

1 BE IT REMEMBERED that pursuant to Notice, and
2 on Monday, the 23rd day of February, 2004, commencing at
3 the hour of 10:17 o'clock in the morning thereof, at the
4 offices of the United States Attorney, 501 I Street,
5 Suite 10-100, Sacramento, California, before me, Doris
6 M. Bailey, a Certified Shorthand Reporter and Registered
7 Professional Reporter in and for the State of California
8 there personally appeared

9 SILVIA FAWN BURLEY,

10 Called as a witness by the Defendants, who,
11 previously having been duly sworn, was thereupon
12 examined and interrogated as hereinafter set forth.

13 --oOo--

14 GEORGE L. STEELE, ESQ., of the K&R LAW GROUP,
15 350 South Grand Avenue, 21st Floor, 21st Floor, Los
16 Angeles, California, appeared as co-counsel on behalf of
17 the Plaintiff, CALIFORNIA VALLEY MIWOK TRIBE, formerly
18 SHEEP RANCH OF ME-WUK INDIANS OF CALIFORNIA.

19 PHILLIP E. THOMPSON, ESQ., of the LAW OFFICE OF
20 PHILLIP E. THOMPSON, 9450 Pennsylvania Avenue, Suite 4,
21 Upper Marlboro, Maryland, appeared as co-counsel on
22 behalf of the Plaintiff, CALIFORNIA VALLEY MIWOK TRIBE,
23 formerly SHEEP RANCH OF ME-WUK INDIANS OF CALIFORNIA.

24 DEBORA G. LUTHER, ESQ., of the OFFICE OF THE
25 UNITED STATES ATTORNEY, 501 I Street, Suite 10-100,

1 Sacramento, California, appeared as counsel on behalf of
2 the Defendants, UNITED STATES OF AMERICA; UNITED STATES
3 DEPARTMENT OF THE INTERIOR; GALE NORTON, SECRETARY OF
4 INTERIOR; and AURENE MARTIN, ACTING ASSISTANT SECRETARY
5 OF THE INTERIOR FOR INDIAN AFFAIRS.

6 DEPOSITION OF

7 SILVIA FAWN BURLEY, called as a witness by the
8 Defendants, who, having been previously sworn by the
9 Certified Shorthand Reporter to tell the truth, the
10 whole truth and nothing but the truth, testified as
11 follows:

12 THE WITNESS: Yes, I do.

13 --oOo--

14 EXAMINATION

15 BY MS. DEBORA G. LUTHER, ESQ., Counsel on behalf of the
16 UNITED STATES OF AMERICA; UNITED STATES DEPARTMENT OF
17 THE INTERIOR; GALE NORTON, SECRETARY OF INTERIOR; and
18 AURENE MARTIN, ACTING ASSISTANT SECRETARY OF THE
19 INTERIOR FOR INDIAN AFFAIRS:

20 Q Would you state your full name for the record?

21 A Silvia Fawn Burley.

22 Q And are you married at the present time?

23 A Yes.

24 Q And is Burley your married name --

25 A Yes.

1 Q -- or your maiden name?

2 A It's my maiden name, I kept it. The bureau
3 kept messing it up, and if I put a different name they
4 said I must not be on the list so I'm not recognized.
5 So I stay with my maiden name.

6 Q Have you ever been deposed before?

7 A Not anything like this. It was in an accident
8 actually when I became a chairperson, and me and my
9 daughter were both involved in an accident, we both sat
10 in. So I've never been deposed like this and I'm not --

11 Q You observed a deposition, is that what you're
12 saying?

13 A I'm not, I'm not really, I don't know the
14 tribal lingo, the court lingo, so I don't really know
15 how that process goes.

16 Q Okay. You've never been in a setting like --

17 A No.

18 Q -- we're in today?

19 A No, except for when we had the bureau here and
20 I sat on that side.

21 Q Okay. Let me start then by reviewing some of
22 the procedures or protocols of depositions. You
23 probably talked about them with your attorney, but it
24 never hurts to get a little refresher before we jump
25 into the deposition.

1 As you know from having sat in on the
2 deposition that we did a couple of weeks ago, it
3 consists primarily of attorneys asking the witness
4 questions.

5 A Yes.

6 Q And it's the device that the courts use to
7 allow both sides to find out what information they feel
8 they need to know about the case so that by the time the
9 case is ready to go to trial hopefully both sides pretty
10 much know what the other side's position is, what facts
11 they are relying upon, and so forth.

12 Now, I'm going to be asking you questions, and
13 it's important that you listen to them carefully so that
14 you understand what it is that I'm asking you.

15 Part of that is making sure that you let me get
16 the entire question out on the record before you start
17 to answer it, even though you've, you know what it is
18 and it's halfway out of my mouth. For her, for the
19 court reporter's sanity and for the sake of a clear
20 record, it's real important to make sure that I get my
21 entire question out before you start to answer.

22 By the same token, if, after you've listened to
23 the question, you don't understand it or maybe you just
24 spaced out in the middle of it, I mean that happens,
25 just tell me, I'll be happy to rephrase the question or

1 have the court reporter repeat the question.

2 It is important that you answer the question
3 with a verbal response. Shaking your head back and
4 forth or up and down like we typically do in
5 face-to-face conversation doesn't translate when the
6 transcript is typed up, it needs to be a verbal yes or
7 no. Similarly, uh-huh, huh-unh, those types of
8 responses also don't translate well when the transcript
9 is typed up. Everybody does it, and if you happen to do
10 it I'm sure either your attorney or myself will prompt
11 you for a verbal response. But it's kind of good if you
12 keep that in the back of your head.

13 I'm entitled to your estimation, for example,
14 in terms of time, but I don't want you to speculate.
15 Sometimes it's a little difficult to know, well, what's,
16 what's the dividing line or what's the difference
17 between speculation and estimation? And I typically use
18 this as an example.

19 We can look around this room at the chairs that
20 we have in here and I can ask you what the height is.
21 Well you probably don't have a tape measure on you, but
22 you have some idea about heighth and you can look at the
23 chairs here and you can estimate the chair is about
24 three feet high.

25 If, on the other hand, I ask you how high my

1 dining room chairs are, you've never been in my home,
2 you would have no basis for even estimating how high
3 those chairs would be, there would be no foundation.
4 And that's basically the difference between speculation
5 and estimation is whether you have a foundation for
6 making the estimate. Okay?

7 A Yes.

8 Q If at any time you need to take a break, feel
9 free to speak up. I have a tendency to kind of get into
10 a deposition and I lose track of time and I keep on
11 going, so if you need a break, please say so. I'm sure
12 everyone else probably needs one at that point in time
13 as well.

14 So, on that note we'll proceed. Is there any
15 reason that you are aware of as to why your deposition
16 should not go forward today?

17 A No.

18 Q Okay. Can you tell me where you were born?

19 A Calaveras County.

20 Q Okay. What city?

21 A San Andreas.

22 Q And what is your date of birth, please?

23 A 07/15/1960.

24 Q And where did you live, say, for the first ten
25 years of your life?

1 A Is this a personal question or is this to be
2 with membership?

3 Q No, the question is directed to you, where did
4 you grow up?

5 A Oh, personal?

6 MR. STEELE: Objection, relevance, I guess, is
7 what she's questioning here.

8 THE WITNESS: I don't understand what you mean.

9 MS. LUTHER: Q. Well, where did you live for
10 the first ten years of your life?

11 A Calaveras County.

12 Q Okay. Where in Calaveras?

13 A You want one specific place for the first ten
14 years of my life?

15 Q Sure.

16 A Arnold.

17 Q I'm sorry?

18 A The city of Arnold, A-R-N-O-L-D.

19 Q Arnold. And at some point did you leave
20 Arnold?

21 MR. STEELE: Objection, vague.

22 THE WITNESS: Yes.

23 MS. LUTHER: Q. Okay. And when was that?

24 A When I was eleven.

25 Q Where did you move to at that point?

1 A San Andreas.

2 Q And how long did you live in San Andreas?

3 A Two years.

4 Q Okay. And where did you move to after San
5 Andreas?

6 A Wilseyville, W-I-L-S-E-Y-V-I-L-L-E.

7 Q Is that also --

8 A Calaveras County.

9 Q I was just going to ask you that.

10 And how long did you live in Wilseyville?

11 A About three to four years, I'm not sure.

12 Q Okay. And where did you move after
13 Wilseyville?

14 A I can't dig it out right now, San Andreas, I
15 guess.

16 Q Well, take a few minutes if you need to to try
17 to remember.

18 A Let's see.

19 MR. STEELE: If you recall? If you don't
20 recall, you don't recall.

21 THE WITNESS: I don't recall at this time.

22 MS. LUTHER: Q. Okay. What is the next place
23 you remember living in after Wilseyville?

24 MR. STEELE: I'm going to propose a running
25 relevance objection to this line of questioning.

1 THE WITNESS: San Andreas, it would be around
2 1979.

3 MS. LUTHER: Q. I'm sorry, did you say '79?

4 A '79. My daughter was born in San Andreas.

5 Q And how long did you stay in San Andreas after
6 you moved there in 1979?

7 A Let's see, up until about 1987, I guess,
8 estimate.

9 Q Okay. And where did you move to around 1987?

10 A Wilseyville.

11 Q Back to Wilseyville?

12 A Yeah.

13 Q Okay. And how long --

14 A It's always been Calaveras.

15 Q And how long did you remain in Wilseyville the
16 second time?

17 A Till I moved to Washington to go to school up
18 until 1999, I think it is, '98, '99, I'm not sure.

19 Q Okay. And when you say Washington, do you mean
20 Washington state --

21 A Yes.

22 Q -- or Washington, D.C.?

23 A State.

24 Q Okay. And where were you attending school up
25 in Washington state?

1 A Evergreen State College out of my own pocket.

2 Q And trying to, I know I've heard of Evergreen
3 State College, but I can't remember what town.

4 A Olympia.

5 Q Olympia, thank you. Again, let me get the
6 entire question out even though you know where I'm going
7 with it before you answer. Okay?

8 A Yes.

9 Q Did your whole family move with you up to
10 Olympia when you were in school?

11 A Myself, my two daughters, and my granddaughter.

12 Q I'm sorry, did you say son?

13 A Myself.

14 Q Yourself, I thought I heard son. And how long
15 did you live in Olympia then?

16 A Well, let's see. We stayed at the Salvation
17 Army for the first two months because we had no money to
18 get a house. It's kind of hard to remember right now.

19 I've been up to Olympia twice because we didn't
20 have any money, my husband had to keep sending us money
21 for me to go to school, so I had to come back to
22 Wilseyville for a few months, and then I went back out
23 to finish my bachelor's, so I don't know. I just know I
24 moved back to Arnold in June of 1999.

25 Q Is that when you graduated from Evergreen?

1 A I did a --

2 Q No, wait a second. Wait a second. You said
3 '89, that was when you started college, right?

4 A No, this is my second college. I went to DQ
5 from Wilseyville, and after I graduated with my AA I got
6 my Bachelors degree in Evergreen State.

7 Q Okay. I'm getting confused. In around 1989 or
8 1990, that's when you left to go to Evergreen or not?

9 A In 1990 I did.

10 Q Okay.

11 A You just said did I live in Calaveras County, I
12 didn't move out of the county to go to DQ in Davis.

13 Q Okay. How long were you up in Olympia?

14 A The second time it would --

15 Q Well wait a minute, I think we're on the first
16 time.

17 A I said I don't remember how long the first time
18 because I had to move back.

19 Q All right.

20 A The second time it had to have been December to
21 June of '99, I mean December, '98 to June, '99.

22 Q Okay. When you came back to California in the,
23 the first, after the first time you went to Evergreen,
24 where did you, where were you living when you came back
25 to California?

1 A Wilseyville.

2 Q At any time in the 1990s did you live anywhere
3 else in Calaveras County other than Wilseyville?

4 A No -- oh, you said in the 1990s?

5 Q Right.

6 A Arnold.

7 Q Okay. Anyplace other than Arnold or
8 Wilseyville --

9 A Not in Calaveras County.

10 Q -- during the 1990s?

11 A No.

12 Q And then at some point in time, as I understand
13 it, you moved out of Calaveras County completely, is
14 that correct?

15 MR. STEELE: Objection, assumes facts not in
16 evidence.

17 THE WITNESS: Dual residency.

18 MS. LUTHER: Q. I'm sorry?

19 A Dual residency.

20 Q And what do you mean by that?

21 A I still had mail coming down to Calaveras at my
22 Wilseyville address while I still attended college at
23 Olympia.

24 Q Okay. I guess what I was trying to ask you
25 was, apart from the times that you were up in Washington

1 state, when did you leave Calaveras County and no longer
2 live in Calaveras County?

3 A In nineteen, October or November of 1999 I
4 moved out of the county, Calaveras County.

5 Q Have you moved back to Calaveras County at any
6 time since November, 1999?

7 A No.

8 MR. STEELE: Objection, I think it was
9 November, October, November rather than September. Your
10 question --

11 MS. LUTHER: Right, I heard her say --

12 MR. STEELE: -- referenced September.

13 MS. LUTHER: No.

14 MR. STEELE: I think your testimony was October
15 and November.

16 (Thereupon there was a discussion off the
17 record.)

18 MS. LUTHER: Q. Okay. Now, during the time
19 that you were growing up, your childhood, let's say, did
20 you associate or affiliate with any Indian community
21 during your childhood?

22 A Yes.

23 MR. STEELE: Objection, relevance.

24 MS. LUTHER: Q. And what community or group
25 was that?

1 A What do you mean? Okay, I didn't understand
2 the question, can you repeat that?

3 Q Sure. When you were growing up -- my original
4 question was, when you were growing up, did you
5 affiliate or associate with an Indian community?

6 MR. STEELE: Objection, vague.

7 THE WITNESS: Family.

8 MS. LUTHER: Q. And what do you mean by
9 family?

10 A I'd like to speak to my attorney because I
11 don't quite understand this.

12 MR. STEELE: Okay. Let the record reflect that
13 counsel and witness are taking a break.

14 (Thereupon there was a discussion off the
15 record.)

16 MS. LUTHER: Q. I believe we had a pending
17 question about what did you mean by family?

18 A Can you repeat that?

19 (Thereupon the Reporter read back as
20 requested.)

21 THE WITNESS: Yeah, as in family. When I was
22 growing up I went to Big Times, which is like pow wows,
23 I guess they call it, with my grandparents. So my
24 family.

25 What I consider family is we've got relatives

1 from my grandma's side and my grandpa's side from
2 Jackson Rancheria, from Tuolumne Rancheria, Chicken
3 Ranch Rancheria, Sheep Ranch Rancheria, California Miwok
4 Indians.

5 So when I say family growing up is my culture
6 and we don't have just one little place, it's all of
7 Miwok which is up in the Motherlode area and wherever
8 else they might be.

9 MS. LUTHER: Q. Okay. Who were your parents?

10 A Pardon me?

11 Q Who were your parents, what are their names?

12 A Mildred Burley.

13 Q I'm sorry, Mildred?

14 A Mildred Jeff Burley.

15 Q And your father?

16 A William David Burley.

17 Q Are they both Indian?

18 A My mother is full blood Miwok.

19 Q And your father is non-Indian?

20 A My father is Shawnee and German.

21 Q Is your father a member of one of the Shawnee
22 band?

23 A I don't know, my father got killed when I was
24 four.

25 Q I'm sorry. So when you speak of the Big Times

1 you're talking about your mother's family, is that
2 correct?

3 A Yes.

4 Q And the family that you associated with the
5 Indian community is your mother's family then, correct?

6 A Yes, Miwoks.

7 Q Okay. Now, did, is your mother a member of one
8 of these Miwok tribes that you identified?

9 A You'd have to ask her.

10 Q Are you aware?

11 MR. STEELE: Objection, asked and answered.

12 THE WITNESS: I can't answer for her, I don't
13 know.

14 MS. LUTHER: Q. Okay. She --

15 A All I know is what I do.

16 Q She's never told you she's a member of one or
17 the other?

18 MR. STEELE: Objection, asked and answered.

19 THE WITNESS: Never been brought up.

20 MS. LUTHER: Q. So even growing -- I guess I'm
21 having trouble with this. Even growing up you never
22 asked your mother, you know, which --

23 A Do you ask your mother if she's --

24 MR. STEELE: Objection, harassing her.

25 MS. LUTHER: This is my deposition, I get to

1 ask you questions.

2 MR. STEELE: You can't harass the witness.
3 She's said she doesn't know. You've asked her three
4 times, she said she doesn't know.

5 MS. LUTHER: I'm asking a different question.

6 Q You never asked your mother as a child or any
7 point in your life which Miwok tribe you were affiliated
8 with?

9 A Growing up I had epilepsy, I was in the
10 hospital most of the time. I never had anything in my
11 mom asking her about what kind of Indian. She was
12 Miwok, and going to Big Times being in a Miwok culture
13 it never dawned on me.

14 Q So the answer is no then, correct?

15 A I don't know.

16 MR. STEELE: Objection, mischaracterizes the
17 answer. She's said repeatedly she was a Miwok, the
18 Rancheria thing doesn't really compute in the Miwok
19 culture.

20 MS. LUTHER: Q. There are also, counsel,
21 fifteen different bands of Sioux.

22 MR. STEELE: Well, you know --

23 MS. LUTHER: And all I'm trying to figure out
24 is whether she feels or that there's a family connection
25 with one particular band, or whether her mother has ever

1 indicated there was an affiliation with one band of
2 Miwok.

