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CALIFORNIA VALLEY MIWOK TRIBE

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2003 JAN 31 10:35 AM
FBI - STOCKTON

January 31, 2003

Aurene Martin, Acting Assistant Secretary
US Dept. of the Interior
Office of the Secretary – MS 320-SIB
Washington, D.C. 20240

Re: BCCO 02788

Dear Ms. Martin, Acting Assistant Secretary:

This letter is in response to your letter received at our Tribal office, dated Jan 08, 2003. We appreciate your response and understand that there have been several changes with regards to the leadership within the Bureau of Indian Affairs. Unfortunately, with regards to the treatment of California Valley Miwok Tribe by the Bureau of Indian Affairs, there seems to be no change.

At the time we wrote the letters to Secretary Norton regarding Mr. Wayne Smith's comments, Mr. Phillip Bersinger who had suggested that he could, for a fee, use his close personal and business relationship with Mr. Smith to help the Tribe obtain certain approvals from the BIA. (Attachment 1) We understand that the Department of the Interior Inspector General's Office in investigating this matter substantiated Mr. Bersinger's proposal to the Tribe. We understood that a report was to be issued that addressed this issue, but no report has been issued to date. (The Tribe asks that you pass on its request pursuant to the Freedom of Information Act for all information the Department of the Interior has regarding the Wayne Smith and Phillip Bersinger matter, including any information obtained and/or generated by the DOI, Office of the Inspector General).

The Tribe was concerned that because it had turned down Mr. Bersinger's proposal and we believed that the Tribe would then be penalized by Mr. Smith for not hiring his friend Mr. Bersinger. This anxiety was particularly manifested with the continued refusal of the Bureau of Indian Affairs to not review and approve the Tribe's Constitution and/or restoration issue. We therefore wrote Secretary Norton to request her assistance, especially when Mr. Smith countered in the press that the California Valley Miwok Tribe was not federally recognized which was an act of unilateral termination.

We understand that Mr. Smith is no longer an employee of the Department of the Interior (DOI) although there seems to be some inconsistency between your letter and the letter forwarded by Mr. J. Michael Trujillo as to the termination date of his employment. (Attachment 2) However, the issue involving the BIA's approval of the Tribe's Constitution has not been clarified.

On January 16, 2002, the Tribe met with former Assistant Secretary – Indian Affairs, Mr. Neil McCaleb, in San Diego, California. (Attachment 3) At this meeting, the Tribe presented Mr. McCaleb with a copy of its Constitution, in which Mr. McCaleb stated that he would be back in Washington D.C. in a couple of weeks and would personally hand deliver the constitution to Mr. Scott Keep, for review, and if Mr. Keep says it (the Tribal Constitution) is okay, he (Mr. McCaleb) wouldn't have a problem approving it.

Mr. McCaleb was also informed that the constitution had been forwarded to the BIA Central California Agency on March 6, 2000. (See Attachment 4 "Tribal Constitution and Letter to BIA presenting Tribal Constitution and Letter from BIA acknowledging receipt of Tribal Constitution). Mr. McCaleb promised that he would contact the Tribe around February to update them on the status of the Tribal Constitution. The Tribe wrote a follow up letter (in regards to the Jan. 16, 2002 meeting) to Mr. McCaleb dated February 4, 2002. The letter read, " As stated in our meeting, The California Valley Miwok Tribe (Tribe) is seeking the Bureau of Indian Affairs (BIA) approval or official acknowledgement of its Constitution".

Mr. McCaleb had promised the Tribe an expedited review of its Constitution. To date, the Tribe has not received any response from Mr. McCaleb's office regarding the review of approval of the Tribe's Constitution. The Tribe has not received any official response from the Sacramento Regional Office or the Central California Agency Office on its Constitution. However, the Central California Agency has informed the Tribe that it has been designated as an "unorganized" Tribe because its Constitution has not been approved. Not only is this terminology offensive to the Tribe and its membership, it has also resulted in the Tribe suffering numerous delays in obtaining funding and called into question the California Valley Miwok Tribe's ability to obtain new land in trust, and qualify for the same programs as other federally recognized Tribes. Just recently, the Tribe had to almost threaten litigation just to get its 638 funding approved. (Attachment 5)

This situation regarding the California Valley Miwok Constitution has festered over two years. When our Tribal Attorney met with the Superintendent at the Central California Agency, Mr. Ray Fry and his staff, he was told that the Central California Agency was waiting on a legal opinion from the Office of the Solicitor as to whether a Secretarial Election would be required prior to the approval of the Tribe's Constitution. Although our Tribal Attorney (whom being a former employee of the DOI Office of the Solicitor, Division of Indian Affairs) has stated, there is no way it should take two years for the Office of the Solicitor to draft a legal response to a questioned raised by its clients. The Tribe has rejected organization pursuant to the Indian Reorganization Act. (Attachment 6)

Based on this fact, its Constitution should be immediately approved and the "unorganized" status removed from its records.

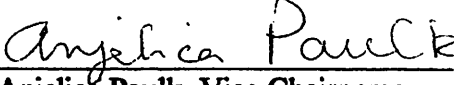
The Tribe would like to get a formal decision in writing from the BIA on its Constitution and have the issue of its official name change officially put to rest once and for all. We believe that you as the Acting Assistant Secretary – Indian Affairs can move to have this question resolved in an expedited manner and we request that you do so under the authority granted to you under Section 25 of the United States Code.

Although we do not fly, we are prepared to drive back to Washington, D.C. again, to meet with you, if that will help bring this matter to a closure. As with the termination, restoration and landless issue, we are prepared to seek a legal resolution of this matter if necessary.

We hope that legal action will not be necessary for such a ministerial action. If you have any questions or require any additional information, you may contact our Tribal Office at (209) 931-4567 or you can contact the Tribal Attorney, Phillip Thompson in the Washington Area at (301) 248-6480.

Thank You,


Silvia Burley, Chairperson


Anjelica Paulk, Vice Chairperson


Rashel Reznor, Secretary-Treasurer

cc: Philip Thompson, Esq.
✓ Mr. Bill Benjamin, Acting PRO