Valley Miwok Tribe.

MR. McCONNELL: Matthew McConnell on behalf of intervenors.

MR. RUSK: James Rusk also on behalf of intervenors.

THE VIDEOGRAPHER: Would you please swear the witness.

(Whereupon the witness was sworn to tell the truth and testified as follows.)

MR. McCONNELL: Before we start, I'm going to lodge an objection to the presence of Tiger Paulk. The Court's order regarding Mr. Dixie's deposition was clear; it was limited to counsel and parties only. That was directly in response to the arguments raised by intervenors that Mr. Paulk's presence at the last deposition was harassing.

1 So I'm going to have you and Mr. McConnell take
2 a break and confer about that for the next couple of
3 minutes and come back and see if we can have you answer
4 the question without having to have that done.

5 We'll take a couple of minutes.

6 THE VIDEOGRAPHER: We're off the record at
7 5:27.

8 (Recess taken.)

9 THE VIDEOGRAPHER: We're back on the record at
10 5:36.

11 BY MR. CORRALES:

12 Q. Okay. Mr. Dixie, did you have an opportunity
13 to speak with your attorney during the break?

14 A. Yeah.

15 Q. Okay. And are you prepared to answer my
16 question?

17 A. Hum?

18 Q. Are you prepared to answer my question?

19 A. Yeah.

20 Q. Okay. Before the break, the first break that
21 we had, you testified in the deposition that the
22 signature that appears on Exhibit Number 34 was your
23 signature. After we took a break and you consulted with
24 your attorney, you then said that is not your signature.

25 So my question is: Are you changing your

1 testimony?

2 A. It appears not to be my signature.

3 Q. That's not the question. Move to strike.
4 Are you changing your testimony, yes or no?

5 A. No.

6 MR. CORRALES: Okay. Those are all the
7 questions I have.

8 FURTHER EXAMINATION

9 BY MR. McCONNELL:

10 Q. Mr. Dixie, I know this has been a long day, but
11 again turning to Exhibits 33 and 34, both of these
12 documents purporting to show your resignation, the two
13 signatures or Exhibit 33 and 34, did you write those
14 signatures?

15 A. It appears.

16 Q. Exhibit 33, is that a signature that you
17 believe you wrote on Exhibit 33?

18 A. Uh-huh.

19 Q. You believe that's your signature?

20 A. Umm, I don't -- umm, they're pretty close.

21 Q. This is the document indicating on Tuesday,
22 April 20th, 1999, that you are resigning as chairperson.
23 Do you believe that you wrote the signature on
24 Exhibit 33 resigning as chairperson?

25 A. I don't remember on that one.

1 Q. On Exhibit 34 --

2 A. Okay. Yeah. Yeah.

3 Q. Okay. Yeah. This is or is not your signature?

4 MR. CORRALES: I'll object to the question.

5 THE WITNESS: It is.

6 BY MR. McCONNELL:

7 Q. You think it is?

8 A. Yeah.

9 Q. And on Exhibit 34, do you think that's your
10 signature? Again, this is --

11 A. Yes.

12 Q. -- accepting the resignation of chairperson?

13 A. Uh-huh.

14 Q. And did you resign as chairperson of the Miwok
15 Sheep Ranch Tribe?

16 A. Yeah. Yes.

17 Q. You did. Were you able to resign as
18 chairperson?

19 A. Yeah.

20 MR. McCONNELL: No further questions.

21 MR. CORRALES: Any stipulations? Same
22 stipulations as last time?

23 MR. McCONNELL: Okay. Thank you.

24 MR. CORRALES: Thank you, Mr. Dixie.

25 THE REPORTER: Counsel, do you want this

1 transcribed, I take it?

2 MR. CORRALES: Yes, we do want it transcribed.

3 THE REPORTER: Counsel, do you want a copy?

4 MR. McCONNELL: Sure.

5 THE REPORTER: How about this morning's
6 depositions, do you want any copies?

7 MR. HOUSTON: Of this? Not of this at this
8 point. The deposition from this morning is continued
9 until tomorrow.

10 THE VIDEOGRAPHER: We're off the record at
11 5:40. This is the end of Disk Number 2 of today's
12 proceedings.

13 (Time noted: 5:40 p.m.)

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YAKIMA KENNETH DIXIE

--oOo--

1 State of California)
2)ss.
3 County of Placer)

4 I, Mary Bardellini, Certified Shorthand
5 Reporter No. 2976, State of California, do hereby
6 certify:

7 That said proceedings were taken at the time
8 and place therein named and were reported by me in
9 shorthand and transcribed by means of computer-aided
10 transcription, and that the foregoing 98 pages is a
11 full, complete, and true record of said proceedings.

12 And I further certify that I am a disinterested
13 person and am in no way interested in the outcome of
14 said action, or connected with or related to any of the
15 parties in said action, or to their respective counsel.

16 The dismantling, unsealing, or unbinding of the
17 original transcript will render the reporter's
18 certificate null and void.

19 IN WITNESS WHEREOF, I have hereunto set my hand
20 this _____ day of February 2012.

21
22
23
24
25

MARY BARDELLINI, CSR No. 2976

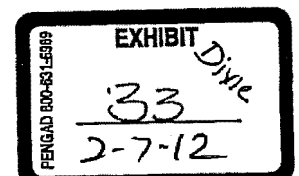
Sheep Ranch Tribe of Me-Wuk Indians

Formal notice of resignation

I Yakima K. Dixie being of sound mind and body on this date of Tuesday April 20th, 1999, am resigning as Chairperson of the Sheep Ranch Tribe of Me-Wuk Indians Sheep Ranch, California. This written document shall serve as a formal notice within the Tribe and to the United States Government and/or any other powers that may be.

Signed *Yakima Kenneth Dixie*
YAKIMA K. DIXIE

**Cc: Mr. Yakima K. Dixie
11178 School Road
P.O. BOX 41
Sheep Ranch, CA 95250
(209) 728-8625**



**GENERAL COUNCIL GOVERNING BODY OF
THE SHEEP RANCH TRIBE OF ME-WUK INDIANS**

RE: Chairperson

SPECIAL MEETING CALLED TO ORDER ON THE 20TH OF APRIL 1999.

Time Beginning: 12:00 NOON

The General Council as the Governing Body of the Sheep Ranch Tribe of Me-Wuk Indians has agreed to accept the resignation of Chairperson from Mr. Yakima K. Dixie.

The General Council has appointed Silvia Burley as Chairperson.

Signed *Yakima K. Dixie*
Yakima K. Dixie (Chairperson)
Sheep Ranch Tribe of Me-Wuk Indians

Signed *Silvia Burley*
Silvia Burley (Secretary/Treasurer)
Sheep Ranch Tribe of Me-Wuk Indians

Signed *Rashel K. Reznor*
Rashel K. Reznor (Tribal Member)
Sheep Ranch Tribe of Me-Wuk Indians

RESOLVED: That the General Council is in agreement to the acceptance of the resignation of Mr. Yakima K. Dixie as Chairperson and has officially appointed Silvia Burley as Chairperson of the Sheep Ranch Tribe of Me-Wuk Indians, now, therefore be it.

This Special Meeting is now adjourned.

Time Ending: 12:30 PM

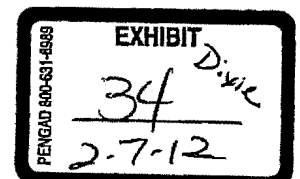


EXHIBIT “44”

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL

MINUTE ORDER

DATE: 08/02/2016

TIME: 02:51:00 PM

DEPT: C-67

JUDICIAL OFFICER PRESIDING: Eddie C Sturgeon

CLERK: Patricia Ashworth

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT: ///

CASE NO: 37-2015-00031738-CU-CO-CTL CASE INIT:DATE: 09/18/2015

CASE TITLE: California Valley Miwok Tribe vs. California Gambling Control Commission
[IMAGED]

CASE CATEGORY: Civil - Unlimited CASE TYPE: Contract - Other

APPEARANCES

The Court, having taken the above-entitled matter under submission on 07/29/2016 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

The court vacates the tentative ruling of July 29, 2016, and enters the following ruling:

Defendant California Gambling Control Commission's ("Commission") demurrer to plaintiff California Valley Miwok Tribe's complaint ("CVMT") is overruled. Defendant's demurrer to the first, second, third, and fourth causes of action are sustained, without leave to amend. Plaintiff's demurrer to the fifth and seventh causes of action are overruled. The Commission shall file and serve an answer by September 1, 2016.

The court has reviewed the 58 page complaint describing the history of the Miwok dispute, as well as the numerous cases brought in federal and state court, and the *Washburn* decision. The Commission demurs on the basis of res judicata and standing based upon the lack of jurisdiction to determine the authorized leadership of the tribe.

The demurrer to the first cause of action for breach of contract is sustained, without leave to amend. Plaintiff alleges that the Commission promised the Miwok Tribe in writing that it would "immediately" release the RSTF funds when they became due, "once the BIA recognized the governing body of the Tribe and the tribal leadership is resolved." (Comp., ¶35.) The Tribe incurred significant legal expenses to resolve the internal leadership dispute. (*Id.* at ¶36.) Plaintiff further alleges that despite the earlier promises, the commission failed to release the funds. (¶40.) The court takes judicial notice as requested by both parties.

The *Washburn* December 10, 2015 decision establishes the tribal dispute remains. The Assistant Secretary-Indian Affairs of the Department of the Interior on remand *California Valley Miwok Tribe v. Jewell* (D.D.C. 2013) 5 F.Supp.3d 86, 88 ("Jewell" or CVMT III) concluded the membership of CVMT is not limited to five people and the United States does not recognize the leadership for the CVMT

CASE TITLE: California Valley Miwok Tribe vs.
California Gambling Control Commission [IMAGED]

CASE NO: 37-2015-00031738-CU-CO-CTL

government. (P. 3.) The decision states:

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

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

Although plaintiff urges this court to not consider this decision final, this is in contravention to the opinion itself which states, "This decision is a final agency action." No stay is in effect at this time.

Furthermore, the court is prohibited from granting the relief requested under the first cause of action, i.e., the enforcement of the Commission's promise to release the RSTF payments. This was the same fundamental relief requested in *California Valley Miwok Tribe v. California Gambling Control Commission* (2014) 231 Cal.App.4th 885, 896, *review denied* (Mar. 11, 2015) (CVMT IV). The court in CVMT IV states:

The Tribe, as represented by Burley, filed this action against the Commission in January 2008. Against the Commission, the operative complaint seeks (1) a writ of mandate under Code of Civil Procedure section 1085; (2) an injunction; and (3) declaratory relief. All three causes of action seek the same fundamental relief, namely an order requiring the Commission to pay over the RSTF funds to the Tribe, with Burley as its leader, to distribute according to her discretion. Specifically, all three causes of action present the common issue of whether, in carrying out its duty as a trustee of the RSTF, the Commission is legally justified in maintaining a policy of withholding the RSTF funds from the Tribe until the federal government establishes a government-to-government relationship with a tribal leadership body for the purpose of entering into a contract for ISDEAA benefits. (*Id.* at p. 896.)