3 Q Did you understand that to be my question?

4 MR. STEELE: Objection, don't answer. If
5 there's a question pending, go ahead and make.

6 MS. LUTHER: I asked her if she understood that
7 that was the intent of my question is to find out if she
8 maintained an affiliation with one particular band of
9 Miwok as a child.

10 MR. STEELE: Okay. Go ahead.

11 THE WITNESS: I said I don't know, you'd have
12 to ask my mother.

13 MS. LUTHER: Q. Have you ever lived at a
14 community called West Point in Calavares County?

15 A Yes.

16 Q And when have you lived at West Point?

17 A Well actually not lived there, I visited my
18 grandma there.

19 Q So I meant actually lived there as opposed to
20 visiting?

21 A No, mostly Wilseyville, but I would go stay at
22 my grandmother's, go back. I mean wherever, no matter
23 where in Calavares, if I had family there I could stay
24 there.

25 So when you were in my situation you went to

1 family and it didn't matter, they treated you just like
2 as if you did live there.

3 Q Okay. When you said my situation, what are you
4 referring to? Do you mean because you had epilepsy?
5 I'm not sure what you meant by my situation.

6 A My situation was when I grew up I had no dad so
7 that meant I had nobody to protect me; that meant that I
8 was abused by family members.

9 Q I'm sorry, nobody to, nobody to --

10 A To protect me.

11 Q To protect you?

12 A So I got kicked around to a lot of different
13 family members.

14 Q Did you spend time growing up then with your
15 grandparents, I mean actually living with your
16 grandparents?

17 A No, I went with all family members.

18 Q Okay. Which family members?

19 THE WITNESS: George, do we have to go into
20 this?

21 MR. STEELE: Yeah, I think we may be a little
22 afield here.

23 MS. LUTHER: No, this is part of finding out
24 what her Indian background is.

25 THE WITNESS: Do you know what it's like to be

1 sexually abused? I cannot go into this.

2 MR. STEELE: Let's take a break.

3 (Thereupon there was a brief recess.)

4 MS. LUTHER: I'm not going to ask you about
5 anything of that nature.

6 MR. STEELE: Let's take a break.

7 (Thereupon there was a brief recess.)

8 MS. LUTHER: Let's go on the record.

9 Q As I understand it, the Tuolumne tribe --
10 strike that.

11 Are you aware of a Calaveras band of Miwok
12 Indians?

13 A Yes.

14 Q Okay. And is that group somehow affiliated
15 with the Tuolumne tribe?

16 A Yes.

17 Q As far as --

18 A Tuolumne has sanctioned the group under the
19 Tuolumne Rancheria so that they can get benefits like
20 medical and like commodity foods, maybe some schooling.

21 Q Is the Calaveras band of Miwok Indians -- is
22 that the proper name, first of all, for the Calaveras
23 group?

24 MR. STEELE: Objection, calls for speculation.

25 MS. LUTHER: Q. As far as you know?

1 A Calaveras band of Miwok Indians.

2 Q Yeah. Are any of those members, as far as you
3 know, actually members of the Tuolumne tribe? Is it a
4 subsection of the Tuolumne tribe as far as you know?

5 MR. STEELE: Objection, calls for speculation.
6 Answer if you know.

7 THE WITNESS: I don't know if they're actual
8 members.

9 MS. LUTHER: Q. Okay. And I believe you said
10 that it's your understanding that the Tuolumne tribe has
11 sanctioned the California band of Miwok Indians so that
12 they get health benefits, is that correct?

13 MR. STEELE: Objection, foundation.

14 THE WITNESS: That's correct.

15 MS. LUTHER: Q. Any other benefits that you
16 know of besides health?

17 A Not that I know of.

18 MR. THOMPSON: Can I make one statement for the
19 record. You were saying, you said California band of
20 Miwoks.

21 MS. LUTHER: I meant to say Calaveras.

22 MR. THOMPSON: I just want to correct that.

23 MS. LUTHER: Q. Have you ever been a member of
24 any tribe other than Sheep Ranch Rancheria?

25 MR. STEELE: Objection, vague.

1 THE WITNESS: Recognized, non-recognized?

2 MS. LUTHER: Q. Recognized or unrecognized?

3 MR. STEELE: Objection, vague. If you could
4 rephrase that I think you'll get the answer you're
5 looking for.

6 THE WITNESS: Yeah, I don't understand.

7 MS. LUTHER: Q. Have you ever been a member of
8 the Tuolumne tribe?

9 A No.

10 Q Have you ever applied for membership with the
11 Tuolumne tribe?

12 A You're talking about the Tuolumne Rancheria to
13 actually be a member?

14 Q Correct.

15 A No.

16 Q Have you ever been a member of the California
17 band of Miwok Indian?

18 MR. THOMPSON: You said California again.

19 MS. LUTHER: Q. Did I?

20 A Yeah.

21 Q I meant Calaveras, I'm looking at Calaveras, I
22 apologize. Yes, I know you're a member of the
23 California Valley Miwok Tribe, from my understanding.

24 Have you ever been a member of the Calaveras
25 band of Miwok Indian?

1 A My mother could have put us down as her
2 children if she was under that, I don't know.

3 Q Have you yourself as an adult, at any point in
4 your adult life ever sought to be a member of the
5 Calaveras band of Miwok Indian?

6 A No. Can I go a little further on that?

7 MR. STEELE: No, just answer the question.

8 THE WITNESS: Okay.

9 MS. LUTHER: Q. And you also mentioned that
10 you had family members who belong to Jackson Rancheria,
11 correct?

12 A Yes.

13 Q Have you ever sought membership for yourself in
14 the Jackson Rancheria?

15 A Not by application.

16 Q Any other means?

17 A I've inquired just like Tuolumne, just like
18 Chicken Ranch, but it's just inquiring.

19 Q Okay. And what were you told?

20 A Go to BIA.

21 Q I'm sorry?

22 A Go to the bureau.

23 Q The tribe told you to go to the bureau to be a
24 member --

25 A Yes.

1 Q -- of their tribe?

2 A Yes.

3 Q Do you know what they meant by that? What was
4 the bureau supposed to do as far as you know?

5 MR. STEELE: Objection, calls for speculation.

6 THE WITNESS: I'd be assuming.

7 MS. LUTHER: Q. I'm sorry?

8 A I'd be assuming.

9 Q They didn't tell you what they expected the
10 Bureau of Indian Affairs to do for you when they told
11 you to go to the bureau?

12 A I think they just didn't want me knocking at
13 their door.

14 Q Okay. But you didn't ask them why they wanted
15 you to go to the Bureau of Indian Affairs?

16 A They said that you would have to go to the
17 Bureau of Indian Affairs, that's all they told me.

18 Q Okay. Jackson Rancheria told you that?

19 A Jackson Rancheria, Tuolumne, Chicken Ranch.

20 Q Any other tribes?

21 A Nobody else told me to go to the bureau.

22 Q I'm sorry?

23 A No one else told me to go to the bureau.

24 Q Roughly what time period was it that you were
25 making these inquiries?

1 A In the early eighties, about '83 I would
2 assume, I'd estimate, I guess.

3 Q Okay. At any time, say in the 1990s, did you
4 ever inquire into any of these federally recognized
5 tribes to become a member?

6 A In the 1990s Mr. Dixie was back at the Sheep
7 Ranch Rancheria and I went to him for three years before
8 actually going to the bureau with the paper that I was
9 accepted.

10 Q Does your mother live with you?

11 A Yes.

12 Q And by mother I'm referring to Mildred Burley.
13 Is that --

14 A Correct.

15 Q -- who you consider your mother?

16 A Yes.

17 Q Okay. I'm going to skip to a new topic and go
18 back to something we had started before.

19 You indicated that you got an associates degree
20 from DQ University?

21 A That's correct.

22 Q And what was your major?

23 A General.

24 Q General?

25 A (Witness nodded head.)

1 Q Okay. That is a yes?

2 A Yes.

3 Q And when you finished at Evergreen, what degree
4 did you graduate with?

5 A It was a bachelors of arts in tribal business
6 administration.

7 Q In tribal business administration?

8 A Yes.

9 Q They offer a degree in that? That's wonderful,
10 I didn't know that.

11 What year did you graduate from Evergreen?

12 A 2000.

13 Q Have you done any post graduate work at all?

14 A I haven't had time.

15 Q Now, when did you -- strike that.

16 Have you been employed at all during the last
17 twenty years?

18 A Yes.

19 MR. STEELE: Objection, vague.

20 MS. LUTHER: Q. Okay. Why don't we go back to
21 1985. Were you employed in 1985?

22 A '85, I don't recall at this time.

23 Q I think that was when you were living in San
24 Andreas?

25 A Yeah, I don't recall. I had a two-year-old

1 daughter at that time, I don't recall.

2 Q Did you have both of your daughters by then or
3 just one?

4 A Two.

5 Q Did you, have you been employed at anytime
6 since 1985 and your graduation from Evergreen?

7 A Yes.

8 Q Okay. When was your, when was the first job
9 after 1985 that you can recall holding?

10 A First job after 1985 would be at, that I can
11 recall would be at the San Joaquin Delta College in
12 xeroxing.

13 Q Is that in Stockton?

14 A Yep. Yes.

15 Q And what did you do there?

16 A Bound books, ran tests, made copies for a
17 college.

18 Q Was this in the library?

19 A No, it was in the xeroxing department.

20 Q Oh. And how long did you work at Delta
21 College?

22 A I estimate a year.

23 Q What year was that?

24 A I estimate around '87.

25 Q Okay. And what was your next job after that?

1 A I can't recall at this time, I'm too tired. I
2 don't know. A lot of my time has been in school. I had
3 to work crap jobs like McDonalds and stuff just to get
4 to school.

5 Q So you worked at McDonalds while you were at
6 school. Any other of those kind of jobs that you
7 recall?

8 A I worked at a gas station doing, running the
9 gas station, being the supervisor, propane, plus working
10 fast food at the same time, plus going to school.

11 Q Plus being a mother, correct?

12 A Plus being a mother.

13 Q Now, if I understand correctly, you were out of
14 school from 1990 until about 1998 when you went back to
15 Evergreen, is that correct?

16 A I --

17 MR. STEELE: Objection, mischaracterizes the
18 testimony.

19 THE WITNESS: I graduated from DQ in 1997. I
20 got recognized in '98, and then Slay Gordon put up a
21 moratorium so the tribe got no money. They said we
22 could go to school, but before going to school I went to
23 the bureau to find out what the tribe could actually do.
24 And they said because of the moratorium they couldn't do
25 nothing.

1 He said, you know, I don't think that you could
2 make, Doug Rawlins from the Indian Self-Determination
3 said, "You're not smart enough to go to school and so
4 maybe you ought to be a secretary here at the Bureau of
5 Indian Affairs."

6 And I said, "I wouldn't lower myself that small
7 because I've got more intelligence than that of just
8 being a secretary."

9 So I had \$107 in my pocket, and I got my two
10 daughters and my granddaughter and we got in our truck
11 and went to a Salvation Army for two months, and then
12 they finally gave us like \$2,000.

13 Q That was in '98 or thereabouts?

14 A Yeah, '98, '99, I guess.

15 Q I didn't realize that you had gone to DQ in
16 between the two times.

17 A Because you said living in Calaveras and so I
18 didn't say Davis because I still lived in Calaveras and
19 drove ninety miles one way every day to go to school.

20 Q That's a long, makes a long day. Now, when you
21 graduated from Evergreen, what was your first job after
22 graduating from Evergreen?

23 A After graduating from Evergreen?

24 Q Correct.

25 A In 1999, October, I got paid for being the

1 administrator of the Sheep Ranch Rancheria.

2 Q So you were given the position of
3 administrator, I'm sorry, in 1999?

4 A I wasn't given the position.

5 Q For lack of a better word I used given.

6 So you became the tribal administrator for the
7 California Valley Miwok Tribe in 1999?

8 A I was elected.

9 Q Okay. So in 1999 --

10 A May of 1999 we had an election with an unbiased
11 person there to count the votes, and I became elected
12 chairperson.

13 Q Is that the same thing as administrator?

14 A I was chairperson. And then the administrator
15 had to be part of the chairperson because we had so
16 small of a tribe that in order to get ourselves
17 organized the one with the credentials to do
18 administration was put forth in the job description, and
19 that was my job description.

20 Q So since May, 1999, has your employment been
21 entirely with the tribe, the California Valley Miwok
22 Tribe?

23 A Yes.

24 Q Now I want to go back to your years growing
25 up. While you were a minor, were you always living with

1 members of the Indian community?

2 MR. STEELE: Objection, relevance.

3 THE WITNESS: Yes.

4 MS. LUTHER: Q. And I guess more particularly
5 with, as far as you know, members of the Miwok
6 community, whether Jackson, Tuolumne, so forth?

7 A Yes.

8 Q Do you recall when you first met Yakima Davis,
9 Dixie, excuse me?

10 A When I first met him I was about four years
11 old when his mother, Merle Butler, and Yakima, Melvin,
12 and Richard came up to my grandmother's house in White
13 Pines, California, which is a mile out of Arnold.

14 Q And I'm sorry, you said Yakima came with his
15 brothers, with Melvin?

16 A With Melvin and Richard.

17 Q Have you ever met Tommy?

18 A Yes.

19 Q But he didn't come on that first visit that you
20 recall?

21 A I don't recall.

22 Q Okay. So that would have been around 1964?

23 A Yes.

24 Q What was your understanding, if any, of the
25 relationship between Merle Butler and Mabel Dixie?

1 MR. STEELE: Objection, foundation.

2 THE WITNESS: I just looked at 'em as elders, I
3 had no understanding at that time.

4 MS. LUTHER: Q. Okay. Have you ever come to
5 have an understanding as to whether or not they were
6 married, whether by Indian custom or by California law?

7 MR. STEELE: Objection, foundation.

8 THE WITNESS: I always knew her to be married
9 to Romie Dixie.

10 Q Did you ever meet Romie Dixie?

11 A Yes.

12 Q Do you have any knowledge as to whether or not
13 Merle Butler was Indian?

14 MR. STEELE: Objection, foundation.

15 THE WITNESS: I know Merle Butler passed away
16 within the last three years, and he was on the Tuolumne
17 Rancheria, living on the Tuolumne Rancheria.

18 MS. LUTHER: Q. Did you have any feeling one
19 way or the other as you were growing up, an assumption
20 that he was Indian or non-Indian?

21 MR. STEELE: Objection, calls for speculation.

22 THE WITNESS: At that time I would, I, I
23 couldn't say. I never heard him speak the language.

24 MS. LUTHER: Q. Did you hear anybody speak,
25 what language are you speaking of?

1 A Miwok.

2 Q Okay. Did you have other members of your
3 family that spoke Miwok, the Miwok language?

4 A My grandmother didn't even speak English until
5 1965.

6 Q So I take it your grandmother spoke the Miwok
7 language?

8 A My mom speaks it. She tried to speak it at
9 school and she was reprimanded.

10 Q Did you ever learn it?

11 A I speak it.

12 Q Good. Who did you learn it from?

13 A My mother, my grandmother, my grandfather, all
14 my relatives, my uncles, aunts, cousins.

15 Q Of all your family members, excluding your
16 daughters and your husband, who do you feel closest to?

17 MR. STEELE: Objection, don't answer that.

18 MS. LUTHER: The grounds for instructing her
19 not to answer?

20 MR. STEELE: Yeah.

21 MS. LUTHER: No, I said what are the grounds?

22 MR. STEELE: We'll seek a protective order on
23 that if you want to pursue that line of questioning.

24 MS. LUTHER: What's wrong with it?

25 MR. STEELE: That's way beyond the scope and

1 that's harassing.

2 MS. LUTHER: It's not -- I'm trying to avoid
3 getting into the area that we've been talking about that
4 is going to be, you know, difficult for you.

5 MR. STEELE: What's the area?

6 MS. LUTHER: Q. I'm just not even going to
7 pursue it, I'm just asking of your mother's family who
8 do you feel closest to? And I would assume that would
9 be a person that, I would hope it would be a person that
10 you'd feel good about as opposed to somebody you'd feel
11 bad about.

12 MR. STEELE: Okay. I see what you're saying.
13 Would it be the same thing to ask for the most contact
14 with?

15 MS. LUTHER: That would be fine.

16 MR. STEELE: So if you rephrase it?

17 THE WITNESS: Can you rephrase it?

18 MS. LUTHER: Q. Sure. Of your mother's
19 family, who do you have the most contact with at the
20 present time?

21 A At the present time? My mother.

22 Q Cause she lives with you, correct?

23 A Correct.

24 Q Beyond your mother, who would that person be?
25 Somebody that's not living with you do you have the most

1 contact with?

2 A I'm too busy.

3 Q Well, it might be that you don't have -- do you
4 have contact with anyone?

5 A I work twenty hours a day, I don't have time to
6 sit there and go find relatives and have contact with
7 them. I work seven days a week, sometimes I get three
8 hours of sleep.

9 This thing, being a chairperson and
10 administrator in a small tribe, you gotta work all the
11 time, and that's what I find myself doing.

12 Q Where, I guess another way, when was the last
13 time you had any contact with members of your family
14 apart from those who live with you or your two
15 daughters?

16 MR. STEELE: Objection, vague as to what
17 defines family.

18 THE WITNESS: I don't understand what, if I
19 have contact with family what's that got, the closest
20 contact?

21 MR. STEELE: Just answer the question if you
22 understand it?

23 THE WITNESS: Yakima, I guess, that's family.
24 I consider him family.

25 MS. LUTHER: Q. Do you have any brothers or

1 sisters?

