

until all the . . . agenda items are finished." Appellee's Exhibit 10 at 1. Among the list of agenda items is the "organization of provisional government" and "election of officers." Appellee's Exhibit 10 at 1. The notice is signed by Yakima K. Dixie, Silvia Burley and Rashel Reznor who, by their signature, "each certify" that he or she had "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." *Id.* Mr. Dixie does not challenge the authenticity of this document and we accept it as genuine.

The Tribe has submitted a second document, signed by Mr. Dixie on the same day as the alleged forged resignation letter (20th of April 1999), wherein Mr. Yakima Kenneth Dixie, Silvia Burley and Rashel K. Reznor, acting as the "General Council and Governing Body of the Sheep Ranch Tribe of Me-Wuk Indians" agrees to accept the resignation of Chairperson from Mr. Yakima K. Dixie and appointing Silvia Burley as Chairperson. Appellee's Exhibit 9 at 1. Mr. Dixie does not challenge the authenticity of this document and we accept it as genuine.

The Tribe has submitted a third document entitled "Certification of Election of Officers for Provisional Government." Appellee Exhibit 10 at 2. This document certifies "that on the 8th of May, 1999, during a duly called meeting of the General Council Governing Body of the Sheep Ranch Tribe of Me-Wuk Indians, the following officers were elected by secret ballot pursuant to Article XIV of the Constitution: Chairperson: Silvia Burley, Vice Chairperson: Yakima Kenneth Dixie, Secretary/Treasurer: Rashel K. Reznor."

The document is certified by Rashel K. Reznor and dated 5/8/99.¹³ Mr. Dixie does not challenge the authenticity of this document and we accept it as genuine.

While the Appellant, Mr. Dixie, challenges the veracity of the resignation letter, he does not offer any documentation or otherwise attempt to refute the documents evidencing the election process: the Notice of a General Council Meeting dated May 8, 1999 and signed by Mr. Dixie as Chairperson and the Certification of Election signed by Ms. Reznor. These documents are proof that the Tribe held a duly noticed election in which Mr. Dixie participated. Appellee's Exhibit 10 at 2

Even if Mr. Dixie's allegation of forgery of the resignation letter were proven, which it is not, the election is a separate and distinct process whereby the voting members of the Tribe voted in Silvia Burley as the Chairperson and Yakima K. Dixie as the Vice-Chairman. The election process has not been challenged in any forum by any party, including Mr. Dixie. Therefore, even had he not resigned as Chairperson, Mr. Dixie would have been replaced as Chairperson by the separate and independent election process, which does not require the resignation of the Chairperson to go forward, wherein Yakima Dixie was voted out and Silvia Burley was voted in as Chairperson.

Both the April 20th, 1999 Formal Notice of Resignation (Appellee's Exhibit 9 at 2) and the April 20th, 1999 Special Meeting notice, minutes and

¹³ We take judicial notice that the record shows Mrs. Burley was elected Chairperson on May 8, 1999, Appellee's Exhibit 10 at 2, and thereafter Mrs. Burley and Mr. Dixie each signed contracts together, he as the "tribal member" and she as "Chairperson." See Appellee's Exhibit 7 at 2 (contract dated July 23, 1999); Appellee's Exhibit 8 at 15 (contract commencing May 8, 1999).

resolution (Appellee's Exhibit 9 at 1) support the Tribe's position that the California Valley Miwok Tribe provided notice and then held an actual meeting where the resignation letter of Mr. Dixie was accepted and where Silvia Burley was appointed Chairperson.

This tribal action was followed by subsequent Tribal action where, by notice of the meeting of all voting members on May 8th, 1999, the members of the Tribe were notified of a meeting whose agenda included the election of officers. Appellee's Exhibit 10 at 1. The election of officers is evidenced by the May 8th, 1999 Certification of Election Of Officers for Provisional Government, which certifies that by secret ballot, Silvia Burley was elected Chairperson, Yakima Kenneth Dixie was elected Vice Chairperson and Rashel K. Reznor was elected Secretary/Treasurer. Appellee's Exhibit 10 at 2.