Most of plaintiff's allegations in the complaint were also discussed within the decision, as well as the federal and state appellate decisions, including the name change initiated by Burley, the fact that payments had been previously made and then suspended, the prior recognition of five tribal members, the listing in the Federal Register, letters addressing Burley as Chairperson, and the long history of this case. Plaintiff places great significance on the 2012 deposition testimony of Yakima Dixie recanting he did not resign. However, the court also considered that contention and did not find it controlling. (*Id.* at p. 901.) The court held that Commission was justified in withholding RSTF funds in light of the tribal membership and leadership dispute. (*Id.* at p. 905.) The court explained:

In this case, the Commission is faced with an impossible situation in trying to identify a tribal representative to whom the RSTF funds can be released. Burley claims to be the authorized tribal representative pursuant to a tribal government created by five tribal members. The Yakima faction opposes Burley's claim to be the authorized tribal representative and has formed a rival tribal government, allegedly representing a much larger population of tribal members. Both factions claim that their tribal council is the sole legitimate tribal government, and that their leaders are the authorized tribal representatives. Under these circumstances, it is impossible for the Commission to carry out its role, as

CASE TITLE: California Valley Miwok Tribe vs.
California Gambling Control Commission [IMAGED]

CASE NO: 37-2015-00031738-CU-CO-CTL

defined by statute and the Compacts, to distribute the RSTF funds to the tribe known as the California Valley Miwok Tribe. (*Ibid.*)...

Thus, although the BIA may refuse to provide ISDEAA benefits for a variety of reasons, in this case the BIA's refusal was caused by uncertainty as to the Tribe's authorized leadership. Therefore, the BIA's resumption of contracting for ISDEAA benefits with the Tribe will establish that an authorized leader exists to receive funds on behalf of the Tribe. At that point, the proper party to receive the distribution of the RSTF funds will no longer be "reasonably in dispute" (Prob. Code, § 16004.5, subd. (b)(4)), and the Commission will accordingly have a duty under the Compacts and the Government Code to distribute the RSTF funds to the Tribe. (*Id.* at pp. 908-909.)

Merely because plaintiff's attempt to frame the issues under different causes of action (in this case breach of contract and promissory estoppel), does not prevent this court from finding the underlying facts have been litigated and a final judgment has been reached. For the same reasons, the demurrer to the third cause of action for injunctive relief commanding the Commission to discharge its statutory duties and release the RSTF's monies is barred, as well as the fourth cause of action for declaratory relief. (See, prayer for relief, ¶1-5.)

Plaintiffs allege in the fifth cause of action for writ of mandate that the Commission is not "withholding" those RSTF funds, but has diverted them to another account and is using those funds for its own purposes. This cause of action raises a different issue than previously litigated. The demurrer is overruled. The Commission challenges the standing of this plaintiff to bring this action based upon the *Washburn* decision that Burley's claim on behalf of the tribe fails because of the failure to have input from the numerous other potential members of the tribe arising out of the census taken in 1929. However, similar arguments have been raised in the other cases, and the court has found standing.

The court is unable to sustain the demurrer to the seventh cause of action for conspiracy on the grounds of res judicata because plaintiff has alleged a different cause of action (conspiracy) and added a new defendant (Chadd Everone.) Certainly, looking at the whole picture, plaintiff continues to seek the distribution of the gambling proceeds held in trust through its alleged representative Silvia Burley. However, the court's hands are tied, notwithstanding that the Commission's arguments on the primary right theory has merit.

Eddie C. Sturgeon

Judge Eddie C Sturgeon

EXHIBIT “45”

Subject: Fw: CVMT v. Cal. Gambling Control Comm. (Appellant's Reply Brief)

From: Manuel Corrales (mannycorrales@yahoo.com)

To: kevin_washburn@ios.doi.gov;

Date: Saturday, May 17, 2014 8:58 AM

Manuel Corrales, Jr., Esq.
17140 Bernardo Center Drive, Suite 210
San Diego, California 92128
Tel: (858) 521-0634
Fax: (858) 521-0633
mannycorrales@yahoo.com

----- Forwarded Message -----

From: Manuel Corrales <mannycorrales@yahoo.com>
To: "kevin_washburn@ois.doi.gov" <kevin_washburn@ois.doi.gov>
Cc: "sequoyah_simmerman@ios.doi.gov" <sequoyah_simmerman@ios.doi.gov>; "michael.berrigan@sol.doi.gov" <michael.berrigan@sol.doi.gov>; "lawrence_roberts@ios.doi.gov" <lawrence_roberts@ios.doi.gov>; "larry_roberts@ios.doi.gov" <larry_roberts@ios.doi.gov>; "s.burley@californiavalleymiwoktribe-nsn.gov" <s.burley@californiavalleymiwoktribe-nsn.gov>; Tiger Paulk <tigerplk@yahoo.com>; Terry Singleton <terry@terrysingletton.com>
Sent: Friday, May 16, 2014 8:38 PM
Subject: CVMT v. Cal. Gambling Control Comm. (Appellant's Reply Brief)

Mr. Washburn:

Attached is a copy of Appellant's Reply Brief filed in the case of CVMT v. CGCC. I represent the Appellant, California Valley Miwok Tribe ("CVMT"), in that case. The recent U.S. District Court's decision has been judicially noticed by the State California Court of Appeal, as well as other documents in connection with Yakima Dixie's challenge of your August 31, 2011 decision.

In light of the order remanding your August 31, 2011 decision for reconsideration, my client has authorized me to forward this Reply Brief to you for your review, so as to apprise you of issues that arose after your August 31, 2011 decision that was not part of the administrative record and that may be of interest in the process of reconsidering your decision, including supplementing the administrative record. Of particular interest is Yakima Dixie's deposition testimony taken in this California State case in which he admits that he in fact

resigned as Chairman of the Miwok Tribe in 1999, and that his resignation was never forged as he had previously claimed for all these years. The U.S. District Court's decision mentioned Dixie's claim that he never resigned and his claim of purported fraud in connection with the Tribal Council.

It is my hope that the facts and points raised in this Reply Brief will prompt you to order the administrative record to be supplemented prior to you issuing a reconsidered decision. My client considers Dixie's deposition testimony to be highly critical to your reconsidered decision. As you know, the administrative record is replete with references by the BIA that the Tribal leadership dispute between Dixie and Silvia Burley had "crippled" the Tribe for all of these years, and resulted in extensive administrative and civil litigation. Indeed, your August 31, 2011 decision mentioned this fact as well.

Based on Dixie's deposition testimony, it would appear that Dixie may have misled the U.S. District Court. Notably, Dixie was represented at his deposition by Shepherd, Mullin, Richter & Hampton, the same attorneys representing Dixie and his group in the federal litigation, yet those lawyers never mentioned this fact to the Court.

Should you have any questions, please feel free to contact me.

Manuel Corrales, Jr., Esq.
17140 Bernardo Center Drive, Suite 210
San Diego, California 92128
Tel: (858) 521-0634
Fax: (858) 521-0633
mannycorrales@yahoo.com

Attachments

- ReplyBriefMiwokComm2may14 copy.pdf (7.33MB)

EXHIBIT “46”

ADMITTED TO
PRACTICE IN:
CALIFORNIA, UTAH
AND NEW MEXICO

MANUEL CORRALES, JR.

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

17140 BERNARDO CENTER DRIVE, SUITE 210
SAN DIEGO, CALIFORNIA 92128
TEL (858) 521-0634
FAX (858) 521-0633

E-MAIL:
mannycorrales@yahoo.com

June 6, 2014

Mr. Kevin Washburn
U.S. Department of the Interior—Indian Affairs
MS-4141-MB
1849 C Street, NW
Washington, D.C. 20240

Via Email and U.S. Mail

Dear Mr. Washburn:

This letter will respond to Mr. Robert Uram's email correspondence to you dated June 6, 2014. As I indicated, I represent the California Valley Miwok Tribe under the leadership of Silvia Burley.

Since Mr. Uram enclosed the Respondent Briefs of his clients, the Dixie Faction and its followers, I am enclosing a copy of the Tribe's Appellant's Opening Brief.

Mr. Uram's June 6, 2014 email to you contains serious misrepresentations typical of what his law firm and his client, Yakima Dixie ("Dixie"), have been engaged in for over 14 years. He is obviously embarrassed by the fact that he and Dixie perpetrated a fraud on the U.S. District Court by not informing the Court that Dixie had admitted under oath in a February 2012 deposition that he in fact resigned, and that his resignation was not forged as he had previously claimed. Since his deposition was taken after the August 31, 2011 decision challenged by Dixie and his followers through Mr. Uram's office, it was not considered by Mr. Echo Hawk in that decision.

YAKIMA DIXIE'S DEPOSITION TESTIMONY IS NOT "DISPUTED": IT IS UNREFUTED

Mr. Uram asserts that Dixie's deposition testimony is "disputed." This is utterly false. Notably, Dixie had the opportunity to make changes to his deposition transcript, but he chose not to, thus refuting Mr. Uram's false assertion that he gave his testimony under stress and confusion. Both Dixie and his lawyers, Sheppard, Mullin, Richter & Hampton, LLP, received the original transcript for review in accordance with California law, and had the right to make any changes to that transcript within the 30 days allotted to do so. Yet they said nothing about Dixie's testimony admitting he had resigned being wrong in any way, or that it was given under stress or duress. It was the truth when it was given then, and it is the truth today, notwithstanding Mr. Uram's Monday morning quarter-backing comments on Dixie's state of mind.

DIXIE'S ADMISSION WAS ELICITED BY HIS OWN LAWYER

Again, Mr. Uram's law firm, Sheppard, Mullin, Richter & Hampton, LLP, represented Dixie at his deposition, and it was in response to questions from his own lawyer that Dixie admitted resigning and admitted that his resignation was not forged after all. Mr. Uram's false claim that Dixie's life was threatened at the deposition is equally fallacious and nothing more than a desperate attempt to downplay the enormous impact of Dixie's testimony in the State of California proceeding and in the matter presently before you in reconsidering the August 31, 2011 decision.

DIXIE'S DEPOSITION TESTIMONY IS HIGHLY RELEVANT

Dixie's deposition testimony can hardly be irrelevant to the issues before you on remand. Mr. Uram has a credibility problem and an obvious conflict. Since he misled the U. S. District Court and concealed from the Court Mr. Dixie's deposition testimony, it is in his best interest to argue (though falsely) that Dixie's deposition testimony is "irrelevant" to the issues before you on remand. Otherwise, he runs the risk of being disciplined from the State Bar. As the Assistant Secretary of Interior—

Indian Affairs (“ASI”) Larry Echo Hawk aptly observed in his August 31, 2011 decision:

“This decision is necessitated by a long and complex tribal leadership dispute that resulted in extensive administrative and judicial litigation.” (Emphasis added).

(Page 3, August 31, 2011 decision). Indeed, the IBIA decision that referred the matter to the ASI for resolution of the “enrollment issue” noted that the BIA was attempting to resolve the Tribal leadership dispute between Dixie and Silvia Burley (“Burley”) indirectly by attempting to enroll people as members against the Tribe’s will, because, as the BIA erroneously concluded, “Until the organization and membership issues were resolved, a leadership dispute between Burley and Yakima...could not be resolved, and resolution of that dispute was necessary for a functioning government-to-government relationship with the Tribe.” (51 IBIA 103 at 103-104).