2 A Yes.

3 Q How many?

4 A I have two brothers living and one sister.

5 Q And is your sister alive as well?

6 A Yes.

7 Q Would that be, would they be William, Michelle,
8 and Daryl?

9 A Yes.

10 Q Are they members of any federally recognized
11 tribe as far as you know?

12 A I don't know.

13 MR. THOMPSON: Can I interject something? You
14 just looked at a document that listed her family
15 members.

16 MS. LUTHER: That's correct.

17 MR. THOMPSON: Is that a document that we
18 received?

19 MS. LUTHER: No, it is not.

20 MR. THOMPSON: Then why did we not receive that
21 document?

22 MS. LUTHER: Because they're my personal notes.

23 MR. THOMPSON: Okay. So there's no PIA
24 document that lists those individuals' names?

25 MS. LUTHER: Yes, there is.

1 MR. THOMPSON: And --

2 MS. LUTHER: We've talked about it before. We
3 talked about it at the deposition two weeks ago.

4 MR. STEELE: So it was produced?

5 MS. LUTHER: (Attorney nodded head.)

6 MR. STEELE: Okay.

7 MR. THOMPSON: Let's go outside for a second.

8 MR. STEELE: Okay. Go off the record.

9 Is it accurate to say that that's your work
10 product?

11 MS. LUTHER: The document came from your
12 client, by the way.

13 MR. STEELE: Wait. Wait. Before we go on, I
14 got the feeling that you put that together. You came up
15 with your document based on what you got from a bunch of
16 documents, is that true? You know what I'm saying?

17 MS. LUTHER: Right.

18 MR. STEELE: It's like a book report you did on
19 a bunch of documents?

20 MS. LUTHER: I'm sorry?

21 MR. STEELE: It's like you compiled the
22 information and put it on one sheet of paper yourself?

23 MS. LUTHER: Yeah.

24 MR. STEELE: That's, like a book report.

25 MR. THOMPSON: Excuse me.

1 (Thereupon there was a discussion off the
2 record.)

3 MS. LUTHER: Q. Do you recall what the nature
4 of the visit was in 1964 when you first met Yakima
5 Dixie?

6 A When I first met Yakima?

7 MR. STEELE: Objection, relevance. Go ahead.

8 THE WITNESS: Just a family visit.

9 MS. LUTHER: Q. Did you see Yakima and other
10 members of his family, and by other members I mean his
11 brothers, his mother, Merle Butler, to the extent he was
12 considered a family member, did you see them on a
13 regular basis, like a couple times a year from that time
14 forward?

15 A I couldn't actually say if Yakima was in there
16 every time.

17 Q All right.

18 A I was too young.

19 Q Now, in 1964 you were living at that time, I
20 guess, in Arnold, is that correct?

21 A That's correct.

22 Q And where were they living, as far as you
23 know?

24 MR. STEELE: Objection, foundation. She was
25 four.

1 THE WITNESS: I don't know.

2 MS. LUTHER: Q. When was the first time you
3 ever went to Sheep Ranch Rancheria?

4 A I don't know the first date. Many times.

5 Q Okay. Give me the best approximation as to,
6 say, the first time you went to Sheep Ranch.

7 MR. STEELE: Objection, vague, foundation.

8 MS. LUTHER: Q. Or the first time you recall
9 going to Sheep Ranch?

10 A Sheep Ranch the town or what?

11 Q Sheep Ranch Rancheria.

12 A '64 to visit Mabel and Merle.

13 Q Oh, I thought they came to visit you. You
14 actually went there?

15 A I've been there back and forth. It's family.
16 Anyway Mabel is family.

17 Q How were you related to Mabel Butler and her
18 children, excuse me, Mabel Dixie and her children?

19 A Mabel's mother is my grandfather's sister.

20 Q And who was your grandfather?

21 A My grandfather's Manuel Jeff.

22 Q I'm sorry?

23 A My grandfather's Manuel Jeff.

24 Q Manuel?

25 A M-A-N-U-E-L.

1 Q Manuel?

2 A Yes.

3 Q Thank you. When you were growing up, was there
4 anyone who was considered to be the chief of your
5 particular band of Miwok Indian?

6 MR. STEELE: Objection, vague. Definitely
7 vague as to time.

8 THE WITNESS: When I was growing up, what do
9 you mean?

10 MS. LUTHER: Q. Well, let me ask it this way.
11 Was there anyone who was considered to be the chief of
12 your family's tribal group, whatever it might be, when
13 you were growing up?

14 A Well my grandfather is an descendent of chiefs
15 which, if we go back I think like four or five
16 generations the first chief was Charles Jeff, then there
17 was a Indian Jeff, but he was later christened by the,
18 sorry, for a better word, but by the white people as
19 Jefferson Davis, but his name was Indian Jeff.

20 And then my grandfather's father was Johnny
21 Jeff which was also a chief, and my grandfather is
22 Manuel Jeff.

23 Q Was your grandfather considered by the Indian
24 community, the Miwok Indian community to be a chief or a
25 leader?

1 MR. STEELE: Objection, vague and foundation.

2 THE WITNESS: Chief and a medicine man.

3 MS. LUTHER: Q. Is he still alive?

4 A No.

5 Q Do you recall when he passed away?

6 A '97, I guess.

7 Q Do you know whether he ever became a member of
8 a particular federally recognized tribe?

9 MR. STEELE: Objection, foundation.

10 THE WITNESS: I don't know what my grandfather
11 did.

12 MS. LUTHER: Q. Do you know whether Merle
13 Butler or Mabel Dixie or any of Mabel's sons at any time
14 were considered to be a chief or a leader of any Miwok
15 tribal group?

16 A Mabel, Merle, or any of her sons?

17 Q Correct.

18 A To be a chief or a leader of any recognized
19 tribe?

20 Q No, of any Miwok group? And by that I'm also
21 trying to include, for example, the Ione band in the
22 days before it became federally recognized as well as
23 the Calaveras band of Miwok Indians.

24 MR. STEELE: Objection, foundation, calls for
25 speculation.

1 THE WITNESS: I know Mabel had moved to
2 Tuolumne and had been on the Tuolumne Rancheria, and she
3 died in Sonora.

4 MS. LUTHER: Q. Is that, I'm sorry, did you
5 say she died at Tuolumne?

6 A She died in Sonora which is Tuolumne County.

7 Q As far as you know, did she actually live on
8 the Tuolumne Rancheria?

9 MR. STEELE: Objection, calls for speculation.

10 THE WITNESS: Hearsay.

11 MS. LUTHER: Q. Well, you can tell me that
12 too.

13 A Hearsay. I was just told where she lived. I
14 didn't actually go and see physically if she lived
15 there.

16 Q So you heard she was living on the rancheria at
17 the time she died?

18 A I heard that she was at the Tuolumne Rancheria
19 and she died in Sonora, that's all I know.

20 Q Oh, I'm sorry, okay. Sonora is one town that's
21 sure changed a lot over the years.

22 During your lifetime, were there certain tribal
23 celebrations or rituals or gatherings led by your
24 grandfather when he was acknowledged as the chief?

25 MR. STEELE: Objection, relevance.

1 THE WITNESS: When we had celebrations, all
2 family members from all tribes came, and all people that
3 were considered elders were in charge of the
4 celebrations. There were some celebrations that women
5 and children were not even allowed to attend.

6 MS. LUTHER: Q. What kind of celebrations
7 would those be, as far as you know?

8 A Sacred.

9 Q I'm sorry?

10 A Sacred.

11 Q Okay. Were, I guess what I meant was were they
12 to celebrate a particular milestone in somebody's life,
13 or were they celebrations that were, or gatherings that
14 had a particular purpose?

15 MR. STEELE: Objection, that's compound and
16 vague.

17 THE WITNESS: We had celebrations to celebrate
18 the fall coming in or putting the bear to sleep, in the
19 springtime waking him up, putting him to sleep in the
20 wintertime.

21 But they had certain celebrations that were
22 just for the men and the elders that we were not allowed
23 to attend.

24 They had all kind of celebrations. They had
25 even celebrations for the women and coming of age,

1 mourning celebrations for people who passed.

2 MS. LUTHER: Q. About how often would these
3 types of gatherings take place, you know, about once a
4 month, once every other month or once a week?

5 A Many times. They could have different
6 celebrations in Jackson and Tuolumne. It was all over.
7 In the old days they even had a lot of groups that still
8 went up to Murphees, Averages where the old roundhouses
9 used to be. And they had all roundhouses in Rural Flat,
10 Sheep Ranch, West Point.

11 Q There's a roundhouse at Sheep Ranch?

12 A Yes, in the old days.

13 Q When you say old days, what do you mean?

14 A When I was really, really young, and it was
15 starting to fall apart.

16 Q Was it actually located on the rancheria or was
17 it located off the rancheria but in the town of Sheep
18 Ranch?

19 A No, it was in a different area. I think it was
20 in land that the Indians used to own that got taken
21 away.

22 Q Since you mentioned taken away, as far as you
23 know, when was it taken away?

24 A I don't know, I was too young.

25 Q Was it in your lifetime or prior to your birth?

1 A Depends on what --

2 MR. STEELE: Asked and answered.

3 THE WITNESS: Depends on which land you're
4 talking about.

5 MS. LUTHER: Q. Well the land you just
6 mentioned that was taken away with the roundhouse?

7 A The old land? In the beginning there's
8 paperwork in the archives that shows there was 160 acres
9 in the Sheep Ranch area that was Indian land, and then
10 somehow it went down to two acres, and now it's .92 of
11 an acre. So I don't know when it got taken away, that
12 would be in the bureau documents.

13 Q Have you ever seen a document that said that
14 the United States owned 160 acres in trust for the
15 Indians in Sheep Ranch?

16 A I seen one where one could have been or should
17 have been negotiated, and then I don't know cause I
18 can't find documents on it anywhere, it's not in the
19 archives.

20 Q Just so you know, I haven't seen anything to
21 that effect at all.

22 Have you located any documents that indicated
23 that the rancheria itself, the Sheep Ranch Rancheria was
24 surveyed to be two acres?

25 A Yes.

1 Q And what document is that?

2 A I can't recall unless it's right in front of
3 me. I mean I didn't, I don't got a photographic memory,
4 I just know that there's one that's in my possession
5 that I got from the archives that shows it should have
6 been two acres.

7 Q But my question was a little bit more
8 specific. I have seen -- I agree with you, I have seen
9 documents that indicated that the rancheria at one point
10 was two acres or believed to be two acres, but my
11 question was a little bit more specific as to a survey.

12 Have you ever found a survey of Sheep Ranch
13 Rancheria that, where the survey found that the
14 rancheria consisted of two acres?

15 A No.

16 MR. STEELE: Objection, vague. You ought to
17 define survey before you have her answer that, before
18 you ask the question.

19 MS. LUTHER: Q. Whether it's by someone who is
20 a qualified surveyor, but a surveyor performed survey.
21 Have you ever seen such a survey --

22 MR. STEELE: Do you know what a survey is?

23 MS. LUTHER: Q. -- that concluded that the
24 Sheep Ranch Rancheria consisted of two acres?

25 MR. STEELE: If you don't understand survey --

1 THE WITNESS: No.

2 MR. STEELE: I'll state it more clearly for the
3 record. My objection was if she didn't understand
4 survey she shouldn't answer a question regarding survey.

5 MS. LUTHER: Q. You have a college degree,
6 correct?

7 A Yes.

8 Q Okay. And is it your testimony that you do not
9 know what a survey is, a land survey?

10 A It's my testimony that I'm not a special, or
11 specialty or expert in land surveys.

12 Q I don't expect you to be. Do you have no
13 understanding of what a land survey is, either as
14 somebody with a college degree who is chairperson of a
15 federally recognized tribe?

16 MR. STEELE: Objection, argumentative and
17 harassing. Don't answer. If you want to define survey
18 for her then ask away.

19 MS. LUTHER: I'm asking her if it's her
20 testimony that she does not have a lay understanding of
21 a land survey.

22 MR. STEELE: You haven't defined lay
23 understanding. I'm curious what you mean by survey.

24 MS. LUTHER: Are you instructing her not to
25 answer?

1 MR. STEELE: I believe you're harassing her.
2 If you have it read back, and I'll object to it again,
3 but the question you asked was argumentative and
4 harassing.

5 MS. LUTHER: Do you understand the question?

6 MR. STEELE: And she's instructed not to answer
7 that question. If you rephrase it she'd probably answer
8 that.

9 MS. LUTHER: Do you understand the question?

10 MR. STEELE: Don't answer.

11 MS. LUTHER: Pardon?

12 MR. STEELE: Rephrase your question.

13 MS. LUTHER: Q. My question was, did you
14 understand my question?

15 A No.

16 Q Is it your testimony that as a college educated
17 woman who is apparently a tribal chairperson, that you
18 do not have an understanding of what a land survey is?

19 MR. STEELE: Objection, argumentative and
20 harassing. Especially object to the term "apparently
21 the tribal chairperson."

22 MS. LUTHER: Q. You can still answer the
23 question.

24 MR. STEELE: Don't answer.

25 THE WITNESS: No.

1 MS. LUTHER: Q. Pardon?

2 A I do not understand it.

3 Q You do not understand my question or you do not
4 understand, have an understanding of what a land survey
5 is? I just want to make sure I understand your answer.

6 MR. STEELE: Why don't you just define a survey
7 here?

8 MS. LUTHER: Let her answer the question. If
9 you have an objection, make an objection.

10 MR. STEELE: You're misleading the witness.

11 MS. LUTHER: I am not, I'm trying to understand
12 what her answer was.

13 MR. STEELE: Why don't you describe what a
14 survey is? And once she understands what a survey is
15 she'll probably answer your question.

16 MS. LUTHER: This is my deposition, okay.

17 MR. STEELE: This is my witness, my client.

18 MS. LUTHER: It's my witness, your client,
19 that's different.

20 MR. STEELE: I'm sorry, my client. Any witness
21 period.

22 MS. LUTHER: Q. You said you don't know. Do
23 you mean you don't know what a land survey is or you
24 don't understand my question?

25 A I don't understand your question.

1 Q Okay. I'll say it again. Is it your testimony
2 as a person with a college education and someone who
3 holds herself out as chairperson of a federally
4 recognized tribe, that you have no understanding of what
5 a land survey is?

6 MR. STEELE: Objection, argumentative and
7 harassing.

8 MR. THOMPSON: George, let's go outside.

9 MR. STEELE: And vague as to what type of
10 survey you're talking about, that's what we're going
11 round and round about. We're going to take a break.

12 (Thereupon there was a brief recess.)

13 MS. LUTHER: Q. After consulting with your
14 attorney, do you have an answer for me?

15 MR. STEELE: Can you read back the question or
16 rephrase the question --

17 MS. LUTHER: Madam Court Reporter.

18 MR. STEELE: -- or restate it?

19 (Thereupon the Reporter read back as
20 requested.)

21 MR. STEELE: Objection, argumentative and
22 harassing.

23 THE WITNESS: On the survey I want land, and on
24 the survey I got it isn't like what is back at that
25 time. And I don't know if by having a title with a

1 description of the land on this two acres down to one
2 acre is considered a survey, that's why I don't
3 understand what you mean by a survey.

4 MS. LUTHER: Q. Have you ever seen a document
5 that purported to be a survey conducted by someone
6 holding himself or herself out as a land surveyor?

7 A I can't be --

8 MR. STEELE: Objection, vague.

9 MR. THOMPSON: Can we stip to something because
10 I'm thinking of the records that we have and I don't
11 think there was a, what we would define, I think would
12 define as a survey document. I don't think we've got a
13 copy of that document. I think all we have are the
14 title documents, so I think we could stip that we
15 haven't seen any survey.

16 MS. LUTHER: Okay.

17 MR. THOMPSON: I think we can stip to that,
18 the problem is I'm not sure. If I went back and looked
19 at the documents, I remember we had title documents that
20 said, you know, gave the description of the land and it
21 said it was two acres, but I don't remember seeing
22 anything with the drawings on there until after the
23 fact.

24 MS. LUTHER: That's what I'm thinking, I just
25 kind of, since she brought it up I wanted to make sure

1 that you didn't have a document because I'd certainly be
2 interested in trying to figure out what happened to that
3 extra acre myself, I mean the government is interested.

4 MR. THOMPSON: We'll stip to the fact that we
5 don't know if there was a survey done, all we have is, I
6 think, the same document you have that says two acres,
7 and then all of the sudden it comes up when they, I
8 guess, and I don't know if they surveyed it in '65. I
9 don't know how it went from two to .92, we have no idea.

10 MS. LUTHER: One of the things -- let's go off
11 the record for a second.

12 (Thereupon there was a discussion off the
13 record.)

14 MS. LUTHER: Let's go back on the record and
15 move on.

16 Q Have you ever talked with Yakima Dixie or any
17 of his siblings about, or Merle Butler before he died
18 about returning Sheep Ranch Rancheria to the tribe?

19 MR. STEELE: Objection, deliberative process
20 privilege, don't answer.

21 MS. LUTHER: I'm talking about in your position
22 as a chairperson talking to a member of the tribe.

23 MR. STEELE: And specifically that would be
24 under the privilege.

25 MS. LUTHER: No, it wouldn't, it would be --

1 how could it be? It's simply, look, will you give the
2 land back to the tribe? I'm paraphrasing obviously.