Based on the preponderance of the evidence, this tribunal finds it is more probable than not that the California Valley Miwok Tribal Council duly provided notice and held the meeting wherein Mr. Dixie resigned and Ms. Burley was appointed to the office of Tribal Chairperson. The evidence supports the Tribe's position that Mr. Dixie resigned at that meeting. The evidence fails to support Mr. Dixie's allegation that the resignation was a forgery. Even if this tribunal were to accept the allegation that the resignation was a forgery, which we do not, the additional evidence further establishes that Ms. Burley was appointed as Tribal Chairperson to replace Mr. Dixie by the Tribal Council and that Mr. Dixie fully participated in that decision.¹⁴ The evidence establishes that subsequent to the appointment of

¹⁴ Support for Mr. Dixie's resignation as Tribal Chairperson and Mrs. Burley's appointment in his stead is provided in the affidavit of Mary T. Wynn, attorney at law, wherein she declares that "I recall some discussion of

Silvia Burley as Chairperson on April 20, 1999, the Tribal members voted and elected Silvia Burley as Chairperson on May 8, 1999. Thus the evidence establishes that Ms. Burley was appointed as Chairperson by the Tribal Council and then subsequently elected as Chairperson by the voting members of the Tribe.

In a case filed by Mr. Dixie and styled as *Sheep Ranch Rancheria v. Burley*, No. S-01-1389 LKK/DAD (E. D. Cal. Jan. 24, 2002) (Appellee's Exhibit 13 herein; Appellant's Exhibit 2001-07-18 (complaint initiating lawsuit)), the court dismissed the case but, before doing so, "took judicial notice of evidence that defendants Silvia Burley and Rashel Reznor are recognized by the BIA as the sole members of the governing body of the Sheep Ranch Rancheria of Me-Wuk Indians." Citing BIA July 12, 2000 Letter of Recognition. We hereby adopt and incorporate the finding of the federal district court.

Like the Court, we note that the Bureau of Indian Affairs has consistently acknowledged and referred to Ms. Burley as the Chairperson of the Tribe. See Appellee's Exhibit 1 (letter dated April 26, 2003 from Dale Risling, Sr., Superintendent, Central California Agency, to Silvia Burley, Chairperson, California Valley Miwok Tribe); Appellee's Exhibit 6 (July 26, 2000 letter from Dale Risling, Sr., Superintendent, Central California Agency, to Kevin Gover, Assistant Secretary-Indian Affairs introducing Silvia Burley as the Chairperson of the Sheep Ranch Rancheria of Me-Wuk Indians of

concerns about whether Yakima could act as chairman in matters that related to or might relate in the future to the Tribe's ability to enter into gaming as an economic enterprise due to Yakima's alleged criminal history. As a result of that concern, I was frequently asked to draft documents for the tribal chairman and list Silvia Burley as the chair. She frequently signed such documents as the chairperson, although I do not recall whether the Bureau of Indian [sic] did acknowledged [sic] whether such actions would be recognized or not." Appellant's Exhibit 2004-03-15.

California, and to confirm that Ms. Burley is an elected official of federally recognized tribe); Appellee's Exhibit 6 at 2 (July 12, 2000 letter from Dale Risling, Sr., Superintendent, Central California Agency, to Silvia Burley, Chairperson, providing a recognition letter from the Bureau of Indian Affairs recognizing Silvia F. Burley as Chairperson of the Sheep Ranch Rancheria of Me-Wuk Indians); Appellee's Exhibit 15 (November 24, 2003 Letter from Dale Risling, Sr., Superintendent Central California Agency, certifying that the Bureau of Indian Affairs maintains a government to government relationship with the California Valley Band of Miwok Indians through the tribal Council chaired by Ms. Sylvia [sic] Burley).