As stated, the U.S. District Court relied on Dixie’s assertions, not knowing they were false, that he never resigned and that there was fraud and misconduct with respect to the Tribe’s leadership, in reaching its ultimate decision. For example, the U.S. District Court stated:

Here, the August 2011 Decision fails to address *whatsoever* the numerous factual allegations in the administrative record that raise significant doubts about the legitimacy of the General Council. From as early as April 1999, Yakima contested the validity of the Council. *See* AR 000182 (April 21, 1999 letter from Yakima to the BIA stating that he “cannot and will not resign as chairman of the Sheep Ranch Indian Rancheria”); *see also*, AR 000205 (October 10, 1999 letter from Yakima to BIA raising questions about Burley’s authority); AR 001690, 000231 (Yakima notifying the BIA of “fraud and misconduct” with respect to the Tribe’s leadership).

CVMT v. Jewell (formerly Salazar) (D.C. Dist. Ct. 2013) 2013 U.S. Dist. LEXIS 174535. Accordingly, based solely on the administrative record, the U.S. District Court concluded that Dixie’s claim that his resignation was forged and that he never resigned raised doubts about the validity of

the Tribal Council under the Burley Faction. If, as the U.S. District Court concluded, the legitimacy of the Tribal Council turns on whether Dixie resigned and whether there was fraud and misconduct in connection with respect to the Tribe's leadership (i.e., when Dixie's resignation was forged), then clearly Dixie's recent deposition testimony given in state court that he resigned after all, and that his resignation was never forged, is highly relevant to the issues for you to consider upon remand. Accordingly, the Tribal leadership dispute was the driving force of the matter the ASI was asked to resolve by the IBIA, and it remains relevant for purposes of your reconsidered decision.

CHADD EVERONE'S COMPLICITY EXPLAINS DIXIE'S FRAUD

The facts pertaining to Chadd Everone are not "wild accusation" as Mr. Uram would have you believe. They explain why Dixie falsely maintained for all these years that he never resigned and that his resignation was forged. Clearly, Dixie was not capable of leading the Tribe, because he was in and out of prison for murder (He murdered Burley's uncle) and other crimes and had problems with alcohol, all of which was detailed in his deposition. Having Burley take over made perfect sense, since she is bright and capable. However, after Dixie resigned, the September 1999 California Compacts were signed into law thus allowing Tribes in California to engage in the operation of gambling casinos. A group of investors heard about Dixie and somehow contacted him in the hopes of building a casino. However, as speaking with Dixie they realized that Burley, not Dixie was leading the Tribe as a result of Dixie's resignation. They then enlisted the help of Chadd Everone who then convinced Dixie to lie about his resignation so that he and his investors could build a casino using Dixie name.

Mr. Everone was not with the Peace Corp, nor was he engaged in social justice for a cause as he wants everyone to believe. For him, it's about taking over the Tribe so that he and other non-Indians can build a casino by using Dixie. It's about money. These are not "wild allegations," but relevant facts that explain why the Tribal leadership dispute has gone unresolved for over 14 years, and why a high-priced law firm like Sheppard, Mullin, Richter & Hampton, LLP, has been pursuing Dixie's purported claims for all of these years. He can't afford to pay their fees.

They are not working on the case “pro bono,” but are being financed by Everone and his group of investors.

The statements about Mr. Chadd Everone are accurate. He was deposed in the California State case and confirmed the information concerning his involvement in using Dixie to build a casino. He and his group of investors are looking to the \$1.1 million annual payments of Revenue Sharing Trust Fund (“RSTF”) money for the Tribe, presently accumulated to be over \$10 million, to finance a casino.

MR. URAM HAS MISCHARACTERIZED THE ISSUES

Mr. Uram takes great liberties in mischaracterizing even the most basic facts, a practice that should be a “red flag” about his credibility. For example, he states in his email that I filed a Reply Brief on behalf on my client, Silvia Burley. However, a cursory review of the caption and signature pages of the appellant brief shows that the appeal is being prosecuted on behalf of the CALIFORNIA VALLEY MIWOK TRIBE, the plaintiff in the underlying action and the aggrieved party. Silvia Burley is not a party to that action.

Next, Mr. Uram characterizes the issue pending before the California Court of Appeal as whether the California Gambling Control Commission “properly exercised its discretion by choosing not to disburse [the RSTF payments] to a five person faction claiming to be the Tribe...” This is inaccurate and misleading. The issue is whether the Commission is legally justified in withholding the subject RSTF payments from the Tribe based on the potential that the Dixie Faction may prevail in the federal litigation. It is undisputed that the Compacts provide that the Commission has no discretion relative to the disbursement of those funds.

Most importantly, Mr. Uram mischaracterizes the issues for you to reconsider on remand. He falsely states that the U.S. District Court “held unreasonable your predecessor’s determinations that the tribe’s membership was limited to five people and that the 1998 resolution signed by two people established a valid Tribal government.” A half-truth is just as despicable as a full lie.

In reality, the U.S. District Court made it clear that the ASI merely assumed that the Tribe's membership is limited to five persons, and merely assumed that the General Council represents a duly constituted government, in light of the facts contained in the administrative record. (See Section B and C of the Discussion Section of Order). The Court merely wants you to develop facts to support these two determinations made in the August 31, 2011 decision.

THE ADMINISTRATIVE RECORD DID NOT CONTAIN DIXIE DEPOSITION TESTIMONY

As pointed out, the administrative record the Court had before it for review did not contain the February 2012 deposition testimony of Dixie admitting he had in fact resigned and that there was no "fraud" or misconduct" in his resignation as Tribal Chairman. Instead, the U.S. District Court noted that "numerous factual allegations in the administrative record...raise significant doubts about the legitimacy of the General Council." What were those "numerous allegations"? They were Dixie's allegations that he never resigned and that his resignation was forged. Upon reconsideration, there will be no issue of assuming anything. The cold hard facts of Dixie's deposition testimony that was not part of the administrative record, will support the correct conclusion that the Tribal Council led by Burley is the valid governing body for the Tribe which Dixie himself agreed to and ratified in the documents he now admits signing.

In any event, Burley could not have taken advantage of Dixie relative to the establishment of the Tribal Council, since the resolution for its establishment was drafted by the Bureau of Indian Affairs ("BIA"), which both Dixie and Burley signed.

It should also be noted that Melvin Dixie, Yakima's brother, has been dead for several years.

DIXIE ADMITS THAT THE TRIBE CONSISTS OF "LESS THAN TEN (10) PEOPLE"

Also missing from the administrative record is the statement made by Dixie in a brochure prepared for the investment of a gaming casino that states:

“Sheep Ranch...’ is a very small (<10 members), long-established (1916), federally recognized California Indian tribe that is qualified to receive benefits, including the right to establishment a Class III gambling facility...” (Emphasis added).

(Yakima Dixie “Bridge-loan Agreement & Prospectus, 2/26/2004). The sign “<” means “less than.” Thus, Dixie’s statement here is that the Tribe consists of “less than 10 members,” not “over 200 adults and their children” as falsely stated by Mr. Uram to the Court. It is a binding admission by Dixie on behalf of himself and his faction.

FACTS THAT SHOULD BE CONSIDERED ON REMAND, IN LIGHT OF DIXIE’S DEPOSITION TESTIMONY

Upon reconsideration, the following facts would be relevant to support the conclusion that the General Council established in 1998 was, and is, a valid governing body for the Tribe, and that membership is validly limited to five (5) persons:

1. The September 24, 1998 letter from Dale Risling, Sr., of the BIA, to Yakima Dixie confirmed a meeting he and other BIA representatives had with Dixie and Burley on September 8, 1998. It was noted that prior to August 5, 1998, the only two members of the Tribe were Yakima Dixie and his brother, Melvin Dixie.

2. The September 24, 1998 letter confirms that the whereabouts of Melvin Dixie were at that time unknown.

3. The September 24, 1998 letter further confirms that on August 5, 1998, Yakima Dixie “accepted Silvia Burley, Rashel Reznor, Angelica Paulk, and Tristian Wallace as enrolled members of the Tribe.”

4. Dixie’s August 5, 1998 act, in light of the unknown whereabouts of Melvin Dixie, was a valid and binding act of conferring Tribal membership consistent with Indian law. Williams v. Gover (9th Cir. 2007) 490 F.3d 785, 490 (holding that an unorganized tribe had the

right and power to pass a resolution deciding who is to be a member of its tribe, citing Santa Clara Pueblo v. Martinez (1978) 436 U.S. 49).

5. In the September 24, 1998 letter, the BIA recommended that the Tribe “operate as a General Council,” and the BIA enclosed a draft General Council resolution (Resolution #GC-98-01) specifying the general powers of the General Council and the rules for governing the Tribe.”

6. The September 24, 1998 letter further provided that “[o]nce the General Council adopted such a resolution, the General Council would then proceed to elect or appoint a Chairperson...”

7. Consistent with the September 24, 1998 letter, Dixie and Burley drafted Resolution #GC-98-01, patterned after the draft resolution given to them by the BIA, signed it on November 5, 1998, and submitted it to the BIA.

8. The signed Resolution #GC-98-01 noted that “[t]he whereabouts of Melvin Dixie are unknown.”

9. The signed Resolution #GC-98-01 further confirmed that membership consisted of at least the following: Yakima Dixie, Silvia Fawn Burley, Rashel Kawehilani Reznor, Anjelica Josett Paulk, and Tristian Shawnee Wallace, and indicated that “this membership may change in the future consistent with the Tribe’s ratified constitution and any duly enacted Tribal membership statutes.” Thus, should Melvin Dixie’s whereabouts be determined, he could be added to the membership role.

10. As a result of Resolution #GC-98-01, Dixie was appointed as the Tribal Chairman.

11. On April 20, 1999, Dixie signed a document entitled “Formal Notice of Resignation,” wherein he states that he is resigning as Chairperson of the Tribe. (Copy attached).

12. On April 20, 1999, Dixie, Burley and Reznor all signed a document stating that “[t]he General Council as the governing body of the [Tribe] has agreed to accept the resignation of Chairperson from Mr. Yakima K. Dixie.” Dixie signed as Chairperson, thus ratifying Resolution #GC-98-01 establishing the General Council. The document also stated that the General Council “has officially appointed Silvia Burley as Chairperson of the [Tribe]...” (Copy attached).

13. Ten (10) days after resigning, Dixie signed a document for the development of a casino with the Tribe. However, he signed as “Tribal Member” under the signature of Silvia Burley who signed as “Chairperson” of the Tribe. (Copy attached).

14. On July 7, 1999, Dixie wrote the BIA, through his attorney who had a power of attorney, and referred to himself as the “Vice President” of the Tribe, not the Chairman.

15. Later, on July 23, 1999, Dixie signed an Addendum to the Development Agreement. He again signed as “Tribal Member,” not as Tribal Chairperson, under the signature of Burley who signed as “Chairperson” of the Tribe. (Copy attached).

16. Dixie was shown each of these documents containing his signature at his deposition in February 2012, and he confirmed that they were indeed his signatures.

17. Near the end of 1999, Dixie met with Chadd Everone who convinced him he needed to lie about resigning from the Tribe, so that they, together with other investors, could take advantage of the newly signed Compacts various Tribes signed with the California Governor allowing Tribes to operate gambling casinos, and build a casino using Dixie. Thereafter, up until February 2012, Dixie falsely maintained that he never resigned and that his resignation was a forgery.