3 MR. STEELE: I think you need to define the
4 timeframe at the very least.

5 MS. LUTHER: At any point in time.

6 MR. THOMPSON: Can we go off the record for
7 just a second, because I don't want to be jumping in on
8 the record on this unless you want me to.

9 MS. LUTHER: I don't. I just want an answer to
10 my question.

11 MR. STEELE: Go off the record.

12 (Thereupon there was a discussion off the
13 record.)

14 MS. LUTHER: Q. When did you, as the
15 chairperson of California Valley Miwok Tribe, become
16 aware that the Sheep Ranch Rancheria was not held in
17 trust for the tribe by the United States?

18 A Can you repeat that again?

19 Q Sure. Since you became chairperson of the
20 California Valley Miwok Tribe, when did you first become
21 aware that the land known as Sheep Ranch Rancheria was
22 not held in trust by the United States for your tribe?

23 (Thereupon there was discussion off the
24 record between the witness and her counsel.)

25 THE WITNESS: No.

1 MS. LUTHER: Let me preface this a little bit.

2 Q You may not be aware, but when the government
3 holds land in trust it holds it in trust for a
4 particular beneficiary. And Indian land traditionally
5 are held in trust either for a tribe or for an
6 individual or individuals in the plural.

7 And as I understand your suit, you are taking
8 the position that Sheep Ranch Rancheria is landless,
9 correct -- excuse me, that California Valley Miwok Tribe
10 is landless?

11 A Yes, California Valley Miwok Tribe.

12 Q Okay. When did you first become aware -- let
13 me ask it this way.

14 Was there a point in time when you thought the
15 California Valley Miwok Tribe actually had trust land?

16 MR. STEELE: Objection, calls for a legal
17 conclusion.

18 THE WITNESS: That would have to be referred to
19 the attorneys.

20 MS. LUTHER: Q. No, you still have to answer
21 the question.

22 A I don't understand, because when I came into
23 the tribe, when Yakima was elected chairperson they
24 opened up for probate, I didn't figure that the tribe
25 had land at that time. Why would they have a probate if

1 the tribe had land?

2 Q Okay. When was that?

3 A I think the probate got opened up again in
4 1998, maybe September, I'm not sure. I wasn't
5 chairperson.

6 Q Could it have been earlier than that, like
7 around 1990, '91?

8 MR. STEELE: Objection.

9 THE WITNESS: I don't know.

10 MS. LUTHER: Q. But you clearly remember
11 hearing about a probate opening up concerning the land
12 known as Sheep Ranch Rancheria?

13 A The Bureau of Indian Affairs instructed
14 Yakima --

15 MR. THOMPSON: Let's hold off, let's take a
16 break.

17 MS. LUTHER: She's in the middle of a response,
18 counsel.

19 MR. THOMPSON: I understand.

20 MR. STEELE: She can take a break anytime she
21 likes.

22 MR. THOMPSON: I understand.

23 (Thereupon there was a brief recess.)

24 MS. LUTHER: We have just had a colloquy off
25 the record concerning the land known as Sheep Ranch

1 Rancheria.

2 Q And I gather from our colloquy that you have
3 had some conversations with Yakima Dixie concerning that
4 land, is that correct?

5 A That land as being?

6 Q Known as Sheep Ranch Rancheria.

7 A Are you talking about in a timeframe?

8 Q At anytime since you became a member of the
9 California Valley Miwok Tribe, including the former
10 capacity of the Sheep Ranch Rancheria of Miwok Indians
11 of California?

12 A Well, it's complex because in the beginning
13 when Yakima was elected chairperson he was told by the
14 bureau to put in for a probate on the land to clear up
15 the title.

16 And so we assumed that if it went into probate
17 it must not belong to the land. But it took two years
18 of fighting with the bureau because Carmen Facio kept
19 saying that the Sheep Ranch Rancheria has land in the
20 trust, and she kept going against Judge Hammett's
21 decision.

22 So we bring in the attorneys to investigate
23 this because we had no idea how it could be in the trust
24 but yet be in the probate.

25 And so when I got the letter in 2001 is when

1 Dale Risling told California Valley Miwok Tribe that
2 they were landless.

3 Q Who was the first attorney that you brought in
4 to look at that issue for the tribe?

5 MR. STEELE: Objection, calls for attorney
6 client privileged information.

7 MS. LUTHER: Q. Whether you retained the
8 services of an attorney are not privileged information,
9 counsel.

10 MR. STEELE: Sure, it could be. Don't answer.

11 MR. THOMPSON: Wait a minute, can we go off the
12 record for a second?

13 (Thereupon there was a discussion off the
14 record.)

15 MS. LUTHER: Back on the record.

16 Q Following our off the record colloquy, what
17 attorneys -- and I'm only interested in the attorneys
18 that were retained by the tribe. What attorneys were
19 retained by the tribe to look at the issue of the
20 tribe's land status?

21 A Geez, if it's to be with the land status, I
22 can't really recall right off. I can name the names of
23 our attorneys, but I can't really recall at this time if
24 they were right there right on the land status.

25 Q Okay. David Rapport was one, correct?

1 A I can't recall, I'd have to look back at my
2 documents in David Rapport's file to see if that's what
3 he worked on.

4 Q Well, let me ask it this way. Do you recall
5 what year the tribe first contacted an attorney with
6 regards to the land issue?

7 A I can recall the first attorneys that we
8 contacted, but it was on a lot of issues because we were
9 just beginning to organize.

10 Q Okay. So you, was the land issue always one of
11 the issues for the tribe along with organization when
12 you consulted with counsel?

13 A Yes.

14 Q Okay. What year would that process have begun
15 that you consulted with an attorney concerning
16 organizing and land status?

17 A It would either be ninety -- ahh, I can't
18 recall for sure, I would estimate '98.

19 Q Okay. Now, when you did realize that there was
20 some question about the status of the land known as
21 Sheep Ranch Rancheria being tribal land as opposed to
22 individual land, did you ever speak with Yakima Dixie
23 about, about having him give that land to the tribe, or
24 transferring the title for that land to the tribe?

25 MR. STEELE: If you recall?

1 THE WITNESS: I can't recall.

2 MS. LUTHER: Q. Okay. When you were telling
3 me earlier about these different kinds of rituals and
4 celebrations that were held, some of which you were
5 permitted to participate in and some you were not, do
6 you recall any of those gatherings taking place on the
7 Sheep Ranch Rancheria?

8 A Not in my era. I usually went there to visit,
9 but it would be between going to Jackson and Tuolumne
10 and Chicken Ranch.

11 Q We spoke of this off the record and I kind of
12 would like to get it on the record.

13 Is it your understanding that Merle Butler only
14 had one child?

15 A Yes.

16 Q And do you recall, it was a girl, I believe, is
17 that correct?

18 A Yes.

19 Q And do you know her name?

20 A I can't pronounce, it's like Laquida or
21 something like that.

22 Q And does she still go by the last name of
23 Butler or does she have a different last name?

24 A I have no idea.

25 Q Okay. Have you had any contact with her over

1 the years?

2 A I've never met her.

3 Q Oh, okay. Do you have any idea where she even
4 lives?

5 A I would assume you can contact Tuolumne.

6 Q Is it your understanding that she's a member of
7 Tuolumne?

8 A No, I'm just assuming you can contact Tuolumne
9 since that's where her father passed away.

10 Q Okay. Since discovering or realizing that the
11 land known as Sheep Ranch Rancheria is individual land
12 as opposed to tribal land, have you ever initiated any
13 proceedings on behalf of the tribe for the return of
14 that land or to challenge the probate, apart from this
15 lawsuit obviously?

16 MR. STEELE: If you know?

17 THE WITNESS: The land is --

18 MR. STEELE: If you don't know, you don't know.

19 THE WITNESS: Yeah, I don't know. The land is
20 always an issue. I don't know how to answer that
21 because of the lawsuit.

22 MS. LUTHER: Q. Okay. Well let me ask it this
23 way. The tribe itself has never tried to reopen the
24 probate, correct?

25 A The tribe did reopen the probate with Yakima

1 Dixie being the chairperson in 1998.

2 MR. STEELE: Objection, move to strike that as
3 lacking foundation. Now probate, the tribe didn't have
4 standing for that, so whatever it is that's got to be
5 Yakima.

6 THE WITNESS: Yakima is the one who said --

7 MR. STEELE: Go ahead and ask your --

8 THE WITNESS: Go ahead.

9 MS. LUTHER: Q. I think there might have been
10 something else going on, you might be thinking of
11 something else. But I'm talking about the actual, the
12 probate of Mabel Dixie, whether the tribe has ever
13 itself made any effort, I'm not even saying you could do
14 it if you wanted to, but if you tried to reopen Mabel
15 Hodge Dixie's probate for the purpose of getting that
16 land back in the name of the tribe?

17 A I wouldn't even understand that. I don't
18 understand. I wouldn't even understand it even to try
19 to go do that.

20 Q Okay.

21 A I don't understand it.

22 Q I just want to make sure it's not my question
23 you don't understand.

24 A Yeah.

25 Q You just don't understand the process of how

1 you would do that, to reopen a probate?

2 A No, that just never came up.

3 Q Okay. So you, as a tribe, the tribe has not
4 tried to reopen the probate, correct?

5 A Me as the chairperson, I don't know, I don't
6 know on that.

7 MR. STEELE: Well, have you as the tribe, since
8 you've been in charge, tried to reopen, have you ever
9 tried to reopen a probate?

10 THE WITNESS: No.

11 MS. LUTHER: Q. No?

12 A No.

13 Q Thank you.

14 MR. STEELE: Sorry about that.

15 THE WITNESS: I'm getting mixed up on Mabel and
16 Yakima because all these probates, I don't know.

17 MS. LUTHER: Q. Because at the present time I
18 guess they're now having to probate Richard --

19 A Yeah.

20 Q -- Dixie's estate and Tommy --

21 A When you said probate I don't know if you meant
22 now or back then, so you guys threw me off.

23 Q I apologize. Has the tribe or you've
24 personally taken, been involved in the probate of Merle
25 Butler, Tommy Dixie, or Richard Dixie?

1 A The tribe or me personally?

2 Q Correct?

3 A Has been involved with the probate?

4 Q Of those three men.

5 MR. STEELE: Have you ever been to any probate?

6 THE WITNESS: No.

7 MR. STEELE: Okay. You see what I'm saying?

8 THE WITNESS: Yeah.

9 MR. STEELE: If you haven't been to any one at
10 all, you haven't been to this one either.

11 MS. LUTHER: Q. I'm going to go back to your
12 childhood again. While you were a minor, at anytime,
13 are you aware of anytime your parents or any guardian
14 sought services from the Bureau of Indian Affairs for
15 you?

16 MR. STEELE: Objection, vague and lacks
17 foundation.

18 THE WITNESS: I wouldn't know when I was a
19 child.

20 MS. LUTHER: Q. Okay. You're not aware of
21 whether anyone made a request for services for you? I'm
22 thinking of the Johnson O'Malley lunch program, for
23 example. Are you familiar with that program?

24 A Yes, I'm familiar with it.

25 Q Do you have any information as to whether

1 you've, you were a recipient under that program as a
2 child?

3 MR. STEELE: Objection, foundation, vague,
4 cumulative.

5 THE WITNESS: No, I don't recall at this time.

6 MS. LUTHER: Q. Okay. So would your testimony
7 also be that you are unaware of the bureau ever denying
8 services to you based on your status as an Indian at any
9 time prior to turning eighteen years old?

10 MR. STEELE: Objection, foundation, vague.

11 THE WITNESS: I don't know if the Bureau of
12 Indian Affairs gave me services or not. I went to
13 school just like anybody else. If something was signed
14 up or if we got something that was given, I wouldn't
15 have known if it was from the church or from the bureau.

16 MS. LUTHER: Q. Okay. Since you became an
17 adult, from the age of eighteen up until the present
18 time, have you ever applied to the Bureau of Indian
19 Affairs for services based on your status as an Indian?

20 A From?

21 MR. STEELE: Such as education?

22 MS. LUTHER: I'm sorry?

23 MR. STEELE: Such as education?

24 MS. LUTHER: Q. Anything.

25 A I applied when I became recognized.

1 Q Okay. And what do you mean by recognized?

2 A Because unless you're into a federally
3 recognized tribe you can't receive any funding for
4 school, you're on your own or you get student loans just
5 like anybody else.

6 Q Okay. So I take it, I take it that at some
7 point you became a member of a federally recognized
8 tribe, correct?

9 A Correct.

10 Q And that tribe was the California Valley Miwok
11 Tribe, formerly known as the Sheep Ranch Rancheria Miwok
12 Indians of California, correct?

13 A Correct.

14 Q And you've never been a member of any other
15 federally recognized tribe, correct?

16 A Correct.

17 Q And once you became a member of the tribe now
18 known as the California Valley Miwok Tribe, did you
19 apply to the Bureau of Indian Affairs for services as an
20 individual?

21 A Yes, for school.

22 Q Okay. And was your application accepted or
23 granted?

24 A Yes.

25 Q All right. Have you ever been denied services

1 by the Bureau of Indian Affairs in an individual
2 capacity?

3 A I've never went to the bureau as an individual.

4 Q Well, as an individual you applied for an
5 education grant?

6 A You mean was I denied as an individual for
7 something?

8 Q Correct, as opposed to a plan for a 638 grant
9 on behalf of the tribe. I'm trying to make a
10 distinction between services you might have requested on
11 behalf of the tribe and services that you sought in your
12 own individual capacity for Silvia Burley.

13 MR. STEELE: Do you understand the difference?

14 THE WITNESS: No.

15 MR. STEELE: She's talking about things that
16 you requested not for the tribe but for you, whether it
17 was, you know, education or child support or whatever it
18 is, but just personal yourself, you know what I'm
19 saying?

20 THE WITNESS: Have I ever been denied
21 personally, me going down?

22 MR. STEELE: Let her reask the question if you
23 understand the environment there.

24 THE WITNESS: Yeah, go ahead.

25 MS. LUTHER: Q. I was asking if you personally

1 have ever been turned down or denied services from the
2 Bureau of Indian Affairs?

3 A As for being an adult?

4 Q Correct, after turning eighteen.

5 A Not as a federally recognized member.

6 Q Were you, did you ever apply for any services
7 personally before you were a recognized member and
8 turned down by the Bureau of Indian Affairs?

9 A I've never applied at the bureau before.

10 Q Okay. Are you aware of any other immediate
11 members of your family, and by that I mean your mother,
12 your grandparents, your brothers and sister, ever being
13 denied services by the Bureau of Indian Affairs at any
14 point in their lives?

15 MR. STEELE: Objection, foundation, calls for
16 speculation.

17 THE WITNESS: I wouldn't know on their, what
18 they do.

19 MS. LUTHER: Q. You've never heard that they
20 were ever turned down for services by the Bureau of
21 Indian Affairs, is that correct?

22 A In our culture we don't get into personal
23 business.

24 Q Okay. I understand you've given me a reason
25 but I actually need to have you say yes or no to the

1 question or that you don't know.

2 A No, I don't know.

3 Q Okay. And now I understand you have two
4 daughters and a grandson, is that correct?

5 A No.

6 Q It's not? Okay.

7 A I have two daughters and a granddaughter.

8 Q Oh, I apologize, I don't know why I thought it
9 was a grandson, I apologize.

10 Have your daughters or your granddaughter ever
11 been denied services from the Bureau of Indian Affairs
12 as far as you know?

13 MR. STEELE: Objection, vague as to services.
14 Just clarify that.

15 THE WITNESS: No, not as far as I know.

16 MS. LUTHER: Q. Have you, have your daughters
17 or granddaughter ever been members of any other tribe,
18 recognized or unrecognized?

19 A Recognized or unrecognized? Before we got
20 sanctioned -- oh, let me strike that.

21 Before we got recognized as federally
22 recognized Indians, we were receiving services from the
23 Indian Health Service in Jackson. And at that time to
24 receive services we had to go under the sanction of
25 Tuolumne.

1 And then before, I think it was in 1995 I sent
2 a letter to Tuolumne and told them I no longer wanted to
3 receive any services as being sanctioned under them, and
4 if I had any affiliation I wanted it stopped for myself
5 and my daughters. At that time my granddaughter wasn't
6 there. I don't recall, I'm pretty sure it had to have
7 been '95.

8 Q So to the extent that your daughters, you
9 and/or your daughters were members of another group,
10 would it have been the Calaveras band of Miwok Indian?

11 A Well we --

12 MR. STEELE: That mischaracterizes the prior
13 testimony. Can you rephrase that?

14 MS. LUTHER: Well, let me ask it this way.

15 Q Were your daughters at any time accepted as
16 members of the Calaveras band of Miwok Indian?

17 A We were sanctioned under Tuolumne which puts us
18 just as, to get benefits like to go to the dentist.

19 MR. STEELE: Okay. But were they recognized?

20 MS. LUTHER: My question was a little
21 different.

22 Q Regardless of whether the Calaveras band was
23 federally recognized or not, were your daughters
24 accepted as members of that band?

25 A No.

1 Q As chairperson of the California Valley Miwok
2 Tribe, do you have any interactions on a tribe to tribe
3 basis with any of the other Miwok Tribes?

4 A Yes.

5 Q And what is the nature of the interaction that
6 you have with the other Miwok Tribes?

7 A Government to government.

8 Q But what does that mean for purposes of the
9 California Valley Miwok Tribe?

10 A Well, you meet on forestry and, forestry
11 programs. If they contact us to let them know that they
12 had an election and who their new officials may be. If
13 they have meetings going on about ICWA.

