

ATTACHMENT 3



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 Rising, Sr.
Superintendent

Enclosure

cc: Rebecca Cuthill.(without enclosure)