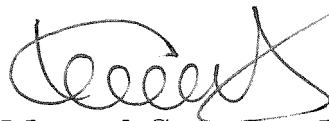
Mr. Uram’s contention that Dixie’s deposition testimony does not prove that he resigned is frivolous at best, and is contradicted by the above-referenced documents Dixie admitted signing. Resolution #GC-

98-01 unambiguously contains a statement that Tribal membership consisted of only five (5) persons, thus confirming the BIA's statement in its September 24, 1998 letter to Dixie that he had accepted those persons as members of the Tribe, with Burley identified as one of those members.

It is the Tribe's hope that the administrative record can be supplemented to show these facts, especially the deposition testimony of Dixie admitting he resigned as Tribal Chairman, so that nothing is concealed and that truth will prevail.

A copy of the tribe's Appellant's Opening Brief is enclosed, together with the documents showing that Dixie in fact resigned.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Manuel Corrales, Jr.', with a large, sweeping flourish extending from the end of the signature.

Manuel Corrales, Jr.

Enclosures

Cc: Silvia Burley, Chairperson, California Valley Miwok Tribe
Robert Uram, Esq.
Terry Singleton, Esq.
Robert Rosette, Esq.

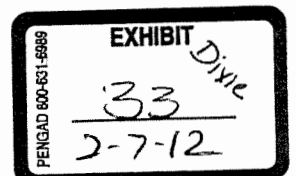
Sheep Ranch Tribe of Me-Wuk Indians

Formal notice of resignation

I Yakima K. Dixie being of sound mind and body on this date of Tuesday April 20th, 1999, am resigning as Chairperson of the Sheep Ranch Tribe of Me-Wuk Indians Sheep Ranch, California. This written document shall serve as a formal notice within the Tribe and to the United States Government and/or any other powers that may be.

Signed *Yakima Kenneth Dixie*
YAKIMA K. DIXIE

**Cc: Mr. Yakima K. Dixie
11178 School Road
P.O. BOX 41
Sheep Ranch, CA 95250
(209) 728-8625**



**GENERAL COUNCIL GOVERNING BODY OF
THE SHEEP RANCH TRIBE OF ME-WUK INDIANS**

RE: Chairperson

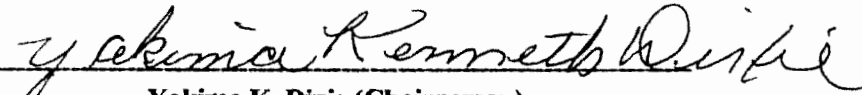
SPECIAL MEETING CALLED TO ORDER ON THE 20TH OF APRIL 1999.

Time Beginning: 12:00 NOON

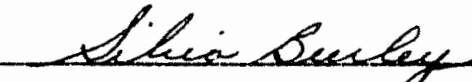
The General Council as the Governing Body of the Sheep Ranch Tribe of Me-Wuk Indians has agreed to accept the resignation of Chairperson from Mr. Yakima K. Dixie.

The General Council has appointed Silvia Burley as Chairperson.

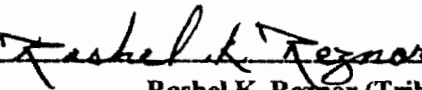
Signed


Yakima K. Dixie (Chairperson)
Sheep Ranch Tribe of Me-Wuk Indians

Signed


Silvia Burley (Secretary/Treasurer)
Sheep Ranch Tribe of Me-Wuk Indians

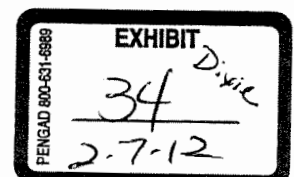
Signed


Rashel K. Reznor (Tribal Member)
Sheep Ranch Tribe of Me-Wuk Indians

RESOLVED: That the General Council is in agreement to the acceptance of the resignation of Mr. Yakima K. Dixie as Chairperson and has officially appointed Silvia Burley as Chairperson of the Sheep Ranch Tribe of Me-Wuk Indians, now, therefore be it.

****This Special Meeting is now adjourned.***

Time Ending: 12:30 PM



**GENERAL COUNCIL GOVERNING BODY
OF THE
SHEEP RANCH TRIBE OF ME-WUK INDIANS**

**GENERAL COUNCIL
MEETING:**

There will be a meeting of all voting members of the Sheep Ranch Tribe of Me-Wuk Indians on the 8th day of May, 1999, at the Sheep Ranch Rancheria, starting at 2 pm and continuing until all the below agenda items are finished:

- ✓RATIFICATION OF CONSTITUTION;
- ✓ORGANIZATION OF PROVISIONAL GOVERNMENT;
- ✓ELECTION OF OFFICERS;
- ✓DEVELOPMENT AGREEMENT;
- ✓SELECTION OF ATTORNEY & CONTRACT APPROVAL

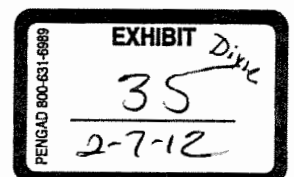
CERTIFICATION OF NOTICE

I certify by my signature below that I have received actual notice of the above meeting all agenda items a minimum of one week prior to attending the meeting and waive any objection to any notice requirements through my attendance and participation in the meeting:

Yakima R. Dixie
Yakima Dixie 5-8-99

Silvia Burley 5-8-99
Silvia Burley

Rashel Reznor 5-8-99
Rashel Reznor



DEVELOPMENT AGREEMENT

THIS AGREEMENT is made and entered into this 30 day of Apr. 1999 by and between the Sheep Ranch Tribe of Me-Wuk Indians, a Federally recognized Indian Tribe, hereinafter referred to as "Tribe," acting by and through its duly authorized Officers, who hereby certify and represent that they are empowered to so act, and BBC Entertainment, Inc., A Minnesota corporation, with a business address of P.O. Box 21, Mission, SD, 57555 hereinafter referred to as "BBC" and/or "Developer."

WHEREAS, the Tribe desires to acquire land for a tribal land base and to establish physical boundaries of its closed reservation and development of a Gaming Project;

WHEREAS, the Tribe desires to establish an Enterprise for development and gaming purposes to provide income, training, employment, and the betterment of life for the people of the Tribe; and

WHEREAS, Developer has the expertise, experience, resources, and personnel who are experienced in the various fields required; and

WHEREAS, Developer desires to provide for the Tribe certain required, legal infrastructure, resources and financing in order to acquire a site for a gaming facility on tribal land, and for other purposes; and

WHEREAS, the Tribe desires to engage the Developer to perform the services and provide the necessary resources for the development and construction of a gaming facility in return for the payment of the development fee specified herein, and to provide the Enterprise financing for the same; and

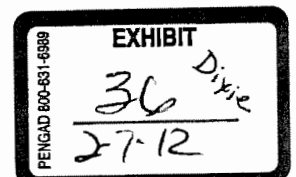
WHEREAS, the Tribe is a sovereign entity, as that term is defined by the laws and Courts of this nation and will do nothing to diminish that sovereignty, but realizes that the investment of the substantial amounts of funds contemplated by this Agreement requires that the rights and interests of those who provide such funds need to be protected; and

DEVELOPMENT AGREEMENT



Page 1 of 15


Mary T. Wynne, Attorney at Law
P.O. Box 1218 Tel 509.422.6267
Okanogan, WA 98840 Fax 509.422.6268


36.1

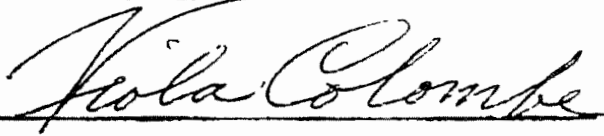


IN WITNESS THEREOF, this Agreement was signed, sealed and entered into the day and year above first written, in duplicate originals by the undersigned parties who represent and warrant that they have the authority so to do.

By:  By: 
SILVIA BURLEY RASHEL K. REZNOR
Its: CHAIRPERSON OF THE Its: TRIBAL MEMBER
GENERAL COUNCIL

By: 
YAKIMA DIXIE
Its: TRIBAL MEMBER

BBC ENTERTAINMENT, INC.
By: 
Charles C. Colombe
Its: PRESIDENT

By: 
Its: SECRETARY

1 canceled without any reimbursement to the Developer of any project development
2 expenses accrued to date. Should a dispute regarding the existence of fault arise,
3 then this dispute shall be submitted to arbitration pursuant to Section E, Other
4 Provisions, paragraph 5, of this Agreement.

5 Further, it is understood between below signed parties that any actions taken
6 pursuant to the authority granted by this Addendum shall only be taken upon written
7 notice to all parties.

8
9 Executed on this 23 day of JULY, 1999 at
10 Sheep Ranch (City), Calaveras County (County),
11 California (State).

12 Silvia Burley
13 Silvia Burley, Chairperson

12 Rachel K. Reznor
13 Rachel K. Reznor, Tribal Member

14 Yakima Dye
15 Yakima Dye, Tribal Member

14 Mary T. Wynne
15 Mary T. Wynne, Attorney at Law

16 Charles Colombe
17 Charles Colombe, BBC Entertainment

16 Charles Colombe
17 BBC/SECRETARY/Witness

28 ADDENDUM TO DEVELOPMENT AGREEMENT

MARY T WYNNE
ATTORNEY AT LAW
POB 1218
212 2ND AVE. N., SUITE # 3
OKANOGAN, WA 98840
(509) 422-6267
(509) 422-6268 (FAX)

EXHIBIT “47”

ADMITTED TO
PRACTICE IN:
CALIFORNIA, UTAH
AND NEW MEXICO

MANUEL CORRALES, JR.

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

17140 BERNARDO CENTER DRIVE, SUITE 210
SAN DIEGO, CALIFORNIA 92128
TEL (858) 521-0634
FAX (858) 521-0633

E-MAIL:
mannycorrales@yahoo.com

July 9, 2014

Mr. Kevin Washburn
U.S. Department of the Interior—Indian Affairs
MS-4141-MB
1849 C Street, NW
Washington, D.C., 20240

Via Email and U.S. Mail

Re: Response to Mr. Robert Uram's Letter of June 27, 2014

Dear Mr. Washburn:

This letter responds to Mr. Robert Uram's recent letter to you dated June 27, 2014 attacking the substance of my June 6, 2014 correspondence to you. In light of the numerous misstatements contained in his letter, it is important that I respond.

First of all, contrary to Mr. Uram's misrepresentations, I represent the CALIFORNIA VALLEY MIWOK TRIBE ("the Miwok Tribe") in the pending appeal of the California state court proceeding regarding the disbursement of state Revenue Sharing Trust Fund ("RSTF") payments the Miwok Tribe is entitled to receive. The Tribal Council, headed by Silvia Burley ("Burley"), authorized the prosecution of that case. The issue presently before the California Court of Appeal is whether the California Gambling Control Commission ("the Commission") has a legally sufficient basis for withholding the RSTF from the Miwok Tribe pending the resolution of the federal litigation in which Yakima Dixie ("Dixie") and his followers (collectively "the Dixie Faction") challenge the August 31, 2011 decision by the Assistant Secretary of Interior ("ASI"), Larry Echo Hawk. The issue is not whether Burley is "currently

recognized by the United States as the leader of this Tribe,” as Mr. Uram has falsely characterized it to be. (Page 2 of Uram letter, 6/27/2014).