14 Q About, I'm sorry?

15 A Indian Child Welfare Act.

16 Q ICWA, okay.

17 A Any meetings with the Bureau of Indian Affairs
18 that might be going on you get invitations to attend.

19 Q And do you attend those meetings with the, that
20 the Bureau of Indian Affairs sponsors?

21 A Yes.

22 Q Now as I understand it, the Bureau of Indian
23 Affairs actually conducts annual budget meetings, is
24 that your understanding as well?

25 A Yes.

1 Q And have you attended every annual budget
2 meeting since becoming chairperson of the tribe?

3 A Every one that I could afford to.

4 Q And how many was that?

5 A I don't, they've had numerous. Yearly for
6 sure.

7 Q When did you become chairperson again?

8 A May 8th, 1999.

9 Q So you've been the chairperson now for about
10 five years, almost five years, correct?

11 A Correct.

12 Q And so in those five years how many annual
13 budget meetings with the Bureau of Indian Affairs do you
14 recall attending?

15 A I can't recall at this time. I can't state for
16 sure.

17 Q Has Yakima Dixie ever told you that he was
18 denied services at any point in time by the Bureau of
19 Indian Affairs?

20 A He told me he had requested for some things to
21 be fixed and they never got back to him, as in something
22 about his house.

23 Q Do you recall when you had that conversation
24 with him?

25 A 1998, I would assume, I estimate 1998.

1 Q Okay. Did he tell you how long he had been
2 waiting for the bureau to get back to him on his
3 request?

4 A When Ray Fry came up he said ten years.

5 Q What do you mean when Ray Fry came up?

6 A When Ray Fry came up to a meeting in 1998, when
7 we elected Yakima chairperson Ray Fry and Ben Golden
8 were there, and he complained about something he
9 requested for them to do and they never did it. I think
10 it was sanitation.

11 Q Did Ray Fry indicate at that meeting why it had
12 taken so long?

13 A He said he would look into it. I think it was
14 just something like to drain the septic tank or
15 something. I don't think it was, I don't know what it
16 was, that was between them.

17 Q And do you also happen to know whether that
18 application was submitted to -- or let me rephrase it.

19 Do you happen to know whether Yakima Dixie was
20 requesting services from the Bureau of Indian Affairs or
21 from Indian Health Service?

22 A Yakima indicated the Bureau of Indian Affairs.

23 Q Have you ever met or had contact with Dora Mata
24 or Lena Shelton?

25 A I never met Lena Shelton. I know Dora, Dora

1 Mata.

2 Q How do you know her?

3 A As being Lena Shelton's daughter.

4 Q Have you actually met Dora Mata then?

5 A Yes.

6 Q Approximately how many times?

7 A She took me to the hospital when my daughter
8 was born, 1979.

9 Q Okay. Sounds like you know her pretty well
10 then?

11 A She smoked all the way and drove about 30 miles
12 an hour, took us forever to get there, I know that.

13 Q Are you related to Dora Mata?

14 A I don't know.

15 Q Do you know whether Dora is currently a member
16 of a federally recognized tribe?

17 A I don't know.

18 Q Have you ever had any conversations with her
19 about being, about her becoming a member of the
20 California Valley Miwok Tribe?

21 A Not conversations.

22 Q All right. Any written communication?

23 A Yes.

24 Q Okay. What is the nature of the written
25 communication that you've had with her about that

1 subject?

2 A That's internal matters to the enrollment
3 committee --

4 Q Okay.

5 A -- cause it's privacy, and in our constitution
6 it says that we must keep our confidentiality about
7 people and their nature of where they live, their name,
8 their addresses, things like that.

9 MR. STEELE: That information would be subject
10 to a protective order.

11 MS. LUTHER: Q. She is not currently a tribal
12 member, correct?

13 A Tribal member of where?

14 Q California Valley Miwok Tribe?

15 A No.

16 MR. THOMPSON: Can we go off the record for a
17 second? Try to answer your questions, try to help you
18 here.

19 MS. LUTHER: All right.

20 (Thereupon there was a discussion off the
21 record.)

22 MS. LUTHER: Q. Off the record we had a
23 conversation and you indicated that Dora Mata was
24 provided information about enrolling in the California
25 Valley Miwok Tribe, is that correct?

1 A Yes.

2 Q And when was that information provided?

3 A I can only estimate, 2000, 2001, I'm not sure.

4 Q Okay. And did Ms. Mata follow through on that
5 information, that is did the tribe hear anything further
6 from her with regards to membership after that?

7 A No.

8 MR. THOMPSON: I think the tribe is willing to
9 stip the enrollment process is open, that people who
10 have requested enrollment information it has been
11 explained to them what the process is and that the tribe
12 has no pending applications for enrollment.

13 MS. LUTHER: Yeah, I want to ask some questions
14 about that.

15 MR. THOMPSON: Okay. If it's getting to the
16 enrollment process we're going to ask for deliberative
17 process protection on that.

18 MS. LUTHER: Q. I take it that you take the
19 position that the California Valley Miwok Tribe
20 currently is an organized tribe, is that correct?

21 A That's correct.

22 Q Okay. What do you base that on, that
23 conclusion on?

24 A Because we followed every rule and regulation
25 that the bureau had put out there for us to follow as an

1 organized tribe.

2 Q Okay. And what rule in particular are you
3 referring to?

4 A Have a constitution.

5 Q Okay.

6 A Have policies and procedures. Have ordinances.

7 Q Anything else?

8 A Complete audits. We have a mature status.

9 Q Is that for your 638 contracting, correct?

10 A I think if you were unorganized that they
11 wouldn't give you mature status.

12 Q Says who?

13 A Pardon me?

14 Q Who told you that you could not have mature
15 status unless you were an organized --

16 A I said I would think.

17 Q -- unless you were an organized tribe? Now you
18 can answer.

19 A No one told us any different.

20 Q Well, nobody told you that only organized
21 tribes get mature tribal status for 638 contracting,
22 correct?

23 A Well --

24 MR. STEELE: If you remember?

25 MS. LUTHER: Nobody --

1 MR. STEELE: Let's take a break.

2 THE WITNESS: We need to talk on that one,
3 let's take a break on that one.

4 (Thereupon there was a brief recess.)

5 MS. LUTHER: Q. I don't know if you've had
6 occasion to look at the complaint that was filed on
7 behalf of the tribe at anytime recently, but I will
8 represent to you that in the amended complaint that was
9 filed on the tribe's behalf by David Rapport it
10 indicates in there that your tribe has a potential
11 membership of 250, do you recall that from your
12 complaint?

13 A I recall it from the complaint.

14 Q Okay.

15 MR. THOMPSON: I think we got to stop for a
16 second and go outside. I'm sorry, if I knew you were
17 going to ask that question I would have --

18 THE WITNESS: That still goes for enrollment.

19 MR. THOMPSON: If I knew you were going there,
20 I would have --

21 (Thereupon there was a discussion off the
22 record.)

23 MS. LUTHER: Q. What does the tribe mean by
24 250 potential members?

25 A When David Rapport did the amendment on the

1 case, David Rapport came up with the 250 members.
2 That's why David Rapport was fired because we couldn't
3 figure out where the heck he came up with his numbers.

4 Q Is it your testimony that he never discussed
5 that issue with you?

6 A I don't know where he came up with those
7 numbers, that's my testimony.

8 Q What does the tribe consider to be -- well,
9 I've got that.

10 Do you have a date in mind for when the
11 California Valley Miwok Tribe became an organized tribe?

12 MR. STEELE: Objection, calls for a legal
13 conclusion, but -- oh, no, no, I'm just getting another
14 pen.

15 THE WITNESS: When?

16 MR. STEELE: Objection, vague. Why don't you
17 rephrase it or we'll be sitting here for a while.

18 THE WITNESS: Yeah, I'm not sure at the
19 question.

20 MR. STEELE: Perhaps you should ask when did
21 they begin whatever steps constitute organization.

22 MS. LUTHER: Q. Is it your testimony that the
23 tribe was organized at any point before you were elected
24 as the tribal chairperson?

25 MR. STEELE: Objection, vague.

1 THE WITNESS: When I was elected as the tribal
2 chairperson we were still organizing.

3 MS. LUTHER: Q. So it would be the tribe's
4 position that organization occurred sometime after you
5 were elected, is that correct?

6 A That's correct.

7 Q And I believe you testified that you believed
8 the tribe was organized, in part, because it has a
9 constitution, correct?

10 A And because of mature status.

11 Q Right. I wanted to focus on the constitution
12 for a moment. Who participated -- well, let me ask it
13 this way.

14 Have you had more, has the tribe had more than
15 one constitution since you became the tribal
16 chairperson?

17 MR. STEELE: Objection, vague.

18 THE WITNESS: Since I became the chairperson?
19 Yes. Well --

20 MS. LUTHER: Well, let me ask it this way.

21 MR. STEELE: Are you referring to drafts of the
22 constitution?

23 THE WITNESS: Drafts?

24 MS. LUTHER: Q. No, I'm talking about final
25 documents. You may have had also a constitution that

1 had been amended, but I'm just, what I'm trying to find
2 out is if you've had one final adopted constitution or
3 whether you've had several or more than one final
4 constitution that's been adopted?

5 A We had a first one and it was, it was sent
6 back. And the second one, which is the one we adopted,
7 I think like March 6th of 2000, and we've been going by
8 that one ever since with the amendment.

9 Q How did the tribe go about -- what process did
10 it use to draft the first constitution that was
11 subsequently pulled back?

12 A Well, we went on the internet and we looked at
13 other tribes with constitutions in our areas, Miwok
14 Tribes. We looked at tribes from back east, Mohegans,
15 Unitas, we looked at tribes in Florida. We looked at
16 tribes Midwest. We looked at tribes IRA and non-IRA
17 custom and tradition, and we had various consultants.
18 We even talked with bureau employees. Bureau employees
19 out of state like Nevada.

20 And we tried to get everything in there that
21 would follow under Indian civil rights so that
22 everything would be in compliance to try to fit the
23 tribe for being such a small tribe at that time when
24 we're getting our constitution going.

25 Q Who was consulted or who participated among the

1 tribal members?

2 A All of 'em.

3 Q And that would be yourself and your two
4 daughters, correct?

5 A It would be the chairperson, the vice
6 chairperson, the secretary treasurer, the tribal member.

7 Q Okay. But anyone other than yourself and your
8 two daughters?

9 A Yakima Dixie.

10 Q Okay. Did he actually come to meetings and
11 give input?

12 A Which constitution, both?

13 Q The first one I'm focused on right now.

14 A The first one, yes.

15 Q And how were your relations during that period
16 of time with Yakima Dixie?

17 A As it is today.

18 Q Which is?

19 A I have no problem with Yakima Dixie.

20 Q Okay.

21 A Except for any threats that he might say to me,
22 but I don't say anything to him.

23 Q Okay. Back at that time when you were working
24 on the first constitution, did you have any difficulty
25 interacting with Yakima Dixie?

1 A Yes.

2 Q In what way?

3 A He would have people from outside that would be
4 in the jail that when we were having a meeting he would
5 stop the meeting and the person from the jailhouse would
6 get on the phone and threaten me.

7 Q And what?

8 A Threaten me from jail. And I have it even at
9 our tribal office where we got a call from the prison
10 and we took a picture of it to show the, the sheriffs
11 that we were getting threatening calls from the
12 Sheriff's Department. And it always happened to be on a
13 day that we'd be having a tribal council meeting.

14 Q I guess I'm a little confused. Going back just
15 to the period of time when you were working on the first
16 constitution, was Yakima Dixie in jail when you were
17 working on that first constitution?

18 A The biggest part of the time, but he still
19 participated. He would send something to the tribe or
20 to the bureau whether he rejected something or, I mean
21 we sent anything that had to come up with the
22 constitution to any address that we could find, and even
23 to the bureau to forward it.

24 Q And then he responded back to you from jail or
25 wherever he was, during that first draft I'm talking

1 now?

2 A Either through his attorneys or through the
3 bureau.

4 Q Was he objecting to any of the provisions in
5 the first constitution?

6 A I can't recall at this time.

7 Q I'm trying to remember because I know I have
8 seen drafts of the tribal constitution, so I don't know
9 if they were actually the drafted final adopted version,
10 but at some point, and I think it's in the constitution,
11 the tribe adopted a base roll, is that correct?

12 A Our base roll goes by the five members that
13 organized the tribe that the bureau said had the rights
14 to organize.

15 Q What -- to the best of your recollection, what
16 did you hear anyone from the Bureau of Indian Affairs
17 actually say about the tribe's base roll or the
18 development of a base roll?

19 A That the five members that were there as of
20 August, I think 6th, 5th or 6th, 1998, were allowed to
21 participate in organizing the tribe as long as they were
22 of age to do so.

23 Q Okay. Did anyone from the Bureau of Indian
24 Affairs say anything specifically about the base roll?

25 A The Bureau of Indian Affairs are the first one

1 who wrote up our first resolution in 1998, they put down
2 the base roll.

3 Q Did Chris Vandluthen have anything to do with
4 the base roll?

5 A It says base roll five.

6 Q So it's your testimony that the Bureau of
7 Indian Affairs drafted the tribe's first ordinance --

8 A First resolution --

9 Q -- or resolution?

10 A -- to organize.

11 Q And I think that's where we might be kind of
12 mixing apples and oranges because I'm talking about a
13 base roll and you're talking about organizing and who
14 was entitled to organize.

15 And are you -- for you, is the group that could
16 organize the tribe the same as the base roll? Are those
17 the same thing in your mind?

18 (Thereupon there was discussion off the
19 record between the witness and her counsel.)

20 THE WITNESS: Yes. I'm not sure if it says
21 base roll, all I know is it says to organize the tribe.
22 I figured that's the base roll.

23 MR. STEELE: Okay.

24 MS. LUTHER: Q. Apart from drafting this
25 first resolution and telling you that the five members

1 present in August, '98, I think you said, can organize
2 the tribe, has anyone from the Bureau of Indian Affairs
3 ever said anything to you specifically about a base
4 roll? And I want to separate that out from organizing.

5 A I can't recall at this time.

6 Q Let me ask you this. Never mind, I think you
7 answered it actually.

8 Now at some point in -- strike that.

9 Has the tribe ever publicized in any way the
10 fact that it was organizing?

11 MR. STEELE: Objection, vague.

12 THE WITNESS: What do you mean by publicizing?

13 MS. LUTHER: Q. Well, it could take a lot of
14 different forms. Radio spots, newspaper, flyers, posted
15 in public areas, letters to particular individuals that,
16 you know, might be, who had already expressed an
17 interest, perhaps, in assisting with the organization of
18 the tribe?

19 A We have a website up to where anybody can
20 counsel, I mean they can communicate with the tribe if
21 there was any kind of information that they needed.

22 Q Was that up and running at the time you were
23 organized?

24 A Our website? We've always been on, had a www.
25 Anybody can get in touch with us through the tribal

1 council.

2 Q Do you remember when you first had the website?

3 A '99 or 2000.

4 Q Okay. But was it before or after the tribe, as
5 you put it, organized?

6 A Well, we had to go through to get all of the
7 enrollment forms and everything ready like that because
8 we couldn't barely well give anybody an application if
9 we didn't have one drafted and approved yet.

10 I can't specifically say any date without
11 looking at the file to know exactly when.

12 Q Okay. Let me stop you for just a minute
13 because I think we're on two different wavelengths
14 again.

15 When I'm talking about organizing, I'm actually
16 talking about back at the beginning when you were first
17 thinking about drafting a constitution and first
18 thinking about drafting membership ordinances and other
19 tribal ordinances and resolutions. And at that time
20 period I'm asking you if anything was done to publicize
21 the tribe's organizing?

22 A I don't recall.

23 Q Okay. Do you recall whether you might have
24 called anybody besides your two daughters or Yakima and
25 said, you know, "Hey, do you want to help us get the

1 tribe off the ground? Do you want to help us draft a
2 constitution?"

3 A At that time --

4 MR. STEELE: Objection, foundation.

5 THE WITNESS: At that time when we were first
6 organizing, Yakima was the chairperson, so I don't know.
7 I don't know what he might have done when we were in the
8 beginning of organizing.

9 MS. LUTHER: Q. But even after you became
10 chairperson, did you initiate any effort, place phone
11 calls, anything of that nature to involve people other
12 than Yakima, Dixie, and your two daughters in drafting
13 the tribe's constitution or ordinances?

14 MR. STEELE: Objection, it's vague and
15 compound.

16 MR. THOMPSON: Yeah, I'm going to ask for a
17 recess.

18 MS. LUTHER: Only one person.

19 MR. THOMPSON: Come on.

20 MR. STEELE: Okay. Take a break.

21 (Thereupon there was a brief recess.)

22 MS. LUTHER: Q. Do you have an answer for
23 me?

24 MR. STEELE: Would you restate the question?

25 THE WITNESS: Yeah.

1 (Thereupon the Reporter read back as
2 requested.)

3 MR. STEELE: Objection, vague, compound.

4 THE WITNESS: In the beginning here I was
5 getting mixed up on organizing and enrollment. If it
6 comes to the organizing, the Bureau of Indian Affairs
7 had us go under the 638 contract and they gave us in our
8 contract that we had to follow; you gotta get all your
9 enrollment ordinances, your constitution, and everything
10 in place.

