



## United States Department of the Interior

**BUREAU OF INDIAN AFFAIRS**  
Northern California Agency  
1900 Churn Creek Road, Suite 300  
Redding, California 96002-0292



IN REPLY REFER TO:

Tribal Operations

JUN 19 2009

Darren Rose, Vice Chairman  
Alturas Rancheria  
4809 Kimberly Farms Drive  
Anderson, CA 96007

Dear Mr. Rose:

Thank you for your enclosed facsimile, submitted to this Agency June 18, 2009, at approximately 5:15 pm.

The Agency's letter dated June 6, 2009, is "Based on all the documents submitted and meetings held with Mr. Del Rosa, Mr. Rose, and other interested parties concerning this internal dispute..." As stipulated in this Agency's June 6, 2009, letter, all Agency business conducted with the Alturas Rancheria will be handled on a case-by-case basis with this additional stipulation:

*The Agency will now require a resolution passed by the Alturas Rancheria General Council for any request requiring Agency action. Each request will be reviewed by this Agency to ensure all seven (7) members of the Alturas Rancheria have been notified and provided the opportunity to attend and to vote on the said request. As stated in the Alturas Rancheria Constitution, resolutions passed by the General Council require a vote of 51 percent of those eligible to vote; therefore, it appears that a vote will require four (4) of the seven (7) members of the Alturas Rancheria to vote before any action can be taken by this Agency, until further notice, or sufficient evidence is submitted showing changes in the Alturas Rancheria enrollment.*

In addition after a review of the documents submitted to the Agency by all parties, "It appears on February 28, 2009, at the Alturas Rancheria General Council Meeting, the Alturas Rancheria, in accordance with Alturas Rancheria Enrollment Ordinance, adopted two new members into the Tribe, by a unanimous vote of the General Council. Further, it appears the General Council unanimously voted to waive the six (6) month waiting period..."<sup>1</sup>

As stated in this Agency's June 6, 2009, letter "The Bureau of Indian Affairs, Northern California Agency, has no authority to question the Alturas Rancheria General Council's unanimous decision to adopt Don Packingham and Calvin Phelps and to waive the six (6) month waiting period. The Agency can only review the documents submitted to determine the requirements of conducting business through its government-to-government relationship with the Alturas Rancheria. The United States 8<sup>th</sup> Circuit

<sup>1</sup> Bureau of Indian Affairs, Northern California Agency, June 6, 2009, Letter to Phillip Del Rosa, Chairman, Alturas Rancheria, and Darrea Rose, Vice Chairman, Alturas Rancheria

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Court of Appeals, in its denial to hear *Smith v. Babbitt*, 100 F.3d 556, 559 (8<sup>th</sup> Cir. 1996), *denied*, 522 U.S. 807 (1997), stated, in reference to *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 55 (1978): a tribe's ability to determine its membership "lies at the very core of tribal self-determination; indeed, there is perhaps no greater intrusion upon tribal sovereignty than for a federal court to interfere with a sovereign tribe's membership determinations."

In reviewing all the documents submitted to this Agency concerning the adoption of Don Packingham and Calvin Phelps, it appears *on February 28, 2009, at the Alturas Rancheria General Council Meeting, the Alturas Rancheria, in accordance with Alturas Rancheria Enrollment Ordinance, adopted two new members into the Tribe, by a unanimous vote of the General Council.* Further, it appears the General Council unanimously voted to waive the six (6) month waiting period. Until documents are submitted refuting Mr. Packingham and Mr. Phelps adoption or documents showing the disenrollment process has been followed (i.e. due process has been met) and is compatible with the Tribe's governing documents, are received, the Agency cannot question the Tribe's unanimous decision to adopt Mr. Packingham and Mr. Phelps as members.

Consequently, until directed otherwise, this Agency reaffirms its June 6, 2009, letter and "will now require a resolution passed by the Alturas Rancheria General Council for this Agency to act on any tribal request. Therefore, the Agency must turn to the tribe's governing documents to determine what constitutes a quorum of the General Council...*Therefore, in reviewing the resolutions of the General Council, the Agency will certify the quorum consists of a minimum of four (4) out of the seven (7) enrolled members of the Alturas Rancheria, to include the members adopted February 28, 2009, that all members were notified and provided the opportunity to attend and to vote, and all other requirements have been met, as spelled out in the Tribe's constitution.*"<sup>2</sup>

Sincerely,

**/s/ Virgil Akins**

Dr. Virgil Akins  
Superintendent

Enclosure

cc: See Attached List

<sup>2</sup> Bureau of Indian Affairs, Northern California Agency, June 6, 2009, Letter to Phillip Del Rosa, Chairman, Alturas Rancheria, and Darren Rose, Vice Chairman, Alturas Rancheria