SHEPPARD, MULLIN AND DIXIE’S FRAUD ON THE COURT

Mr. Uram attempts to excuse his conduct in concealing Dixie’s deposition testimony from the U.S. District Court by asserting that the Miwok Tribe’s attorney in that proceeding, Robert Rossette, “had every opportunity to bring the deposition to the attention of the court.” (Page 1 of Uram letter). That does not relieve Mr. Uram of his obligations as an officer of the court not to purposely mislead the court. Mr. Rossette was not affirmatively prosecuting the claims and assertions in federal court that Dixie never resigned and that his resignation was a forgery. Only Mr. Uram alone, on behalf of Dixie, was making those representation, which were false. Indeed, one of the documents Dixie admitted signing in his deposition was a Tribal document appointing Burley to replace him as Tribal Chairman.

To withhold this information from the Court while at the same time arguing that Dixie never resigned, and that his resignation was a forgery, was deceptive and unmitigated fraud upon the Court. Mr. Uram had every opportunity, and indeed had an obligation, to bring this to the attention of the Court, but he made a calculated decision not to, hoping to gain an unfair advantage in the litigation.

Mr. Uram next asserts that he had no obligation to bring Dixie’s deposition testimony to the attention of the U.S. District Court, because review was “based on the administrative record before the agency when the decision (August 31, 2011 decision) was made, not on a subsequent record made before the court.” (Page 1). This is incorrect.

The relevant pages to Dixie’s deposition transcript, together with the exhibits showing that Dixie resigned, that his resignation was not forged, and that he signed Tribal documents appointing Burley to replace him as Tribal Chairman, were filed with the San Diego County Superior Court in connection with an ex parte application, immediately after the deposition was taken, and several times thereafter in connection with

other motions. Mr. Uram's partner, Matthew McConnell, with whom he was in constant contact (See attached Uram declaration 3/6/2013 in support of Dixie Faction motion for summary judgment, Ex. "1"), attended those hearings in which the Dixie deposition transcript was filed with the Superior Court. In fact, it was Mr. McConnell who defended Dixie at his deposition and, in trying to lessen the damaging testimony, examined Dixie himself, but ended up eliciting testimony from Dixie confirming that he in fact resigned. As a result, Dixie's deposition transcript was immediately available for the U.S. District Court to take judicial notice of, but, again, Mr. Uram never made that request. Federal courts may take judicial notice of other courts' proceedings, within the federal judiciary and without, if the proceedings directly relate to the matters before the court. See U.S. ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc. (9th Cir. 1992) 971 F.2d 244, 248.

Indeed, Mr. Uram, together with Dixie, jointly participated in a fraud upon the U.S. District Court and the San Diego Superior Court (where he filed declarations and a verified Complaint stating that he never resigned and that his resignation was a forgery). As a result, the Dixie Faction Complaint and challenge to the August 31, 2011 ASI decision would have been subject to dismissal by the U.S. District Court, had these facts been brought to its attention. The fact that Mr. Uram and his client got away with this fraud at this stage of the proceedings is of no moment.

A similar situation occurred in the case of Aoude v. Mobile Oil Corp. (1st Cir. 1989) 892 F.2d 1115, prompting the Court to affirm a dismissal of Plaintiff's case based on fraud on the court. The Court there indicated that the case "amply illustrates that, though the 'bread of deceit is sweet to a man...afterwards his mouth shall be filled with gravel.'" 892 F.2d at 1116 (quoting Proverbs 20:17). In that case, Plaintiff tried to steal by deceit a Mobile franchise from a gas station operator. Plaintiff then concocted, backdated and then tricked the gas station operator to sign a bogus purchase agreement. He then sued him and attached the false agreement to his Complaint. Later, during his deposition, the truth about the false agreement came out, and thereafter the U.S. District

Court dismissed Plaintiff's case based on fraud on the court, observing that his "entire case rests on a false foundation." 892 F.2d at 1117.

The Court in Aoude, supra, affirmed the dismissal and explained what constitutes "fraud on the court," all of which is applicable to what Mr. Uram's firm and Dixie have done *in pari delicto* in the federal and state courts. It stated:

A "fraud on the court" occurs where it can be demonstrated, clearly and convincingly, that a party has sentiently set in motion some unconscionable scheme calculated to interfere with the judicial system's ability impartially to adjudicate a matter by improperly influencing the trier or unfairly hampering the presentation of the opposing party's claim or defense. (citations omitted).

Because corrupt intent knows no stylistic boundaries, fraud on the court can take many forms. In our estimation, however, the present case is a near-classic example of the genre. Appellant's bad faith is manifest. By Aoude's own admission, he fabricated the purchase agreement; gave it to his lawyer; read the complaint before it was filed; realized that counsel, acting on his behalf, proposed to annex the bogus agreement to the complaint (thus representing it to be authentic); and nevertheless authorized the filing. Thereafter, Aoude and his counsel continued to act out the charade until, in the course of pretrial discovery undertaken by Mobile, Monahan revealed a glimmer of the truth...The only conceivable reason for Aoude's elaborate duplicity was to gain unfair advantage, first in the dispute, thereafter in the litigation. The tactic plainly hindered defendant's ability to prepare and present its case, while simultaneously throwing a large monkey wrench into the judicial machinery. In our view, this gross behavior constitutes fraud on the court.

892 F.2d at 1118-1119. See also Cleveland Demolition Co. v. Azcon Scrap Corp. (4th Cir. 1987) 827 F.2d 984, 986 (fraud on court may exist where witness and attorney conspire to present perjured testimony); Rozier v. Ford Motor Co. (5th Cir. 1978) (same, where party, with counsel's

collusion, fabricates evidence). Similarly, Mr. Uram's conduct and that of Dixie constitute fraud on the court. Attached is a copy of Dixie's declaration filed in state court on November 8, 2010 stating under penalty of perjury that he never resigned and that his resignation is a forgery. (Ex. "2," paragraph 5). Also attached is are the selected pages to Dixie's verified Complaint in Intervention in the State case, dated December 22, 2010, wherein he again states under penalty of perjury that he never resigned as Tribal Chairman, that his resignation is a forgery and that he "remains tribal chairperson of the Tribe." (Ex. "3," paragraph 4). He also states on page 13 of his Complaint that: "The essence of this action is the tribal dispute regarding the leadership of the Tribe." Curiously, nowhere in his verified Complaint and nowhere in his declarations filed in the state case does he ever say that the establishment of the Tribal Council in November 1998 was "invalid" at the outset.

When Dixie admitted in February 2012 he in fact resigned, that his resignation was not forged, and that he signed Tribal documents appointing Burley to replace him as Tribal Chairperson, it became evident that he committed fraud on the state court by filing false pleadings under oath. However, compounding this was Mr. Uram's actions in the federal court. Not only did he know about Dixie's deposition testimony, but he also knew that Dixie and his state court attorney filed false pleadings in the state court. Despite this, he perpetrated and compounded the fraud even further by concealing Dixie's deposition testimony from the federal court and concealing from the federal court the fact that Dixie filed false pleadings in the related state court proceeding. Mr. Uram was playing "fast and loose" with the judicial system, conduct that the courts do not condone. Aoude, supra at 1122.

Mr. Uram asserts that there can be no fraud on the court, because, in his view, Dixie's deposition is "irrelevant." In other words, Mr. Uram maintains that it is okay to lie, so long as the lie is not relevant. However, nowhere in the U.S. District Court's decision does it ever say that Dixie's claim of "fraud and misconduct" relative to the change of leadership is irrelevant. To be sure, Mr. Uram is not the judge and jury on what is relevant. He simply got caught in a lie.

Mr. Uram's and Dixie's fraud on the state and federal courts should be not be condoned. Mr. Uram may feel that he dodged a bullet with the U.S. District Court, now that the decision is final. However, the process is not complete, and eventually the Court will be told about it.

On remand, you can consider this evidence as relevant to the issues for reconsideration, since you are acting as an agency for public justice. As Justice Black wrote in a similar case involving fraud on the court, and as quoted in Aoude, supra:

Tampering with the administration of justice in the manner indisputably shown here involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society...The public welfare demands that the agencies of public justice be not so impotent that they must always be mute and helpless victims of deception and fraud. (Emphasis added).

Hazel-Atlas Glass Co. v. Hartford-Empire Co. (1944) 322 U.S. 238, 246, fn. 2.

**DIXIE'S DEPOSITION TESTIMONY IS RELEVANT BECAUSE IT IS
THE FOUNDATION FOR RESOLUTION OF ALL ISSUES ON
REMAND**

Dixie's deposition testimony that he resigned, that his resignation was not forged after all, and that he signed Tribal documents appointing Burley to replace him as Tribal Chairman, are highly relevant to the issues for resolution on remand. Indeed, the issue of the Tribal leadership dispute, i.e., Dixie's claim that he, not Burley, is the rightful Chairman of the Tribe, is referenced throughout the U.S. District Court decision. (Page 7 ["leadership dispute brewing between Yakima and Burley..."], ["On October 10, 1999, Yakima raised concern about the leadership dispute"], [December 1999 "Yakima again alleged 'fraud and misconduct relative to the change in Tribal leadership during April and

May 1999' and maintained that he is the rightful Chairperson of the Tribe"], page 8 [BIA writes Yakima and Burley advising them to resolve the dispute internally within a reasonable time], page 9 ["The leadership and membership dispute between Yakima and Burley continued"], page 11 ["by November 2006, the BIA concluded that "the ongoing leadership dispute [was] at an impasse...")].

Based on these facts in the administrative record raising doubts about the Tribal leadership dispute, the U.S. District Court concluded that the August 31, 2011 decision was required to address them. It stated:

Here, the August 2011 Decision fails to address *whatsoever* the numerous factual allegations in the administrative record that raise significant doubts about the legitimacy of the Tribal Council. From as early as April 1999, Yakima contested the validity of the Council (citing Dixie's letter to the BIA stating that he "cannot and will not resign as chairman of the Sheep Ranch Indian Rancheria"). (Emphasis added).

(Page 21 and 22 of U.S. District Court decision). Significantly, the Court stated that Dixie contested the "validity of the Council" from April of 1999," knowing full well that the Tribal Council was established in November 1998 under Resolution #CG 98-01. Thus, reference here is to Dixie's claim that he never resigned and that his resignation was forgery, not to the improper issue Mr. Uram now wants to advance, to wit: that the establishment of the 1998 Tribal Council under Resolution #CG 98-01 was "void at the outset."

THE VALIDITY OF THE ESTABLISHMENT OF THE TRIBAL COUNCIL IN 1998 WAS NEVER REFERRED TO THE ASI FOR RESOLUTION

In fact, whether the establishment of the 1998 tribal council was void or invalid at the outset was never an issue the IBIA referred over to the ASI for resolution. As the IBIA decision aptly states:

Understood in the context of the history of this Tribe, and the BIA's dealings with the Tribe since approximately 1999, this case is properly characterized as an enrollment dispute...(Emphasis added).

51 IBIA 103, 122. Here, the IBIA casts the dispute for resolution from the time the leadership dispute arose in April 1999, not at the time the Tribal Council was established in November 1998. The ASI was never referred for review any issue regarding the validity of the establishment of the 1998 Tribal Council, and Mr. Uram's assertion to the contrary is wrong. Specifically, the IBIA referred over the following issue to the ASI:

[Whether] the BIA improperly determined that the Tribe is "unorganized," failed to recognize [Burley] as the Tribe's Chairperson, and is improperly intruding into Tribal affairs by determining the criteria for a class of putative tribal members and convening a general council meeting that will include such individuals.