11 And this, I think it was up in 2000 they had
12 written a letter to me saying that it's possible that
13 Melvin Dixie may be able to participate, but he would
14 have to come to the tribe, which he never did.

15 And from day one, as far as I can remember as
16 the tribal person, the Bureau of Indian Affairs had just
17 told us to follow the requirements and stay in
18 compliance in getting our government in order and
19 everything for when enrollment comes up we'd have to
20 have our applications and stuff, but they never
21 specifically told us through numerous meetings all
22 through 2000 to go out and find people to organize.

23 They said that you, your two daughters, Yakima,
24 and possibly Melvin if he, if he came to the tribe are
25 the ones that can organize, that's all I know.

1 MS. LUTHER: Q. At some point the tribe
2 devised enrollment ordinances, correct, or at least an
3 ordinance, correct?

4 A That's correct.

5 Q Has the tribe undertaken any effort to
6 publicize its enrollment criteria?

7 A We had just finished our enrollment
8 applications.

9 Q What do you mean by that?

10 A We had to draft up the application, get copies
11 of it, and according to the requirements of our 638
12 contract we had to have that done in a specific amount
13 of time, and we had just finished that.

14 Q My question was a little different. Have you
15 ever publicized, apart from what might be on your
16 website, have you ever tried to publicize the enrollment
17 criteria?

18 A We were never required by the bureau to do so.

19 Q My question is different. Have you ever done
20 it?

21 A No.

22 Q Okay. Have you ever, have you received any
23 applications from anyone?

24 A No.

25 Q Have you provided applications to anyone?

1 A No one has inquired for an application to be
2 provided to them.

3 Q So when you provided people like Ms. Mata with
4 information about becoming a member, you didn't provide
5 her with an application? I guess I'm confused.

6 A She didn't inquire that, to send an
7 application. She didn't inquire for an application, we
8 had no application at that time.

9 Q Okay. And you haven't contacted her since?

10 A She hasn't contacted us.

11 Q Do you recall whether you have, in fact, told
12 people that when you did have an enrollment ordinance
13 and criteria you would send them an application?

14 MR. STEELE: Let's take a break.

15 THE WITNESS: Okay.

16 (Thereupon there was a brief recess.)

17 MS. LUTHER: Q. Do you remember the pending
18 question?

19 A No.

20 MR. STEELE: No, have her read it back.

21 MS. LUTHER: Could you please read it back?

22 (Thereupon the Reporter read back as
23 requested.)

24 THE WITNESS: At this time we were waiting for
25 an opinion from the Bureau of Indian Affairs because we

1 have a document through our 638 that said that there
2 would be a secretarial election. And at that time if
3 there's a secretarial election, the Bureau of Indian
4 Affairs puts out, publicizes that there would be an
5 election that, I guess, enrollment can come open and
6 stuff, I don't know how they do it. But we were under
7 the assumption that the bureau would call an election.

8 And we had a disagreement on the election
9 because the tribe wanted to stay custom and tradition,
10 and the bureau had said that they would, they would put
11 it down in our 638 that until an opinion came back from
12 the solicitor's office saying that we had to go under
13 IRA and hold an election, they would pretty much just
14 leave it, leave our contract alone, and they didn't
15 require us to publicize anything to do with enrollment
16 or anything like that until the opinion come back.

17 If the opinion come back and said you have to
18 have an election, then we'd have to have an election,
19 and then the bureau would publicize about the tribe and
20 the enrollment.

21 And we, till 2002 we still have not received
22 any opinion, and now we were told that we did not have
23 to go under IRA, we do not have to have an election, and
24 we just found that out last week.

25 MS. LUTHER: Q. Well, it's been longer than

1 that.

2 A It doesn't seem like it's been that long.

3 Q I know, time flies.

4 A A couple weeks ago, and that was the news we've
5 been told.

6 Q Are you now taking steps to publicize your
7 enrollment and to send out applications to people who
8 have inquired in the past?

9 A Wouldn't that be for the election committee?

10 Q I'm sorry?

11 A Wouldn't that be for the enrollment committee?

12 Q I don't know, you tell me.

13 A As an internal -- enrollment is internal,
14 that's our inherent right, and that would be asked of
15 the enrollment committee.

16 Q And who's that committee?

17 A The enrollment committee?

18 Q Correct?

19 A Anjelica Paulk and Rashel Reznor.

20 Q And those are your two daughters, correct?

21 A Well, they do have titles.

22 Q I understand that, but they're also your two
23 daughters, correct?

24 A Yes.

25 Q Do either of them live with you?

- 1 A No.
- 2 Q Does the tribe have an office?
- 3 A Yes.
- 4 Q And where is it presently located?
- 5 A 10601 Escondido Place, Stockton.
- 6 Q And is that also a residence?
- 7 A Yes.
- 8 Q And is it your residence?
- 9 A No, it's the tribe's.
- 10 Q Is the property maintained in the name of the
11 tribe?
- 12 A Yes.
- 13 Q As fee land?
- 14 A Yes.
- 15 Q How much land are we speaking of?
- 16 A Where?
- 17 Q That the tribe owns in Stockton?
- 18 A One and a half acres.
- 19 Q And how many buildings are located on this
20 property?
- 21 A One.
- 22 Q And do you live in that building?
- 23 A It has an office adjacent to it.
- 24 Q Okay. That's fine. I'm just trying to
25 understand. So you have tribal offices and your

1 residence --

2 A Yeah.

3 Q -- on this property?

4 A (Witness nodded head.)

5 Q And how long has the tribe owned this land?

6 A I'd estimate almost two years.

7 MS. LUTHER: Okay. Okay. Let's go off the
8 record.

9 (Thereupon there was a discussion off the
10 record.)

11 (Thereupon the luncheon recess was taken.)

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AFTERNOON SESSION

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1
2
3 MS. LUTHER: Q. Does the tribe own any other
4 land other than the land at, I have it written down
5 somewhere, is it Escondido Place in Stockton?

6 A What do we consider other land? Like Yakima's
7 land?

8 MR. STEELE: No, not Yakima's.

9 THE WITNESS: No. No.

10 MS. LUTHER: Q. I'm not asking you about --

11 A No.

12 Q Okay. Since you became a member of the
13 California Valley Miwok Tribe, where have the tribal
14 offices been located?

15 A Arnold, California, Tracy, California, 10601
16 Escondido Place, Stockton.

17 Q And --

18 A In the beginning, since I became a member it
19 was also at Yakima's Dixie's residence.

20 Q At Sheep Ranch Rancheria?

21 A At Sheep Ranch.

22 Q But on the land known as Sheep Ranch Rancheria?

23 A Yes.

24 Q And in Tracy was there any other address other
25 than the address on Widow Court?

1 A No.

2 Q When the tribal offices were in Tracy, did the
3 tribe own that property in Tracy?

4 A No.

5 Q So in the time that you've been a member of the
6 tribe, is the property in Stockton the first and only
7 property that the tribe has ever owned independent of
8 whatever gets resolved with the property known as Sheep
9 Ranch Rancheria?

10 A Yes.

11 Q Apart from any conversations you may have had
12 with your attorneys, has anyone inside or outside of the
13 Bureau of Indian Affairs or within or without your
14 tribe, has anyone ever told you that the tribe was ever
15 terminated?

16 A I don't recall.

17 Q I received your tribe's objections to the
18 interrogatories, I didn't receive any responses so I'm
19 going to ask you about some of those.

20 I understand that the tribe has an Indian
21 artifact program, is that correct?

22 A Yes.

23 Q What is that program?

24 A It's a program that is a non-paying program and
25 it works with culture, the transportation, like

1 California Transportation in case there's cultural areas
2 in which the Miwoks were, and if they want to put up a
3 subdivision or something they want to make sure if that
4 site had any cultural, any culture that is, to the
5 Miwoks that might be sacred or susceptible to being
6 overlooked as written down, because the culture through
7 the Miwoks didn't keep a lot of things on paper, it's
8 just passed down that that might have been where a
9 roundhouse was. So it, the program works with the
10 Heritage Commission.

11 Also with our saving our language, saving all
12 our traditions as in our songs, our, knowing our
13 ceremonies, teaching 'em to grandkid, the tribal
14 members. Knowing where old, old roundhouses and places
15 used to be that have no sites now that showed that
16 anything was there.

17 So it's mostly heritage and culture and
18 tradition, keeping it going, keeping it living.

19 Q And within the tribe, who is the contact person
20 for the artisan program?

21 A As administrator I overlook it, but we, as the
22 tribal council, appointed Mildred Burley as the
23 representative since she is the individual that knows of
24 a lot of old culture before my time.

25 Q What is his name again?

1 A Her name.

2 Q Her name, I'm sorry?

3 A Mildred, M-I-L-D-R-E-D B-U-R-L-E-Y.

4 Q The mother, I'm sorry.

5 A It's on the internet.

6 Q Speaking of which, I have actually tried to
7 access the website from time to time, I've never been
8 able to get it to come up.

9 A That's because the bureau up in Washington kept
10 having a hard time with the server. So if you go on
11 www.californiavalleymiwoktribe-nsn.gov, now it comes up
12 Nancy Sam Nancy dot G-O-V. It's there on the business
13 card.

14 Q I didn't get one, you gave one to her, you gave
15 one to the court reporter.

16 Are there any other employees who have been
17 hired to promote the artisan program?

18 A We don't have any employees through the artisan
19 program.

20 Q Okay.

21 A It's a non-paying job.

22 Q So your mother does not receive any
23 compensation?

24 A There's a resolution that if she picks up
25 materials, because we still make pine needle baskets and

1 things as materials to keep cultural alive, if she has
2 to spend any money for, like, gas to go and pick these
3 things up, if it's out of the county or anywhere in the
4 county she'll get reimbursed for that, but nothing else.

5 Q So basically she gets reimbursed for expenses?

6 A Yeah, as long as it pertains to the program of
7 picking up, you know, hunting, gathering, you know,
8 things like that, gathering things, materials.

9 Q Is there any other program that the tribe
10 operates that deals with the history besides the artisan
11 program?

12 A No other programs.

13 Q Maybe I should ask you, what programs does the
14 tribe have?

15 A The programs, have ICWA, higher education,
16 forestry, realty, safety. We have a maintenance program
17 for the vehicles and the property, keeping the property
18 up. I can't recall right now, there might be others.

19 Q Does the tribe have employees?

20 A Yes.

21 Q Okay. How many?

22 A Four.

23 Q I'm sorry?

24 A Four.

25 Q And what are their names?

1 A Their names or their positions?

2 Q Their names and positions.

3 A Silvia Burley, administrator.

4 Anjelica Paulk, A-N-J-E-L-I-C-A, P-A-U-L-K,
5 assistant administrator.

6 Rashel, R-A-S-H-E-L R-E-Z-N-O-R, Rashel Reznor
7 is the tribal secretary.

8 And Tiger Paulk, T-I-G-E-R P-A-U-L-K is a
9 maintenance engineer.

10 Q Are each of these positions salaried positions
11 then?

12 A Yes.

13 Q And does the tribe employ consultants?

14 A Yes.

15 Q Obviously you've got attorneys. And what
16 consultants does the tribe currently employ besides your
17 counsel?

18 A Our financial manager.

19 Q Just one?

20 A Yes.

21 Q Okay. What else?

22 A That's it at this time.

23 Q Okay. Now the tribe's ICWA program, I presume
24 that benefits your granddaughter, is that correct?

25 A No, we had the ICWA program, if someone calls

1 in and they have a case to where some kids say that
2 they're Miwok Indians and they're going to court because
3 they got taken away from their family, and they write to
4 us to see if maybe they're in our tribe or if we have
5 any idea of what tribe they might be in. My
6 granddaughter does not, she's not in the ICWA program.

7 Q Okay. My understanding was that ICWA was -- I
8 understand that application of ICWA, I understood that
9 it also had some other broader implications. I wasn't
10 trying to suggest anything about your granddaughter.

11 What does the tribe do in the area of
12 education?

13 A Education? We have higher education and it's
14 out there to any tribal member that would want to get a
15 higher education to learn just broader skills. Even if
16 Yakima wanted to get an education, even if he wanted a
17 GED there would be money there to where if he wanted to
18 pursue that area he could do so.

19 Q Has any tribal member taken advantage of that
20 program?

21 A Yes.

22 Q And who is that?

23 A Well at this time I'd have to go back into the
24 files, I couldn't say right off my head, I just know
25 that they have or it has been forward. I just can't --

1 Q There are only four people that would be
2 eligible for higher education?

3 A But then you're probably going to ask me what
4 time and I don't know what date.

5 Q No, no, I was just wondering if anybody had?

6 A Yes, Rashel Reznor.

7 Q I'm sorry, you said Michelle?

8 A Rashel.

9 Q Oh, Rashel. And then how does the tribe get
10 involved with forestry?

11 A Forestry calls to see when they want to
12 clearcut land and it comes back down to they want to see
13 if there's any cultural or heritage, and so they want to
14 confer with the tribe to show that they're in compliance
15 with the tribes of California.

16 Q What is the current requirement for
17 membership? What is the current criteria?

18 A You'd have to look on the application, I
19 couldn't say right off.

20 Q Well, you're the tribal chairperson and you
21 don't know what the criteria for being a member of the
22 tribe?

23 MR. STEELE: Objection, argumentative.

24 THE WITNESS: I know that we have an
25 application, I'd have to look at the application. I

1 couldn't say right off every single thing, it's not in
2 front of me. I work seven days a week, sometimes twenty
3 hours a day, I couldn't tell you right this time. I'd
4 have to look at the application.

5 MS. LUTHER: Q. Is it your understanding that
6 in order to be a member of the tribe that one of the
7 requirements, it might even be the only one, but at
8 least one is that you have to be related to someone on
9 the base roll?

10 MR. STEELE: Objection, asked and answered, she
11 said she doesn't remember.

12 THE WITNESS: I'd have to look at the
13 application.

14 MS. LUTHER: Q. So it might be that you don't
15 have to be related to somebody on the base roll, you
16 don't know?

17 A I can't answer, I don't know.

18 MR. THOMPSON: Can I interject that it's
19 probably in the enrollment ordinance which has been
20 provided to the bureau. And I have a copy of the
21 document if you want to put it in evidence and ask
22 questions.

23 MS. LUTHER: You have a copy with you?

24 MR. THOMPSON: You want to put it into evidence
25 and ask questions on it?

1 MS. LUTHER: Sure, that would be great.
2 Thanks. I'll go make a copy so you can put it back in
3 your binder.

4 MR. THOMPSON: Let me be sure this is the
5 approved ordinance as you remember it.

6 Getting back to the signature page here.

7 THE WITNESS: Yes.

8 MR. THOMPSON: Okay.

9 MS. LUTHER: I'll be right back.

10 (Thereupon there was a discussion off the
11 record.)

12 (Thereupon Exhibit number 1 was marked
13 by the Reporter for identification.)

14 MS. LUTHER: Q. What was the process by which
15 you actually became a member of the tribe?

16 A I was asked to forward documents to the then
17 spokesperson of the Sheep Ranch Rancheria.

18 Q And who was that?

19 A Yakima Dixie.

20 Q And so what document did you send him?

21 A I gave 'em to him, I don't recall what all
22 documents he wanted, that was five, six years ago, I
23 don't know.

24 Q Okay. And what happened next?

25 A He went to jail.

1 Q That wasn't exactly what I meant.

2 A Well he went to jail and so it got quiet. And
3 then in '98 I had been talking with Margaret Dalton, I
4 think from Jackson Rancheria, and she said that she
5 knows of a guy named Raymond Fry down at the Bureau of
6 Indian Affairs, and go talk to Ray, maybe Sheep Ranch
7 Rancheria reopened, she heard a rumor Yakima Dixie was
8 out.

9 And I said, "Oh, great, Yakima Dixie, I've been
10 corresponding with him for three years now, and yeah,
11 I'll go down and talk to Ray then."

12 And I went down to the bureau. And Ray took me
13 in to meet with him and he said yes, that Mr. Dixie is
14 back home, it's confirmed, he just spoke to him the
15 other day, and if I was interested in speaking with him
16 that I should give him a call.

17 And I asked him if he had his number, and he
18 gave me his number.

19 Q Okay. But then did you call Mr. Dixie?

20 A Yes.

21 Q And what transpired in that conversation?

22 A He asked me to come by.

23 Q And did you?

24 A Yes.

25 Q What happened when you went by? I take it you

1 went to the Sheep Ranch Rancheria?

2 A I went to Mr. Dixie's residence in Sheep Ranch.

3 Q At that time was it at the land known as Sheep
4 Ranch Rancheria or somewhere else?

5 A No, it was at the place, the Sheep Ranch. He
6 said yeah, that he had, he had gone over the documents
7 and that he had talked to the bureau and it was
8 confirmed that his grandma and my grandpa were brother
9 and sister, and with all the other documents that he got
10 that that was enough for him to say that I am related
11 and that I am Miwok. And with my background that he had
12 no problem with bringing me and my daughters and my
13 granddaughter in as tribal members of the Sheep Ranch
14 Rancheria.

15 Q So at that point he brought your whole family
16 in or that --

17 A Yeah.

18 Q Did he put that in writing to you?

19 A We called -- well not we, he called the bureau
20 and said that we had come by and that he had accepted us
21 and what did he need to do.

22 And I don't know exactly who he spoke to, if it
23 was Ray, Brian, Brian Golding or Dale Risling, I have no
24 idea. And they said he'd have to write down in writing
25 who he accepted as members into the tribe, and it would

1 have to be on a piece of paper, the names, and he'd have
2 to sign it, and he'd have to have us bring it down to
3 the bureau.