During the same period, the BIA referred to Mr. Dixie as the Vice-Chairman of the Tribe. See Appellant's Exhibit 2000-02-04; Appellee's Exhibit 5 (identical copies of February 4, 2000 letter from Dale Risling, Sr., Superintendent, Central California Agency, referring to Yakima Dixie as Vice-Chairperson); Appellee's Exhibit 11 (March 7, 2000 letter from Dale Risling, Sr., Superintendent, Central California Agency, to Silvia Burley, **Chairperson**, providing a summary of the meeting the BIA's Central California Agency had with Yakima Dixie, **Vice-Chairperson** of the Sheep Ranch Rancheria)(emphasis added). During this time period, Mr. Dixie sometimes signed documents as a "Tribal Member," on the same signature page, directly below the signature line containing the typed and handwritten signature of Silvia Burley, Chairperson. Appellee's Exhibit 7 at 2(contract dated July 23, 1999 between BBC Entertainment and the Tribe); Appellee's Exhibit 8 (Contract, apparently dated May 8, 1999, between BBC Entertainment and the Tribe).

The signature of Yakima K. Dixie on these documents as a tribal member, along with the signature of Silvia Burley as Chairperson, contradicts Mr. Dixie's allegation that the resignation was a forgery and that he was unaware of the change in leadership. The existence of these signatures clearly supports the Tribe's position that Mr. Dixie resigned as Chairperson and the Council appointed Silvia Burley in his place as Chairperson. The reference by the BIA to Mr. Dixie as Vice-Chairperson supports the Tribe's position that an actual election had occurred and that the BIA accepted the results of that election -- Silvia Burley's election as Chairperson; Yakima Dixie's election as Vice-Chairperson.

Though the record contains several references, subsequent to the May 8, 1999 election, to Yakima K. Dixie as the Vice-Chairperson of the California Valley Miwok Tribe, Mr. Dixie does not challenge these references. Mr. Dixie's failure to challenge or otherwise contradict the references to him as Vice-Chairperson will be considered a waiver of this issue by Mr. Dixie and as such, lends further support to the Tribe's position that an election had taken place that not only elected the Chairperson of the Tribe but also its Vice-Chairman.¹⁵

Conclusion

Based on the evidence submitted to this Tribunal by the parties, we find that the record fails to support the allegation of Yakima K. Dixie that

¹⁵ There is some indication in the record that the Tribal Council took action to remove Yakima K. Dixie from his elected position as Vice-Chairperson of the Tribe. Appellant's Exhibit 2003-12-17 (Tribal Council Resolution restricting Yakima K. Dixie's participation in Tribal Council meetings because of his extensive violent criminal record and threats against Council members). However, that issue is not before us at this time and will not be addressed.

Sylvia Burley is not a member of the California Valley Miwok Tribe. We find that the record fails to support the allegation that Yakima Dixie, rather than Silvia Burley, is the rightful Chairperson of the California Valley Miwok Tribe. We find that the evidence instead supports the Tribe's position that Mr. Dixie fully participated in a Special Meeting he called on April 20, 1999 wherein Mr. Dixie resigned from the office of Chairperson, the Tribal Council accepted his resignation on that date and appointed Silvia Burley as the Chairperson of the California Valley Miwok Tribe. The evidence further shows that the Tribe held a duly noticed election in which Yakima K. Dixie participated, and which was called and held by the California Valley Miwok Tribe on May 8, 1999. We find that Yakima K. Dixie was elected to the office of Vice-Chairperson on May 8, 1999, in the same election where Silvia Burley was elected Chairperson of the Tribe and Rashel Reznor was elected Secretary/Treasurer.

We hold that as a matter of law, Mr. Yakima K. Dixie was afforded due process and an opportunity to be heard by the California Valley Miwok Tribe first, when the Tribe provided Mr. Dixie a thirty day appeal period (February 9, 2000 through March 10, 2000) to bring a claim in this matter before the tribe and second, when the Tribe passed a resolution and provided this forum to hear Mr. Dixie's claims. This decision is final for the Court.

Dated this 29th day of April, 2005

By: 

Troy M. Woodward
Administrative Hearing Officer