51 IBIA at 123. The issue of whether the Tribe is "unorganized" involves whether the Tribe can operate under a Tribal Council or whether it must re-organized under the Indian Reorganization Act of 1934 ("IRA") to receive federal funding and have an ongoing government-to-government relationship with the federal government. The issue is not whether the Tribal Council was properly organized in 1998. That was never the intent of the IBIA referral. Indeed, nothing in the IBIA decision referring the "enrollment dispute" over to the ASI mentions the challenge of the establishment of the Tribal Council under Resolution #CG 98-01 in November 1998.

Accordingly, Mr. Uram has mischaracterized the issues for reconsideration. To understand what must be resolved, a reading of the IBIA decision is paramount.

Mr. Uram asserts that the holding of Alan-Wilson v. BIA (1997) 30 IBIA 241 is "the crux of the case," and based thereon, argues that the establishment of the Tribal Council under Resolution #CG 98-01 in

November 1998 was invalid at the outset. (Page 2 of Uram letter). However, Alan Wilson, supra, has no application to this case. There, the Cloverdale Rancheria was 1 of 17 Rancherias restored to federal recognition under a stipulated judgment in the case of Hardwick v. United States, Civil No. C-79-1710 SW (N.D. Calif. Dec. 22, 1983). The Cloverdale Rancheria was then placed in the Federal Register as a federally-recognized tribe. Soon thereafter, the BIA met with certain individuals living on the Rancheria and asked them if they were interested in forming a tribal government. After a tribal government was formed another person came forward claiming to be the one qualified under the Hardwick, supra, criteria to organize the tribal government, and a dispute arose. The IBIA decision then stated:

This is not an ordinary tribal government dispute, arising from an internal dispute in an already existing tribal entity. In such cases, BIA and this Board must exercise caution to avoid infringing upon tribal sovereignty. (citation omitted). Rather, this case concerns, in essence, the creation of a tribal entity from a previously unorganized group. In such a case, BIA and this Board have a responsibility to ensure that the initial tribal government is organized by individual who properly have the right to do so. (Emphasis added).

30 IBIA 241 (Page 8). The U.S. District Court decision in this case quoted this language, but it does not apply. (Note the Tribe, as Intervenor in the federal case, sought to appeal the U.S. District Court's decision, but was barred from doing so, in light of the federal Defendant's decision not to appeal. The Tribe continues to maintain that the decision is fraught with error.)

In contrast to the dispute in Cloverdale, supra, the Miwok Tribe was not federally-recognized by virtue of a stipulated judgment. It has been federally-recognized since at least 1916. In 1966, only Mabel Dixie, Yakima Dixie's mother, not any purported 200 members, was the only Tribal member living on the 0.92 acre Rancheria identified by an Indian Agent in 1915, and she was the sole distribute of Tribal assets under the 1966 Rancheria distribution plan. In contrast to the Cloverdale

Rancheria, the then named Sheep Ranch Rancheria (now the California Valley Miwok Tribe) was never terminated, and thus never had to go through the process of being restored to federal recognition through the court or otherwise.

In addition, there was no dispute that arose out of the validity of the Tribal Council that Dixie and Burley established in 1998. No such issue was ever tendered to the IBIA for resolution, and the IBIA has never referred such an issue to the ASI for resolution.

It is also undisputed that the Miwok Tribe is federally-recognized, and thus is “an already existing tribal entity.” Thus, contrary to the dispute in Cloverdale, supra, the dispute between Dixie and Burley is an “ordinary tribal government dispute, arising from an internal dispute in an already existing tribal entity.” Cloverdale, supra.

DIXIE IS ESTOPPED FROM OBJECTING TO THE VALIDITY OF THE 1998 TRIBAL COUNCIL

As pointed out in my June 6, 2014 letter, Yakima Dixie signed the 1998 Resolution establishing the Tribal Council confirming that the “whereabouts of Melvin Dixie are unknown.” Yakima Dixie also had the power to adopt Burley and her daughters as members of the Tribe, which he exercised prior to his execution of the 1998 Resolution. Dixie cannot object to his own actions as a basis to claim the 1998 Resolution establishing the Tribal Council is invalid. He affirmatively represented that he did not know the whereabouts of Melvin Dixie at the time of the establishment of the Tribal Council in 1998, and cannot now claim that the whereabouts of Melvin were in fact known and that he should have been contacted. Blake v. C.I.R. (2nd Cir. 1982) 697 F.2d 473, 478 (adopting Restatement 2nd Contracts, §90 (promissory estoppel). As stated in comment “a” of Restatement 2nd, Contracts:

“Estoppel prevents a person from showing the truth contrary to a representation of fact made by him after another has relied on the representation.”

In addition, Black's Law Dictionary defines "estoppel" as:

"A bar that prevents one from asserting a claim or right that contradicts what one has said or done before or what has been legally established as true."

Black's Law Dictionary, 10th ed., 2014, page 667.

Here, the BIA and Burley and the other adopted members relied on Yakima Dixie's representations that he did not know the whereabouts of Melvin Dixie at the time the 1998 Resolution was executed and the Tribal Council established. The doctrine of promissory estoppel prevents him from now claiming the Tribal Council's creation is invalid because he purportedly in fact knew of Melvin Dixie's whereabouts.

DIXIE'S OBJECTIONS TO THE VALIDITY OF THE TRIBAL COUNCIL IS BARRED BY THE STATUTE OF LIMITATIONS

It is undisputed that Dixie and his followers sued the federal government in its challenge to the August 31, 2011 decision. As part of that challenge, the Dixie Faction sought to claim that the Tribal Council established under Resolution #CG-98-01 was invalid at the outset, as a result of the BIA's actions. While this claim was never tendered to the ASI by the IBIA for resolution, the Dixie Faction nonetheless asserts it as a claim within their challenge of the August 31, 2011 decision. However, the claim is barred by the statute of limitations.

Accordingly, upon reconsideration, you can consider this fact as a basis for rejecting the Dixie Faction's claim that the Tribal Council was invalid when it was formed in November of 1998.

The Indian Claims Commission Act required all claims accruing before August 13, 1946, to be brought during a five-year period ending in 1951. The claims may not "thereafter be submitted to any court or administrative agency for consideration." Indian Claim Commission Act of 1946, §12, 60 Stat. 1049 (*formerly* 25 U.S.C. §70k); COHEN'S HANDBOOK OF FEDERAL INDIAN LAW, 2012 edition, §5.06[5], pp.

443-444. Claims accruing after that date must now be brought within six (6) years from the date the claim first accrues. 28 U.S.C. §2501(Court of Federal Claims), 28 U.S.C. §2401(civil actions in federal district courts).

In Hopland Band of Pomo Indians v. U.S. (Fed.Cir. 1988) 855 F.2d 1573, 1577, the court held that a claim for the improper termination of the rancheria was time-barred for failing to commence an action within 6 years of the claim first accrued. It further held that the statute of limitations are to be applied against claims of Indian tribes in the same manner as against any other litigant seeking legal redress or relief from the government. 855 F.2d at 1576. The Court then concluded that the Hopland Tribe's claim first accrued when the Tribe first became aware that the U.S. government terminated its tribal status, which was more than 6 years from the date of filing its Complaint in court. It stated:

Thus, for purposes of section 2501, it would appear more accurate to state that a cause of action against the government has first "accrued" only when all the events which fix the government's alleged liability have occurred *and* the plaintiff was or should have been aware of their existence. (citation omitted). On the other hand, once the cause of action accrues and the statutory period starts running, Congress has explicitly provided a plaintiff 6 years in which to file his action and no more.

855 F.2d at 1577-1578.

Here, Dixie has acknowledged executing the 1998 Resolution establishing the Tribal Council. He was aware of its creation through the BIA's assistance since it was first drafted. He was the first Tribal Chairman appointed under that newly formed Tribal Council, and he claimed for many years after April 1999 that he never resigned from the position of Tribal Chairman of that Tribal Council, a claim we now know was false. Yet he never filed any administrative claim or federal lawsuit claiming that the Tribal Council was invalid at the outset, until his federal suit challenging the August 31, 2011 ASI decision in October 2011, i.e., 13 years later. Accordingly, Dixie's claim that the Tribal Council was purportedly invalid at the outset is time-barred under 28

U.S.C. §2501 and 28 U.S.C. §2401 for having failed to commence any action on that claim within 6 years of the date he executed the November 1998 Resolution.

Pursuant to the directions on remand, you may consider this fact in reconsidering your decision.

CLAIMING TO BE THE CALIFORNIA VALLEY MIWOK TRIBE AND THEN SUING IN THAT NAME REFUTES THE ASSERTION THAT THE TRIBAL COUNCIL WAS INVALID AT THE OUTSET

It is undisputed that the Dixie Faction filed suit in federal court challenging the August 31, 2011 ASI decision as Plaintiff CALIFORNIA VALLEY MIWOK TRIBE. However, it is also undisputed that the Tribe was formerly called the Sheep Ranch Rancheria of Me-Wuk Indians of California. That was the name the Tribe called itself when it organized its governing body as a Tribal Council in November 1998 under Dixie and Burley's signature. However, the record shows that the Tribal Council under Burley's leadership thereafter passed a resolution changing the name of the Tribe to the California Valley Miwok Tribe, which the BIA accepted and then made that change in the Federal Register. (See attached letter dated June 7, 2001 from Sharon Blackwell of the BIA, Ex. "4")

Rather than sue under the original name, the Dixie Faction instead sued under the new name of the Tribe, thus confirming and ratifying that the Tribal Council under Burley's leadership had the authority to pass such a resolution affecting the Tribe. Mr. Uram's letter to you also purports to be on behalf of his client, the California Valley Miwok Tribe. However, Mr. Uram cannot in good faith maintain that the Tribal Council was invalid at the outset, and then purport to sue under the changed name of the Tribe by the authority he disputes.

CHADD EVERONE EVIDENCE

The evidence concerning Chadd Everyone are set forth in my previous correspondence, and need not be repeated. Whether Dixie

claimed he resigned in April 1999 or the end of 1999 is irrelevant. The point is that Dixie lied about it all of these years and used that lied with Everone's help to perpetrate a fraud on the courts for all of these years. Dixie's assertion that he claimed he resigned in April 1999 may have been what called attention to his predicament and set the wheels in motion for Everone's eventual involvement.

Since the Everone evidence explain Dixie's fraud, it should be considered on remand.

MR. URAM HAS NOT ACCURATELY CHARACTERIZED THE ISSUES FOR RECONSIDERATION

Mr. Uram continues to mischaracterize the District Court's decision. For example, he states several times in his correspondence to you that the Court purportedly held the August 31, 2011 AAI decision "unlawful." However, nowhere in the Court's decision does the word "unlawful" appear in describing the August 31, 2011 decision.

The issues I believe are appropriate for reconsideration are set out in my June 6, 2014 letter. Mr. Uram's proposed issues incorrectly assumes factual predicates that do not exist. For example, the U.S. District Court never stated that the August 31, 2011 decision was "unlawful," as Mr. Uram falsely represents. If that were the case, then there would be no need to remand to your office for reconsideration, since such a ruling would end the matter. However, the Court did not do that. It specifically remanded back to your office for reconsideration, because the August 31, 2011 decision merely assumed that the membership is limited to five persons, and merely assumed that the General Council represents a duly constituted government, in light of the facts contained in the administrative record. Facts developed from a supplemented administrative record would be helpful, in light of Dixie's deposition testimony that came after the August 31, 2011 decision. In addition, facts showing that Dixie's claims that the Tribal Council is invalid at the outset are time-barred would also be relevant to the process. In other words, the court wants you to develop facts to support these two determinations. Clearly, you have every right to reach the same

conclusions, if, upon reconsideration, you have developed facts that support those conclusions.

