



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



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Central California Agency
650 Capitol Mall, Suite 8-500
Sacramento, CA 95814

IN REPLY REFER TO

MAR 26 2004

Certified Mail No.7003 1680 0002 3896 9127
Return Receipt Requested

Ms. Sylvia Burley, Chairperson
California Valley Miwok Tribe
10601 Escondido Pl.
Stockton, California 95121

Dear Ms. Burley:

This letter acknowledges our February 11, 2004, receipt of a document represented to be the tribal constitution for the California Valley Miwok Tribe. It is our understanding that the Tribe has shared this tribal constitution with the Bureau of Indian Affairs (BIA) in an attempt to demonstrate that it is an "organized" tribe. Regretfully, we must disagree that such a demonstration is made.

Although the Tribe has not requested any assistance or comments from this office in response to your document, we provide the following observations for your consideration. As you know, the BIA's Central California Agency (CCA) has a responsibility to develop and maintain a government-to-government relationship with each of the 54 federally recognized tribes situated within CCA's jurisdiction. This relationship, includes among other things, the responsibility of working with the person or persons from each tribe who either are rightfully elected to a position of authority within the tribe or who otherwise occupy a position of authority within an unorganized tribe. To that end, the BIA has recognized you, as a person of authority within the California Valley Miwok Tribe. However, the BIA does not yet view your tribe to be an "organized" Indian Tribe and this view is borne out not only by the document that you have presented as the tribe's constitution but additionally, by our relations over the last several decades with members of the tribal community in and around Sheep Ranch Rancheria. (Let me emphasize that being an organized vis-à-vis unorganized tribe ordinarily will not impact either your tribe's day-to-day operations but could impact your tribe's continued eligibility for certain grants and services from the United States).

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. For example, we have not been made aware of any efforts to reach out to the Indian communities in and around the Sheep Ranch Rancheria, or to persons who have maintained any cultural contact with Sheep Ranch. To our knowledge, the only persons of Indian descent involved in the tribe's organization efforts, were you and your two daughters. We are unaware of any efforts to involve Yakima Dixie or Mr. Dixie's brother Melvin Dixie or any offspring of Merle Butler, Tillie Jeff or Lenny Jeff, all persons who are known to have resided at Sheep Ranch Rancheria at various times in the past 75 years and persons who have inherited an interest in the Rancheria. We are also not aware of any efforts to involve Indians (such as Lena Shelton) and their descendents who once lived adjacent to Sheep Ranch Rancheria or to investigate the possibility of involving a neighboring group. We are aware that the Indians of Sheep Ranch Rancheria were in fact, part of a larger group of Indians residing less than 20 miles away at West Point. Indeed, at your February 23, 2004 deposition, you yourself testified you were at one time of the West Point Indian Community; we understand as well, that you had siblings residing there for many years. The BIA remains available, upon your request, to assist you in identifying the members of the local Indian community, to assist in disseminating both individual and public notices, facilitating meetings, and otherwise providing logistical support.

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. The participation of the greater tribal community is essential to this effort. We are very concerned about the designated "base roll" for the tribe as identified in the submitted tribal constitution; this "base roll" contains only the names of five living members all but one whom were born between 1960 and 1996, and therefore would imply that there was never any tribal community in and around Sheep Ranch Rancheria until you met with Yakima Dixie, asking for his assistance to admit you as a member. The base roll, thus, suggests 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.

Base membership rolls are used to establish a tribe's cohesiveness and community at a point in time in history. They would normally contain the names of individuals listed on historical documents which confirm Native American tribal relationships in a specific geographical region. Since tribes and bands themselves did not usually possess such historical documents, therefore, tribal base rolls have included persons listed on old census rolls, Indian Agency rolls, voters rolls, etc. Our experience with your sister Miwok tribes (e.g., Shingle Springs Rancheria, Tuolumne Rancheria, Ione Band, etcetera) leads us to believe that Miwok tradition favors base rolls identifying persons found in Miwok tribes stretching from Amador County in the North to Calaveras and Mariposa Counties in the South. The Base and Enrollment criteria for these tribes vary; for example, Amador County tribes use the 1915 Miwok Indian Census of Amador County, El Dorado County tribes utilize the 1916 Indian Census Roll, tribe(s) in Tuolumne County utilize a 1934 IRA voters' list. The base roll typically constitutes the

cornerstone of tribal membership and based upon our experience, has been the basic starting point and foundation for each of the Miwok tribes in our jurisdiction, i.e., the Ione Band of Miwok Indians, Shingle Springs Rancheria and Tuolumne Rancheria.

We must continue to emphasize the importance of the participation of a greater tribal community in determining membership criteria. We reiterate our continued availability and willingness to assist you in this process and that via PL 93-638 contracts intended to facilitate the organization or reorganization of the tribal community, we have already extended assistance. We urge you to continue the work that you have begun towards formal organization of the California Valley Miwok Tribe.

If we can assist your efforts in any way, please contact Raymond Fry, Manager, Tribal Services, at (916) 930-3794.

Should you wish to appeal any portion of this letter, you are advised that you may do so by complying with the following:

This decision may be appealed to the Regional Director, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825. In accordance with the regulations in 25 CFR Part 2 (copy enclosed). Your notice of appeal must be filed in this office within 30 days of the date you receive this decision. The date of filing or notice is the date it is post marked or the date it is personally delivered to this office. Your notice of appeal must include your name, address and telephone number. It should clearly identify the decision to be appealed. If possible attach a copy of the decision. The notice of and the envelope which it is mailed, should be clearly labeled "NOTICE OF APPEAL." The notice of appeal must list the names and addresses of the interested parties known to you and certify that you have sent them copies of the notice.

You must also send a copy of your notice to the Regional Director, at the address given above.

If you are not represented by an attorney, you may request assistance from this office in the preparation of your appeal.

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If no timely appeal is filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

Sincerely,

Dale Risling, Sr.

Dale Risling, Sr.
Superintendent

CC: Pacific Regional Director
Debra Luther, Assistant US Attorney
Myra Spicker, Deputy Solicitor
Yakima Dixie-Tribal Member