4 Q And so did he do that?

5 A He signed it. Well, he had me write it but he
6 signed it. At that time I didn't know if he could write
7 or not, I thought since he didn't want to write it out
8 maybe he didn't know how to write. But I don't know.

9 Anyway, so I spelled it out and he signed it.
10 And I went to the bureau with my, then it was my
11 youngest daughter Anjelica.

12 And the bureau said that we'd have to go back
13 to Mr. Dixie because there was nothing on there to prove
14 who he was actually bringing in as in birthdates, we
15 forgot to write birthdates down, because maybe it was
16 Silvia Burley that's like ninety years old or something.

17 So we went back up and Mr. Dixie had us, had,
18 he dictated to me what he wanted to have said. So I
19 wrote it down, and we wrote in the names and the
20 birthdates and the date. And I think at that time that
21 might have been August 6th, because I think the first
22 date was August 5th.

23 And then we took 'em back down and they said
24 that that was fine, that's all they needed, and there
25 was no restrictions or anything put on it, and that we

1 were tribal members.

2 Q During any of your conversations with Yakima
3 Dixie at that time, did he indicate to you whether he
4 considered his own brothers to be members of the tribe?

5 A No, he said his, he said Richard and Tommy were
6 dead, and as far as he was concerned Melvin was dead
7 because he hadn't seen his brother for 25 years.

8 Q Did he say anything about Melvin and whether
9 Melvin would be --

10 A No.

11 Q -- a member? Did he ask if you had any
12 brothers or sisters?

13 A No.

14 Q Or about your parents?

15 A No.

16 Q Did you ever determine whether or not Mr. Dixie
17 knew how to read and write?

18 A Yes.

19 Q And when was that?

20 A He wrote letters to me before then, in between
21 '95 and '98, that's why I couldn't figure out why he
22 didn't want to write then. I thought, well maybe he can
23 write in cursive but he couldn't spell or type, I don't
24 know. I thought maybe he just didn't want to write.

25 Q Well the letters you got from him before, how

1 can you be sure that he was, in fact, the one who wrote
2 them as opposed to maybe somebody else?

3 A Because actually when he end up writing to me
4 on Christmas cards it came out the same way. It was the
5 same, the same cursive, and I actually seen him write in
6 front of me too.

7 Q Okay. I noticed that the ordinance that has
8 been marked as Exhibit 1 -- well, let me ask you this
9 first.

10 As far as you know, is the document marked as
11 Exhibit 1 the tribe's current enrollment ordinance?

12 A Yes, to my knowledge of today.

13 Q At the time that this document was drafted, was
14 anyone other than the four adult individuals designated
15 on the base roll invited to participate in drafting this
16 document?

17 A Sure.

18 Q Who?

19 A We had, not written correspondence, well some
20 written but mostly verbal with the bureau, like Brian
21 Golding, Ray Fry, Dale Risling, Doug Rollins, Claudette,
22 I think her last name is Rogers, I'm not sure. But the
23 Bureau of Indian Affairs with Ron Jaeger, Jan DePina-
24 Whipple, other consultants that were in the, employed by
25 the tribe through contract. Attorney that's dead.

1 Q I'm sorry?

2 A We have an attorney that died.

3 Q Oh.

4 A Our other attorney. It was, it's been, it just
5 didn't come up, there it is, it took a long time to come
6 up with anything that had to do with government
7 documents, and it was always back and forth with the
8 bureau because we wanted to make sure that we were in
9 compliance all the way.

10 Q And what did, what did Ray Fry tell you to the
11 best of your recollection?

12 A Mostly it's like you can go on and go on-line,
13 or you can contact other tribes and see what their
14 ordinances are like, or they would see if anybody, they
15 might have some models or draft ordinances that they
16 could possibly have Brian send to us, things like that.

17 Q Did you ever ask for some samples to be sent?

18 A Yes.

19 Q And did you receive any?

20 A Yes.

21 Q And what did Brian Golding tell you about
22 drafting?

23 A "Here's your documents that you requested."

24 Q Okay. Did you have any other conversations
25 with him?

1 A Many, but I can't say right now, I just know
2 there were many.

3 Q All right. Dale Risling, what did he have to
4 say to you about drafting the enrollment ordinance?

5 A Mostly with Dale if I went down to meet with
6 him he would say to, you should confer with tribal ops.
7 I would ask him if he would have any idea because he
8 used to be the chairperson of the Hoopa and I thought
9 that maybe he could help us.

10 Q Ron Jaeger, what did you talk with him about
11 with regard to the enrollment ordinance?

12 A Just what ideas that he would have as being in
13 the PRO which comes to the Pacific Regional Office. If
14 there was any comments or any suggestions that he could
15 put towards us, because we wanted to have a full rounded
16 view of not only the bureau at the central California
17 agency level, but the PRO too, because I wanted to
18 introduce myself as the chairperson of the tribal
19 council to show that we wanted to be open for any
20 comments or anything through their office also besides
21 the central Cal.

22 Q So it doesn't sound like he had anything to say
23 to you about drafting the enrollment ordinance?

24 A He mostly said as long as it's not violating
25 any Indian civil rights, that's what his idea was on it.

1 Q Okay. And what did Jan Whipple-DePina say to
2 you about drafting the --

3 A That it was in the contract and that we had to
4 keep our ordinances in order as to the, like the
5 election ordinance, the enrollment ordinance; and to
6 make sure that everything was proper; and just that if
7 we ever need any help that they would be there to try to
8 put us in the right direction.

9 Q Okay. Anything else that anyone at BIA said to
10 you about drafting the enrollment ordinance?

11 A Only that it was required.

12 Q Do you have any knowledge as to whether Ms.
13 Reznor or Ms. Park had any conversations with people at
14 the Bureau of Indian Affairs concerning the drafting of
15 the enrollment ordinance?

16 MR. STEELE: Objection, foundation, calls for
17 speculation.

18 THE WITNESS: They were there at the same
19 meetings.

20 MS. LUTHER: Q. Okay. So they were with you
21 at the time?

22 A Yeah.

23 Q Okay. Does the tribe have any traditions of
24 its own that are independent from the surrounding Miwok
25 Tribes?

1 MR. STEELE: Objection, vague, ambiguous.

2 THE WITNESS: Pretty much all of the Miwok have
3 the same tradition except the only difference is our
4 language. And what I might say in my language as I was
5 brought up to hear it might be different from, I mean it
6 might be the same word but they might pronounce it
7 different as in Ione, but all of our culture is the
8 same.

9 MS. LUTHER: Q. Are there particular
10 celebrations or cultural events that you celebrate just
11 as the California Valley Miwok Tribe?

12 MR. STEELE: Objection, vague, ambiguous.

13 THE WITNESS: We have our traditions and we
14 would like to celebrate 'em, we just don't got a lot of
15 time.

16 Q Not if you're working twenty hours a day or
17 whatever.

18 A I'm used to getting sued with Yakima with
19 frivolous lawsuits, so there goes a lot of my time doing
20 cultural stuff.

21 Q That happened, to my understanding, only once?

22 A We just got another one dismissed, so that's
23 twice now.

24 Q That's the administrative appeal that he filed
25 with the bureau, correct?

1 A Yes.

2 Q Okay. I know probably it all seems like the
3 same thing to you, you know.

4 MR. THOMPSON: It is.

5 MS. LUTHER: Q. Another challenge, I
6 understand that.

7 Are any non-Indians eligible for enrollment in
8 the tribe?

9 A Can you repeat that?

10 Q I was just reading in section 5.010, criteria
11 for enrollment. Under voting members it says, "All
12 linear forebearers such as parents, grandparents,
13 etcetera, of the persons identified in section
14 5.0101 --" you can look at it if you like.

15 A Uh-huh.

16 Q It says page thirteen at the very top. And it
17 appears to identify all voting members as consisting of
18 the base enrollees, all linear descendants of the
19 persons identified on the base roll, but then it also
20 says all linear forebearers such as parents,
21 grandparents, etcetera of the persons on the base roll.

22 Do you see that?

23 A Uh-huh.

24 Q And so my question, obviously your
25 granddaughter, your granddaughter and your daughters

1 have forebearers who seem to be, may be non-Indian, I
2 don't know if they are or not, is that the case?

3 MR. STEELE: Objection, calls for a legal
4 conclusion, also lacks foundation.

5 THE WITNESS: Do you mean on their part if
6 there's someone that is not of Miwok, is that what
7 you're meaning?

8 MS. LUTHER: Q. Yeah, because it suggests to
9 me, it says all linear forebearers of the person
10 identified on the base roll. For example, your husband,
11 is he at all Indian?

12 MR. STEELE: No, don't answer.

13 MS. LUTHER: Q. As far as you know?

14 MR. STEELE: Why don't you rephrase the
15 question? I mean I think I knew what you were going for
16 at first.

17 MS. LUTHER: It may have just been something
18 that the tribe overlooked, kind of one of those
19 unintentional things, but let me start off by asking you
20 this.

21 Q Who is Anjelica's father?

22 A Tiger Paulk.

23 Q And is Mr. Paulk Indian to the best of your
24 knowledge?

25 MR. STEELE: I'm going to have to stop that

1 line of questioning. I mean I know what you're going
2 for, and I think if you reask the question.

3 MR. THOMPSON: Can we come off the record for a
4 second?

5 MS. LUTHER: Pardon?

6 MR. THOMPSON: Can we go off the record for a
7 second?

8 (Thereupon there was a discussion off the
9 record.)

10 MS. LUTHER: Let's go back on the record. Off
11 the record the parties stipulated that the enrollment
12 criteria insofar as voting members could be read to
13 permit non-Indians to be enrolled voting members.

14 MR. THOMPSON: Can we say non-Miwoks?

15 MS. LUTHER: Sure, non-Miwoks.

16 MR. THOMPSON: Okay.

17 MS. LUTHER: Wouldn't it also potentially apply
18 to non-Indians as well?

19 MR. THOMPSON: Well, if they're -- yeah. But
20 it would be non-Miwoks would be eligible, because it
21 could be Indians, her father was part Shawnee, and could
22 be Shawnee members.

23 MS. LUTHER: I understand that.

24 MR. STEELE: One thing, before we enter a
25 stipulation like that I'd like to look at this entire

1 document in its totality because I don't know what else,
2 and I don't recall off the top of my head what else is
3 in this document that might obviate the conclusion that
4 we're looking for here, because I don't think we can
5 tell just from that particular paragraph.

6 MS. LUTHER: I can certainly ask it different.

7 Q Was there ever any discussion or proposal to
8 include non-Miwoks as tribal members?

9 A Gee, I can't recall at this time. This
10 document was prepared a long time ago, I'd have to read
11 over it. I can't think of right today at this moment,
12 I'm too tired.

13 Q Let me ask you to, or do you recall whether
14 there was ever any intent to include non-Indians as
15 tribal members?

16 MR. STEELE: Objection, I'm going to object to
17 that as the deliberative process privilege, so you don't
18 have to answer.

19 MS. LUTHER: Q. Is it the policy of the tribe
20 to admit non-Indians as members?

21 MR. STEELE: Calls for a legal conclusion.
22 Answer if you know.

23 THE WITNESS: That I --

24 MR. STEELE: If you know, you know; if you
25 don't, you don't know.

1 THE WITNESS: Yeah, I don't know.

2 MS. LUTHER: Q. You don't know?

3 A I don't know.

4 MR. THOMPSON: I'd like to go off the record
5 and talk to my client for a second.

6 (Thereupon there was a discussion off the
7 record.)

8 MS. LUTHER: Q. Does the tribe have an
9 ordinance for disbursing the Indian gaming revenue
10 sharing fund that it receives?

11 A An actual ordinance?

12 Q Or resolution, a document, policy?

13 A Yes. Yes.

14 Q Okay. And how is that payment disbursed among,
15 in the tribe?

16 MR. STEELE: Objection, vague.

17 THE WITNESS: I'd have to have the actual
18 policy or resolution in front of me, but if there are
19 disbursements, it goes to every tribal member that's
20 above eighteen.

21 Q Okay. In equal shares or --

22 A Yes.

23 Q Now I take it that the tribe holds council
24 meetings, is that correct?

25 A Yes.

1 Q How often?

2 A Monthly, unless there's a special meeting that
3 has to come up.

4 Q When was the last time Yakima Dixie
5 participated?

6 A What do you mean by participated?

7 Q Attended.

8 A That would have been August of 1999, August
9 28th.

10 Q Has he ever tried to participate by telephone?

11 A No.

12 Q Why were the tribal offices moved from, I think
13 you said Arnold down to Tracy?

14 A I can't recall at this time.

15 MR. STEELE: Object, the question is vague and
16 ambiguous.

17 MS. LUTHER: Q. Would Yakima Dixie be eligible
18 to attend tribal council meetings if he is not a member
19 of the tribal council?

20 A He's been giving threats to blow my head off,
21 so I would be too nervous to be in the same area with
22 him since he's already showed he'd murdered once.

23 Q He's done what?

24 A He murdered my uncle that had ties to that land
25 up there who was at one time put on as a person that

1 should receive some of that land, and he told me that he
2 wanted to live on that land, and in 1978 Yakima murdered
3 him.

4 Q When did that happen?

5 A 1978, '77, '78, somewhere in there.

6 Q And was that Leonard Jeff?

7 A Yes.

8 Q And have you reported his threat to local law
9 enforcement?

10 A Yes.

11 Q And do you know whether any action was taken?

12 A I know that Yakima got special treatment by the
13 Sheriff's Department up there in Calaveras County that
14 says if he wanted to go make a casino deal a Sheriff was
15 standing on hand to take him to it. That's all I got
16 out of them, that was in the newspaper.

17 Q When was the last time he made such a threat to
18 you?

19 A He made a threat to my attorney.

20 Q Well, my question was to you.

21 A He made a threat about me to my attorney.

22 Q When was the last time he made a threat
23 directly to you?

24 A I can't recall if it was in 2000 or 2001.

25 Q And approximately how many times has he

1 threatened you directly?

2 A Estimation, twice.

3 Q And then you mentioned a threat that was made
4 against you to your attorneys, correct?

5 A Correct.

6 Q And how many times have you heard from other
7 people that Yakima has threatened you?

8 A I can't recall. I can recall that he, that,
9 getting the threats, I just can't recall exactly was,
10 which consultant had heard cause they had spoken with
11 him or when he would advise one of his attorneys to call
12 us and they would relay what he said.

13 Q Now when I said, when I say threatened you, I
14 mean actually threaten you with physical bodily harm as
15 opposed to threatened to challenge your chairpersonship
16 or, you know, threaten to take the tribe back, something
17 like that. Do you understand the distinction?

18 A Yes.

19 Q Okay. So has he threatened you with bodily
20 harm twice?

21 A Yes.

22 Q And has he threatened you with bodily harm
23 through other individuals?

24 A Through my attorney. I can't recall for sure
25 on the other ones that were said.

1 Q Okay. When he made the threat to you
2 personally, did he do that to your face or over the
3 phone or in a letter? How did he deliver the threat?

4 A Phone.

5 Q Both times?

6 A Phone once, to my face once.

7 Q What, to your recollection, led up to him
8 making the two threats directly to you?

9 A There's this guy named Bill Martin and this guy
10 named Chad Everone, and another guy I can't think of his
11 name right now, but they told him that if he had that
12 land all to himself, which they figured even if it
13 wasn't in trust, in trust, something about the old
14 rancheria, they could put a boxing place up there and he
15 could be making millions just for one person. If he
16 could kick out the rest of the tribe that he would
17 become a multimillionaire.

18 So he told me that he would rather see me dead,
19 and it would be easy enough to blow me away. Since he
20 blew away my uncle, it would be no problem blowing away
21 a woman.

22 And at that same time is when I no longer took
23 it as, as something that would be just hearsay since he
24 told me that it didn't bother him the first time to kill
25 someone.

1 Q I'm sorry, it didn't --

2 A It didn't bother him the first time to kill
3 someone that had one leg, so it wouldn't bother him to
4 kill someone that was a woman.

5 Q Was that what was behind both of the threats as
6 far as you know?

7 A That was probably behind, why we moved from
8 Arnold to Tracy. Arnold is only seven miles from Sheep
9 Ranch.

10 Q Have the tribe provided any benefits to Yakima
11 Dixie?

12 A The tribe has sent him, I think two or three
13 letters, I'd estimate two or three letters. The one
14 says that we will, if he would send a bill to the tribe,
15 as if it was PG&E, water, heating, as in propane or
16 wood, that the tribe would pay for that for him.

17 And the tribe sent another letter that there's
18 money in the higher education if he wanted to pursue any
19 kind of a higher education as in a GED or anything.

20 Q Anything else?

21 A Oh, medical.

22 Q I'm sorry?

23 A Medical, if he needed any medical help.

24 Q Did you receive -- anything else? I want to
25 make sure I get a complete list.

1 A Anything else is he got the same amount of any
2 revenue sharing distributions that might have went out.

3 Q Okay. Anything else?

4 A I can't recall anything else right now.

5 Q Now, has he accepted any of the checks that the
6 tribe has sent him for his revenue sharing?

7 A Oh, sure, he's accepted 'em. He's received
8 'em.

9 Q Okay. I guess I had been led to understand
10 that he was returning them or not cashing them or
11 something?

12 A Well, he accepted 'em, whether he cashed 'em or
13 not I hadn't seen 'em be cashed.

14 Q They haven't been cashed?

15 A (Witness shook head.)

16 Q Is that a yes or a no?

17 A They have not been cashed as far as I know
18 today.

19 Q Not a single one?

20 A You'd have to refer that to the financial
21 manager.

22 Q And has he sent you any letters in response to
23 your letters to him about, you know, paying the utility
24 bills or getting a higher education or medical?