As stated above, the validity of the 1998 Resolution establishing the Tribal Council was not an issue referred to by the IBIA for resolution. This claim is nevertheless time-barred. The IBIA was addressing the Tribe's appeal of the BIA's actions, and the Tribe never tendered that issue for resolution. The fact the ASI mentioned it in its decision does not mean he was deciding that as a disputed issue in the IBIA's appeal. Indeed, he mentioned that the Tribe is a federally-recognized tribe, but that was not an issue for him to decide.

CONCLUSION

In due course, Mr. Rosette's office will be setting forth what it feels are the issues to be decided for your reconsidered decision, which may be in addition to what I have expressed herein and in my June 6, 2014 letter to you.

Thank you.

Very truly yours,



Manuel Corrales, Jr.

Enclosures

Cc: Silvia Burley, Chairperson, California Valley Miwok Tribe
Terry Singleton, Esq.
Robert Rosette, Esq.
Robert Uram, Esq.
Tiger Paulk

EXHIBIT “1”

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8 Attorney for Intervenors
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SAN DIEGO
12

13 CALIFORNIA VALLEY MIWOK
14 TRIBE,

15 Plaintiff,
16 v.

17 CALIFORNIA GAMBLING CONTROL
18 COMMISSION, et al.,

19 Defendants.
20

21 CALIFORNIA VALLEY MIWOK
22 TRIBE, CALIFORNIA (a.k.a. SHEEP
23 RANCH RANCHERIA OF ME-WUK
INDIANS, CALIFORNIA), YAKIMA K.
DIXIE, VELMA WHITEBEAR,
ANTONIA LOPEZ, ANTONE
AZEVEDO, MICHAEL MENDIBLES,
AND EVELYN WILSON,

24 Intervenors.
25
26
27
28

No: 37-2008-00075326-CU-CO-CTL

DECLARATION OF ROBERT J. URAM
IN SUPPORT OF INTERVENORS'
MOTION FOR SUMMARY JUDGMENT
AND/OR SUMMARY ADJUDICATION

Date: April 26, 2013

Time: 2:00 p.m.

Dept.: C-62

Judge: The Hon. Ronald L. Styn

1 I, ROBERT J. URAM, do hereby declare:

2
3 1. I am a partner with the law firm of Sheppard, Mullin, Richter &
4 Hampton LLP, attorneys for The California Valley Miwok Tribe ("Tribe"), The Tribal
5 Council, Yakima Dixie, Velma WhiteBear, Antonia Lopez, Michael Mendibles, Evelyn
6 Wilson and Antone Azevedo (collectively, "Intervenors").

7
8 2. On February 9, 2011, on behalf of Intervenors, I filed an
9 administrative appeal with the Bureau of Indian Affairs ("BIA") Regional Director,
10 challenging the January 12, 2011 decision by Bureau of Indian Affairs Superintendent
11 Troy Burdick to recognize the results of a purported Tribal election held by Silvia Burley
12 on January 7, 2011. Lodged as Exhibit 11 is a true and correct copy of the administrative
13 appeal. Lodged as Exhibit 10 is a true and correct copy of Troy Burdick's January 7, 2011
14 letter.

15
16 3. As of today, the BIA has not responded to, or decided, the appeal filed
17 on February 9, 2011.

18
19 4. On January 24, 2011, I filed a complaint on behalf of Intervenors in
20 the federal District Court for the District of Columbia, against United States Secretary of
21 the Interior Ken Salazar and other federal defendants, challenging the issuance of a
22 decision concerning the Tribe that the Assistant Secretary – Indian Affairs ("AS-IA")
23 issued on December 22, 2010. The case is California Valley Miwok Tribe v. Salazar,
24 No. 1:11-cv-00160-RWR (D.D.C.) (CVMT v. Salazar).

25
26 5. The AS-IA subsequently rescinded his December 22, 2010 decision
27 and issued a new decision on August 31, 2011. Intervenors then filed a First Amended
28 Complaint in CVMT v. Salazar. Lodged as Exhibit 9 is a true and correct copy of the AS-

1 IA's December 22, 2010 decision. Lodged as Exhibit 12 is a true and correct copy of the
2 AS-IA's April 1, 2011 notice in which he rescinded his December 22, 2010 decision.

3 Lodged as Exhibit 13 is a true and correct copy of the AS-IA's August 31, 2011 decision.
4

5 6. Intervenor's First Amended Complaint challenges the AS-IA's
6 findings in the August 31, 2011 decision regarding the membership and leadership of the
7 Tribe, including the validity of Silvia Burley's general council and the governing
8 documents it is based on. Lodged as Exhibit 19 is a true and correct copy of Intervenor's
9 First Amended Complaint in CVMT v. Salazar.

10
11 7. Silvia Burley, filing in the name of the Tribe, intervened in CVMT v.
12 Salazar. Burley, the federal defendants and Intervenor's have all filed dispositive motions
13 in CVMT v. Salazar and await the court's ruling on those motions. The case remains
14 pending. Lodged as Exhibit 17 is a true and correct copy of the Civil Docket Report for
15 CVMT v. Salazar.

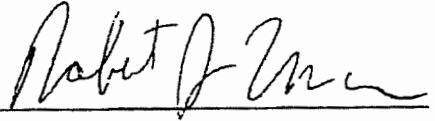
16
17 8. If the federal court grants Intervenor's motion for summary judgment
18 in CVMT v. Salazar and grants the requested relief, it will invalidate the AS-IA's August
19 31 decision, and the prior BIA decisions that deny recognition of any Tribal government
20 would remain in effect. Lodged as Exhibit 18 is a true and correct copy of Intervenor's
21 motion for summary judgment in CVMT v. Salazar.

22
23 9. Lodged as Exhibit 15 is a true and correct copy of a Memorandum
24 Opinion and Order in CVMT v. Salazar.

25
26 10. Lodged as Exhibit 14 is a true and correct copy of a Joint Status
27 Report that was filed in CVMT v. Salazar.

28

1 I declare under penalty of perjury pursuant to the laws of the State of
2 California that the foregoing is true and correct. Executed March 6, 2013 at San Francisco,
3 California.

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8 Robert J. Uram
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EXHIBIT “2”

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7 Attorney for Applicant Intervenors

FILED
Clerk of the Superior Court

NOV 08 2010

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9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN DIEGO**
12

13 **CALIFORNIA VALLEY MIWOK**
14 **TRIBE,**

15 Plaintiff,

16 v.

17 **CALIFORNIA GAMBLING CONTROL**
18 **COMMISSION, et al.,**

19 Defendants.

20 **CALIFORNIA VALLEY MIWOK**
21 **TRIBE, CALIFORNIA (a.k.a. SHEEP**
22 **RANCH RANCHERIA OF ME-WUK**
23 **INDIANS, CALIFORNIA), YAKIMA K.**
24 **DIXIE, VELMA WHITEBEAR,**
25 **ANTONIA LOPEZ, ANTONE**
26 **AZEVEDO, MICHAEL MENDIBLES,**
27 **AND EVELYN WILSON,**

28 Applicant Intervenors.

No: 37-2008-00075326-CU-CO-CTL

DECLARATION OF YAKIMA K. DIXIE
IN SUPPORT OF MOTION TO
INTERVENE AS DEFENDANTS

Law and Motion

Hearing Date: December 17, 2010

Hearing Time: 8:30 a.m.

Hearing Place: C-62

Trial Date: May 13, 2011

Trial Dept: C-62

Trial Judge: The Hon. Ronald L. Slyn

First Amended Complaint Filed 8/20/08

Code of Civil Procedure §387

I, Yakima K. Dixie, am over the age of 18 and a resident of Calaveras County, California. I have actual and personal knowledge of the following facts and am competent to testify to the same. This Declaration is being offered in support of the Motion to Intervene.

1. Sheep Ranch Rancheria has been my domicile for almost my entire life and the title to the Rancheria is held by the federal government in trust for my benefit.

2. I am seeking to intervene in this litigation because I am the Hereditary Chief and Traditional Authority for the Federally Recognized Tribe known as California Valley Miwok Tribe (formerly, the Sheep Ranch Rancheria of Me-Wuk Indians of California) (the "Tribe"). I inherited the position of Hereditary Chief upon the death of my mother, Mabel Hodge Dixie, on July 11, 1971. My tribal lineal descent through my mother goes back to the Hodge family of the 1915 census of the Sheepranch Indians.

3. I also seek to intervene in this litigation, which was filed by Silvia Burley because Ms. Burley is not recognized as the authority for the Tribe by the BIA, by the putative members of the Tribe or the State of California. If the Court orders the Revenue Sharing Trust Fund ("RSTF") funds to be disbursed, the Court must also determine who is the authority of the Tribe to receive the Funds.

4. In 1996, Ms. Burley approached me seeking assistance in obtaining medical and education benefits for herself and her two daughters.

5. In 1999, I allowed Ms. Burley into the Tribe. Shortly thereafter, Ms. Burley alleged that I resigned as Tribal Chairman, that she represented that she spoke for the Sheepranch Miwok people and that she was the leader and chairperson of the Tribe. I have never consented to her claim of leadership. The document allegedly showing my resignation as Tribal Chairman is a forgery.

6. Ms. Burley purported to set up a "Tribal Council," made up of herself and her two daughters. But, on information and belief, she otherwise made no effort to organize the Tribe around the lineal descendants of the Me-Wuk people who had lived at the Rancheria.

7. From 1999 to 2005, Ms. Burley collected federal grant and RSTF money meant for the Tribe based on her baseless claim to be the leader of the Tribe. On information and belief, she, her two daughters and their immediate family, have been the only beneficiaries of those substantial monies. On information and belief, these sums were used to purchase a home for her and her daughters, on which Ms. Burley subsequently took out a \$500,000 line of credit. I have never received any of that money. I do not know anyone who has received any of that money other than Ms. Burley, her husband, and her children, nor do I know of any programs Ms. Burley set up for the benefit of the Tribe.

8. In September 2005, Ms. Burley and her "Tribal Council" purported to disenroll me from the Tribe, based on the alleged ground that I had held myself out to be a member of another Indian Tribe, namely the Sheep Ranch Rancheria of Me-Wuk Indians which, of course, is simply another name for the California Valley Me-Wuk Indians. *

9. My being "Hereditary Chief" and "Traditional Authority" for the Tribe do not, at present, denote a legal relationship with the U.S. Federal government. Hereditary chiefdom is, however, provided by Miwok traditions. The Tribe is "recognized" by the U.S. government but is it not yet considered "organized" by the Bureau of Indian Affairs ("BIA"). Until the Tribe is recognized by the BIA as "organized" no one and no group has a right to the RTSF funds. The Tribe is currently working with the BIA to become "organized" around the putative members. Until the Tribe becomes formally organized, the BIA has stated that it holds neither Ms. Burley nor me as the recognized authority. Although the federal government does not recognize an

authority for the Tribe at present I, as the Hereditary Chief and Traditional Authority, am the only person who rightfully may receive funds on behalf of the Tribe.

