

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership
2 Including Professional Corporations
ROBERT J. URAM, Cal. Bar No. 122956
3 ruram@sheppardmullin.com
JAMES F. RUSK, Cal. Bar No. 253976
4 jrusk@sheppardmullin.com
ZACHARY D. WELSH, Cal. Bar No. 307340
5 zwelsh@sheppardmullin.com
Four Embarcadero Center, 17th Floor
6 San Francisco, California 94111-4109
Telephone: 415.434.9100
7 Facsimile: 415.434.3947

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

12 UNITED STATES DISTRICT COURT

13 EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION
14

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

18 Plaintiffs,

19 v.

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

22 Defendants

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

Intervenor-Defendants
25
26
27
28

Case No. 2:16-01345 WBS CKD

**[PROPOSED] ORDER GRANTING
INTERVENOR-DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT**

Judge: Hon. William B. Shubb
Date: May 30, 2017
Time: 1:30 p.m.
Courtroom 5

ORDER

Intervenor-Defendants’ motion for summary judgment came on for hearing on May 30, 2017 at 1:30 p.m., before the undersigned, in Courtroom 5 of the United States District Court, Eastern District of California, located at 501 I Street, Sacramento, California 95814.

The Court, having considered the briefs and other supporting pleadings submitted by the parties, the administrative record, and the arguments made by counsel, finds that Intervenor-Defendants are entitled to summary judgment in their favor on all the claims in Plaintiffs’ complaint, for the following reasons:

1. Plaintiffs have failed to demonstrate that the Assistant Secretary – Indian Affairs’ 2015 Decision was “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). In particular, Plaintiffs have not identified any relevant information that the Assistant Secretary failed to consider in issuing the 2015 Decision. Moreover, Plaintiffs have not shown that the record before the Assistant Secretary did not support the 2015 Decision, that the Assistant Secretary was jurisdictionally barred from making the 2015 Decision, or that the 2015 Decision conflicts with any applicable law.

2. Plaintiffs have failed to show that the 2015 Decision deprived them of due process or that the 2015 Decision violates the 5th Amendment of the United States Constitution.

3. Because Plaintiffs have failed to show that the 2015 Decision was arbitrary, capricious, or otherwise not in accordance with law, Plaintiffs are not entitled to declaratory relief.

4. Because Plaintiffs have failed to show that the 2015 Decision was arbitrary, capricious, or otherwise not in accordance with law, Plaintiffs are not entitled to injunctive relief.