10. On April 11, 2007, to assist the Tribe to organize and to identify current putative members of the Tribe, the BIA issued a public notice identifying 14 putative members of the Tribe and called for descendants of those persons to submit documentation to the BIA. One of the listed putative members is my mother, Mable Hodge Dixie, and, therefore, I submitted supporting documentation to the BIA and am a putative member of the Tribe.

11. On information and belief, 580 persons (including myself) submitted personal genealogies to the BIA in response to the BIA's April 11, 2007 public notice. According to the BIA and on information and belief, neither Ms. Burley nor any member of her immediate family submitted documentation to the BIA in response to the April 11, 2007 public notice.

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

October 31, 2010

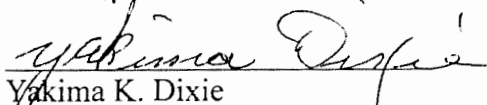

Yakima K. Dixie

EXHIBIT “3”

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7 Attorney for Applicant Intervenors

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF SAN DIEGO

10 VIA FAX

11 CALIFORNIA VALLEY MIWOK
12 TRIBE,

13 Plaintiff,

14 v.

15 CALIFORNIA GAMBLING CONTROL
16 COMMISSION, *et al.*,

17 Defendants.

18 CALIFORNIA VALLEY MIWOK
19 TRIBE, CALIFORNIA (a.k.a. SHEEP
20 RANCH RANCHERIA OF ME-WUK
21 INDIANS, CALIFORNIA), YAKIMA K.
22 DIXIE, VELMA WHITEBEAR,
23 ANTONIA LOPEZ, ANTONE
24 AZEVEDO, MICHAEL MENDIBLES,
25 AND EVELYN WILSON,

26 Applicant Intervenors.

No: 37-2008-00075326-CU-CO-CTL
COMPLAINT IN INTERVENTION

27 By leave of Court, the Intervenors, California Valley Miwok Tribe, California (a.k.a.
28 Sheep Ranch Rancheria of Me-Wuk Indians, California), Yakima K. Dixie, Velma WhiteBear,

1

Complaint In Intervention
CVMT v. CGCC San Diego Superior Court Case No. 37-2008-00075326-CU-CO-CTL

Antonia Lopez, Antone Azevedo, Michael Mendibles and Evelyn Wilson (collectively, the "Intervenors"), submit this COMPLAINT IN INTERVENTION and join with defendants in opposing plaintiff's claims.

On August 20, 2008, plaintiff, Silvia Burley, purportedly on behalf of the California Valley Miwok Tribe, filed a First Amended Complaint Combined with Petition for Writ of Mandate ("Complaint") in the above-entitled action against defendants, California Gambling Control Commission and DOES 1 through 50, seeking injunctive, declaratory relief and a Writ of Mandate regarding distribution of certain funds from the Revenue Sharing Trust Fund ("RSTF") and the Special Distribution Fund (collectively with RSTF, the "Funds") to Silvia Burley and alleging intentional interference with prospective economic advantage against certain unnamed DOES 21 through 50. Defendant California Gambling Control Commission ("CGCC") has appeared in this action and placed plaintiff's claims at issue by filing an answer denying plaintiff's allegations and raising affirmative defenses.

INTRODUCTION

1. Intervenor Yakima K. Dixie, is, and at all times relevant to this action was, domiciled in Sheep Ranch, California. Mr. Dixie is a member, the Hereditary Chief, the tribal chairman and the tribal authority of the California Valley Miwok Tribe, California, formerly known as the Sheep Ranch Rancheria of Me-Wuk Indians of California (the "Tribe"). Mr. Dixie inherited the position of Hereditary Chief and tribal authority of the Tribe from his mother, Mabel Louise Hodge Dixie. The action is of particular interest to Mr. Dixie because of his pecuniary interest in the Funds and his fiduciary duty as the Hereditary Chief, tribal chairman and tribal authority to preserve the Funds for the legitimate members of the Tribe.

2. Intervenor Velma WhiteBear, Antonia Lopez, Antone Azevedo, Michael Mendibles, and Evelyn Wilson, (with Yakima K. Dixie the "Member Intervenor") are lineal descendants of historic members of the Tribe. Mr. Dixie and each of the Member Intervenor is a lineal descendant of a historical member or members of the Tribe listed in the 1929 Indian Census Roll of Calaveras County.

3. The Member Intervenor recognize Mr. Dixie as the Hereditary Chief and the tribal authority of the Tribe.

4. Neither Mr. Dixie nor the Member Intervenor recognize Ms. Burley as any authority for the Tribe. Ms. Burley alleges that she is a member of the Tribe by virtue of Mr. Dixie allowing Ms. Burley, her two daughters and her granddaughter into the Tribe in 1999 to obtain medical and education benefits. Soon thereafter, Ms. Burley alleged that Mr. Dixie resigned as tribal chairperson and that she was elected to the position. The resignation is a forgery. Mr. Dixie remains the Hereditary Chief, tribal authority, and tribal chairperson of the Tribe.

5. As shown by the facts alleged below, the Intervenor have the right to intervene in this action under the mandatory intervention provisions of California Code of Civil Procedure §387(b) because the Intervenor claim pecuniary and tribal interests in the Funds, the subject of this action, and the adjudication of the parties' claims in the Intervenor's absence will impair or impede the Intervenor's ability to protect those interests. The Intervenor's interests are not represented by the current parties to this action.

6. CGCC holds the Funds in trust for the Tribe pending its "organization" as contemplated by the Bureau of Indian Affairs (the "BIA") so that a properly constituted governing body in accord with Federal Indian law and policy may accept the Funds. Therefore,

in its ANSWER AND RETURN OF CALIFORNIA GAMBLING CONTROL COMMISSION TO VERIFIED FIRST AMENDED COMPLAINT COMBINED WITH PETITION FOR WRIT OF MANDATE, this Court also lacks jurisdiction to adjudicate an internal tribal dispute, to determine the proper spokespersons for the Tribe, to adjudicate whether the Tribe is "organized," to adjudicate the identity of the Tribe or to adjudicate a matter barred by sovereign immunity.

II. Second Defense for Failure to State a Claim Against Plaintiff

As a second and separate and complete affirmative defense, the Intervenor respectfully request that the Court dismiss plaintiff's Complaint in this action, and all claims therein, because plaintiff has failed to state a claim for which the Court may grant relief.

III. Third Defense for No Basis to Name DOE Defendants Against Plaintiff

As a third and separate and complete affirmative defense, the Intervenor respectfully request that the Court dismiss plaintiff's Complaint in this action, and all claims therein, because plaintiff has no basis under which it may name DOE defendants consistent with the Rules of Court.

IV. Fourth Defense for Failure to Exhaust Administrative and Tribal Remedies Against Plaintiff

As a forth and separate and complete affirmative defense, the Intervenor respectfully request that the Court dismiss plaintiff's Complaint in this action, and all claims therein, because the plaintiff has failed to exhaust its administrative and tribal remedies. The Intervenor, with the aid of the BIA, have attempted to mediate with Ms. Burley. Ms. Burley refused to cooperate with such requests until 2010, when mediation was no longer possible because there was no longer an intertribal remedy. Further, the BIA is currently reviewing the

leadership dispute matter and is expected to provide a determination shortly. The essence of this action is the tribal dispute regarding the leadership of the Tribe. *

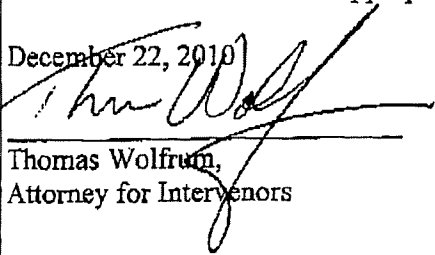
In addition to the affirmative defenses above, the Intervenor joins with CGCC in asserting the following affirmative defenses already asserted in CGCC's ANSWER AND RETURN OF CALIFORNIA GAMBLING CONTROL COMMISSION TO VERIFIED FIRST AMENDED COMPLAINT COMBINED WITH PETITION FOR WRIT OF MANDATE: I. Plea In Abatement; II. No Jurisdiction (except as provided above); III. Unclean Hands; IV. Res Judicata; V. Collateral Estoppel; VI. Lack of Standing.

As the Complaint fails to provide sufficient information concerning the allegations, the facts and the identity of the DOES, the Intervenor reserves their right to assert additional affirmative defenses. The Intervenor has not asserted defenses to the plaintiff's Third Cause of Action against DOES 21-50 because no Intervenor is named a DOE.

The Intervenor respectfully request the Court enter judgment:

1. Dismissing plaintiff's Complaint in this action, and all claims therein, with prejudice;
2. Declaring that the Commission shall continue to hold the Funds in trust for the Tribe until such time as the Tribe is duly organized as overseen by the BIA;
3. Awarding the Intervenor their costs; and granting such further relief as the Court deems appropriate.

December 22, 2010


Thomas Wolfrum,
Attorney for Intervenor

01911

VERIFICATION

We, the undersigned Intervenor in the above-entitled action have read the foregoing Complaint in Intervention and know the contents thereof. The same is true of each of our own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, each of us believes it to be true.

Each of us declares under penalty of perjury that the foregoing is true and correct and that this declaration was executed in California.

Dated this 18 day of December, 2010.

Yakima K. Dixie
Yakima K. Dixie

Velma WhiteBear
Velma WhiteBear

Antonia Lopez
Antonia Lopez

Antone Azevedo
Antone Azevedo

Michael Mendibles
Michael Mendibles

Evelyn F. Wilson, Sr.
Evelyn Wilson

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EXHIBIT “4”



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

IN REPLY REFER TO:

Tribal Government Services
BCCO 01792

JUN 7 2001

Honorable Silvia Burley
Chairperson, California Valley Miwok Tribe
aka "Sheep Ranch Rancheria of Me-Wuk
Indians of California"
1055 Winter Court
Tracy, California 95376

Dear Chairperson Burley:

Thank you for your letter dated April 9, 2001, regarding the Tribal Council's desire to change the name of the *Sheep Ranch Rancheria of Me-Wuk Indians of California* to the *California Valley Miwok Tribe*. You have received conflicting information on how to accomplish the name change so you've requested us to clarify the matter.

The *Sheep Ranch Rancheria* (Tribe) is a small tribe that does not have a tribal constitution. The Tribe has a tribal council and conducts tribal business through resolution. A tribal resolution, such as resolution No. R-1-5-07-201, enacted by the Tribal Council on May 7, 2001, is sufficient to effect the tribal name change. The Tribe's new name has been included on the Tribal Entities List that will be published in the FEDERAL REGISTER later this year. *

Some tribes have constitutions that contain a provision that specifically states the tribe's official name. In that situation, the tribe will have to amend that particular provision in the constitution before the new name will be published in the FEDERAL REGISTER. On the other hand, if the tribal constitution does not contain a provision that sets out the tribe's official name, an amendment to the constitution is unnecessary. In such instances, the tribe can change its name by enacting a tribal ordinance to establish its official name.

We hope that this information resolves the matter for you.

Sincerely,

Deputy Commissioner of Indian Affairs

cc: Regional Director, Pacific Region w/copy of incoming
Superintendent, Central California Agency w/copy of incoming