25 A No.

1 Q Does the tribe print its own enrollment cards?

2 A The tribe is setting up a computer system to
3 where they will have the enrollment cards with the
4 I.D.s.

5 Q What does the tribe use at the present time as
6 a means of identifying the members as tribal members?

7 A We had enrollment cards that were back from
8 winter court that just showed your, I think it was a
9 photo and just tribal affiliation and information like
10 that.

11 Q Has one ever been sent to Yakima Dixie?

12 A He has known it was available, he hasn't
13 contacted us.

14 Q So the tribe hasn't sent him one because it
15 hasn't received a request for one?

16 A Right. He does not want his personal
17 information put out there. He doesn't, he hasn't
18 provided us a picture, a photo I.D. or any of his
19 personal information.

20 Q Have the tribe done any work in the area of
21 tribal law development?

22 A The closest we have there is it enacted a
23 resolution for a, like a hearing dispute grievance for a
24 tribal Administrative Law Judge to come in to hear any
25 disputes, otherwise you have tribal council dispute

1 hearing that any members can come to.

2 Q When was that resolution enacted?

3 A Oh, the first one I think, to estimate would be
4 2000, 2001.

5 Q Okay.

6 MR. THOMPSON: Can I get a clarification on
7 what do you mean by tribal, did you say tribal laws or?

8 MS. LUTHER: I said tribal law development, the
9 development of tribal laws.

10 MR. THOMPSON: Like gaming ordinances, would
11 that be gaming ordinances, regs and --

12 MS. LUTHER: Only to the extent that they
13 establish law for the tribe.

14 MR. THOMPSON: The tribe has a gaming ordinance
15 approved by the NIGC. They have an enrollment
16 ordinance, they have a election ordinance, policies and
17 procedures ordinance, dispute resolution ordinance.
18 Since, since they don't have any land they don't have
19 any land ordinances, but we can stip to those, that they
20 definitely have those documents.

21 MS. LUTHER: Right.

22 Q Has the tribe identified a date on which it
23 contends that it became a terminated tribe?

24 MR. STEELE: Objection, calls for a legal
25 conclusion.

1 Don't answer that.

2 MS. LUTHER: Sure she does. Are you directing
3 her not to answer?

4 MR. STEELE: Uh-huh.

5 MS. LUTHER: Why, on what grounds?

6 MR. STEELE: Calls for a legal conclusion.

7 MS. LUTHER: That's not a basis for instructing
8 her not to answer.

9 MR. STEELE: Rephrase the question.

10 MS. LUTHER: It's pretty simple.

11 Q Does the tribe maintain that it was terminated
12 as of a certain date?

13 MR. STEELE: Calls for a legal conclusion.
14 I'm instructing her not to answer. If you want to
15 rephrase the question, you can probably get the answer.

16 MS. LUTHER: Nope, I'll call the magistrate.
17 Obviously it's an issue in this case.

18 (Thereupon there was a discussion off the
19 record.)

20 MS. LUTHER: Why don't you repeat the question
21 to the witness?

22 (Thereupon the Reporter read back as
23 requested.)

24 MR. STEELE: Calls for a legal conclusion.
25 That's my objection.

1 THE WITNESS: Yes.

2 MS. LUTHER: Q. And what date is that?

3 A I would estimate about 1966 when, '66, '67 when
4 Mabel Hodge Dixie got the deed to the land.

5 Q Okay. So, okay. And the tribe takes the
6 position that at some point it was restored and
7 terminated, is that correct?

8 MR. STEELE: Objection, vague, compound, and
9 calls for a legal conclusion.

10 THE WITNESS: The tribe takes the stand that it
11 was terminated and rebrought it back in administratively
12 somewhere back in the 1990s, I guess, it came back up on
13 the Federal Register, I think 1994.

14 MS. LUTHER: Q. Have you ever checked the
15 Federal Register list prior to 1994?

16 A There's nothing.

17 Q I've got 'em, they're on every single list
18 since the list came out in 1979.

19 A We'd like to have a copy of 'em because we
20 can't seem to get 'em. We went down to the archives in
21 San Bruno and they said there's documents that the
22 bureau has not released.

23 Q Federal Register isn't published by the Bureau
24 of Indian Affairs, I can tell you exactly where to find
25 them, they're in the court library downstairs.

1 MR. THOMPSON: We'll stip that the Sheep Ranch
2 Rancheria has been listed off and on by the Bureau of
3 Affairs since 1967, we'll stip to that.

4 MS. LUTHER: I won't because it's always been
5 listed.

6 MR. THOMPSON: We'll stip to that.

7 MS. LUTHER: You'll stipulate that the bureau
8 has always consistently made --

9 MR. STEELE: No. No.

10 MR. THOMPSON: What I'm saying is that the
11 chairperson may not personally know of all those federal
12 registry, I'm saying we don't have any problem with the
13 fact that that may be the fact.

14 MR. STEELE: I'd sure like to see something
15 before '73 though. I've heard about '79 and I've seen
16 '94 on.

17 MS. LUTHER: And I've given you '72.

18 MR. STEELE: '72 is probably the one I'm
19 thinking about when I say '73.

20 MS. LUTHER: So I guess my question again to
21 you is on what date do you contend that the tribe
22 regained status as a federally recognized tribe?

23 MR. STEELE: Objection, foundation, calls for a
24 legal conclusion.

25 MR. THOMPSON: If she doesn't know, she doesn't

1 know.

2 THE WITNESS: Yeah, I don't know for sure.

3 MS. LUTHER: Q. And you mentioned before that
4 you felt that the tribe had been administratively
5 restored, what did you mean by that?

6 A By being here would --

7 MR. STEELE: Objection, calls for a legal
8 conclusion.

9 Go ahead.

10 THE WITNESS: By being in depositions and
11 listening to Amy Dutscke with her letter of 1995 that
12 she signed talking about keeping the Sheep Ranch
13 Rancheria on as a restored or, I don't know, I just know
14 a letter of 1995 by Amy Dutscke.

15 MS. LUTHER: Q. When do you contend that the
16 tribe was first recognized as a federally recognized
17 tribe? I'm talking about before termination ever
18 happened?

19 MR. STEELE: Objection, calls for a legal
20 conclusion, also lacks foundation.

21 Go ahead.

22 THE WITNESS: I would estimate 1916.

23 MS. LUTHER: Q. What happened in 1916?

24 A They talked about Indians being up in the Sheep
25 Ranch area and that we're homeless, and this they put on

1 the Sheep Ranch Rancheria, got land for.

2 MS. LUTHER: I'm going to look at my notes, and
3 I think we're done after all this time.

4 MR. THOMPSON: Can we go off the record for a
5 second?

6 (Thereupon there was a discussion off the
7 record.)

8 EXAMINATION

9 BY MR. GEORGE L. STEELE, ESQ., Counsel on behalf of the
10 Plaintiff, CALIFORNIA VALLEY MIWOK TRIBE, formerly SHEEP
11 RANCH OF ME-WUK INDIANS OF CALIFORNIA:

12 Q Okay. Hi, Silvia.

13 A Hi.

14 Q Now, the tribe has a 638 contract with the
15 federal government, right?

16 A That's correct.

17 Q Have you been told by the Bureau of Indian
18 Affairs that that contract is a mature contract?

19 A Yes.

20 Q Were you told by anyone at the Bureau of Indian
21 Affairs that the tribe had to be organized before they
22 could be considered a mature contract tribe?

23 A Yes.

24 Q Do you remember who at the Bureau of Indian
25 Affairs told you that?

1 A Yes.

2 Q And who was that person?

3 A I hate to get that person in trouble, but --

4 Q Okay. Withdraw the question.

5 MS. LUTHER: I want to know the answer.

6 MR. STEELE: Okay. I'll, it's coming back to
7 you in a minute.

8 MS. LUTHER: That person won't get into
9 trouble, they won't.

10 MR. THOMPSON: Yes, they will.

11 MR. STEELE: We'll come back to you in a
12 second.

13 Q Okay. Have any non-Indians ever applied for
14 enrollment with the tribe?

15 A Not through the California Valley Miwok Tribe
16 itself, but non-Indians were enrolled through Yakima
17 Dixie, he brang in some people to be known as Caucasian
18 and Indians from Nevada which are Piute.

19 Q Now, did he enroll them or had he attempted to
20 enroll them?

21 A He attempted to enroll them as the Sheep Ranch
22 band of Miwok Indian members, and he sent it to the
23 Bureau of Indian Affairs CCA, and they said that this
24 did not have the right signatures of that, of the
25 California Valley Miwok Tribe tribal council, so they

1 sent the documents back to Yakima.

2 Q Okay. Now, did the California Valley Miwok
3 Tribe ever consider those applications?

4 A They were never actually sent to the tribe.

5 MR. STEELE: Okay. All right. That's all for
6 me.

7 MR. THOMPSON: Am I allowed to ask questions?

8 MS. LUTHER: No, you are not. One person
9 only.

10 MR. THOMPSON: So I can write 'em out for --

11 MR. STEELE: I'll disappear. He can either
12 hand 'em to me or I can leave.

13 MS. LUTHER: No, one attorney at a, per
14 deposition per side, or per client.

15 FURTHER EXAMINATION

16 BY MS. DEBORA G. LUTHER, ESQ., Counsel on behalf of the
17 UNITED STATES OF AMERICA; UNITED STATES DEPARTMENT OF
18 THE INTERIOR; GALE NORTON, SECRETARY OF INTERIOR; and
19 AURENE MARTIN, ACTING ASSISTANT SECRETARY OF THE
20 INTERIOR FOR INDIAN AFFAIRS:

21 Q Now, who told you, who at the Bureau of Indian
22 Affairs told you that the tribe had to be recognized to
23 have a mature 638 contract?

24 A Sunshine Jordan from the Self Indian --

25 Q Who?

1 A From the Self Indian Determination, Indian
2 Self-Determination. Her name is S-U-N-S-H-I-N-E,
3 J-O-R-D-A-N.

4 Q And when did she have this conversation with
5 you?

6 A Last month. We asked her when we got the paper
7 back signed by Dale Risling that said that we are now a
8 mature, had mature status.

9 Q And insofar as Mr. Dixie attempting to enroll
10 members in the tribe, do you have any firsthand
11 knowledge of whether those individuals were Indian or
12 not?

13 A From the documents that the bureau had
14 forwarded to show that Yakima Dixie had done this, we
15 had sent a FOIA, and that's the only way the tribe found
16 out that anybody had tried to go through Yakima to be
17 enrolled. And the bureau blocked out all of their
18 information except that they were from Nevada or known
19 people that we know of that are not Indian descent.

20 Q How would you know whether they are of Indian
21 descent or not?

22 A Because the one guy that threatened me from
23 jail was Rocky McKay, and I went to Sonora and got his
24 birth certificate, and his mother and father are both
25 listed on there as Caucasian.

1 Q Okay. Is that the only basis?

2 A For that person.

3 Q For -- okay. That you make the determination
4 that he is not Indian?

5 A Yes.

6 Q And then the rest of the people you say are
7 Piutes?

8 A Yes, from Nevada.

9 Q Was Rocky McKay the only, in your opinion,
10 non-Indian that Yakima Dixie tried to enroll?

11 A I wouldn't, I can't really recall right now how
12 many people he tried to bring. I think he's done it a
13 couple times. That would probably have to go back to
14 the bureau because they actually have the information
15 that was sent to them firsthand.

16 MS. LUTHER: That's all I have. Are you
17 done?

18 MR. STEELE: Nope, I've got a short list here.

19 FURTHER EXAMINATION

20 BY MR. GEORGE L. STEELE, ESQ., Counsel on behalf of the
21 Plaintiff, CALIFORNIA VALLEY MIWOK TRIBE, formerly SHEEP
22 RANCH OF ME-WUK INDIANS OF CALIFORNIA:

23 Q Are we ready?

24 A No. Yes.

25 Q Okay. Now, has the BIA ever told the tribe to

1 open enrollment?

2 A The BIA told us to set up our ordinances and
3 our applications, they never told us to go out and open
4 enrollment.

5 Q Okay. Have they, did the BIA ever tell you to
6 publish a notice of open enrollment in any newspaper,
7 periodical or the like?

8 MS. LUTHER: I would object, vague and
9 ambiguous as to open enrollment.

10 MR. STEELE: Q. If you understand?

11 A There has been no time since I've been
12 chairperson that I can recall the bureau telling us to
13 publish anything about opening enrollment.

14 Q Now, did -- have you ever heard of any other
15 tribe publishing enrollment solicitations?

16 MS. LUTHER: Vague and ambiguous.

17 THE WITNESS: No, but I seen Jackson firsthand
18 go from seven up to 35.

19 MR. STEELE: Q. Did they publish an
20 enrollment?

21 A No.

22 Q Okay. You did send the enrollment ordinance,
23 the tribe's enrollment ordinance to the BIA, correct?

24 A We complied with the contract 638 that said any
25 ordinances or policies and procedures that the tribe had

1 completed to be sent annually to the Bureau of Indian
2 Affairs.

3 Q So the enrollment ordinance was sent?

4 A Yes.

5 Q Did they give you any comments or comments
6 amounting to disapproval about your enrollment
7 ordinance?

8 A No.

9 Q Okay. Do you remember if Yakima Dixie
10 challenged your tribal leadership in the year 2000?

11 A Yes.

12 Q And what happened? What were the events that
13 amounted to that challenge?

14 A Yakima Dixie was a vice chairperson in which he
15 participated in a election of May of '99, and he served
16 as a vice chairperson for about seven, eight months.
17 And he had no problem with being a vice chairperson or
18 being in the tribe until this issue about Proposition 1A
19 come up about making millions of dollars in a casino,
20 and some backers named Bill Martin.

21 And he took it to the Bureau of Indian Affairs
22 and had a meeting with Ray Fry, Dale Risling -- no, Ray
23 Fry, Brian Golding, and I don't know who else, and bring
24 up allegations.

25 And it came down to they end up sending me a

1 letter in 2000, I'm not sure what month, and they had
2 told me that if Yakima Dixie had any valid truths to his
3 allegations to bring the documents forward. And in the
4 letter they said that they had not received.

5 And they told him to take it to the tribal
6 forum because it's an internal matter. And at that time
7 they asked us if we would give Yakima extra time since
8 in their eyes the time had already run out. And --

9 We said yes, we'll give him an extra thirty
10 days to bring it to the council.

11 Q And then what happened?

12 A Thirty days went by, he didn't take any new
13 documentation to the bureau, he never contacted the
14 tribe, and so we sent him a letter saying that since
15 your allegations are unfounded that this is, this case
16 is now closed.

17 Q And was that the end of it or was there more?

18 MS. LUTHER: I'm sorry?

19 MR. STEELE: Q. And was that the end of it or
20 was there more?

21 A No, then we end up getting summons from court
22 that Yakima wanted to take it to court, and he did not
23 want to come to the tribe. He said that the bureau was,
24 I guess, in cahoots with me and put me in charge of the
25 Sheep Ranch Rancheria, and so he wanted to take it to a

1 tribal, not tribal, he wanted to take it to a federal
2 court about the chairmanship or something, I don't
3 remember anymore.

4 Q He filed a suit in federal court?

5 A Yes.

6 Q And what was the outcome of the suit?

7 A It was dismissed because there was not enough
8 merit to it. He, all he complained about was things
9 that he had no proof.

10 MS. LUTHER: Calls for a legal conclusion.

11 MR. STEELE: Q. Okay. Now, other than what
12 you've testified to earlier, has Yakima Dixie had any
13 other people threaten you?

14 A Yes.

15 Q Who?

16 A He had Rocky McKay threaten me. And Melvin
17 Dixie wrote on a paper that he did not consider me part
18 of the tribe, and that, that in his eyes I was like,
19 just, I don't know. That letter is so far back.

20 Q What was the basic meaning of the letter to
21 you?

22 A The basic meaning to me was, anyway, that he
23 could get rid of the tribal members and just have him
24 and his brother go in and make this casino deal was all
25 he cared about.

1 Q And when did you receive this?

2 A I'm not sure. Actually I think it went to the
3 bureau in 2000. The bureau told Melvin to contact the
4 tribe about any matters he might have and about maybe
5 getting an application to join in the tribe, and he had
6 never directly come to the tribe, he always went to the
7 bureau.

8 Q Now did Melvin ever submit an application to
9 the tribe?

10 A No, not till this day he never has.

11 Q Did you ever make efforts to obtain Melvin's
12 address from the BIA?

13 A Yes, I've got a letter that I wrote to the
14 bureau and I said that since you sent us documentation
15 to where you wiped out all of Melvin's personal
16 information, even his phone number and his address, and
17 the tribe cannot contact him, can you please forward our
18 information to him that he can get in touch with the
19 tribal council, the administrator at any time to receive
20 an application.

21 Q And did they do that?

22 A I don't know.

23 Q Did you ever hear from Melvin after that?

24 A No, I never have.

25 Q Okay. Now, had you received any information

1 from the BIA regarding people wanting to enroll in the
2 tribe?

3 A Yeah, any letters that went down to the bureau,
4 the bureau would forward 'em to me.

5 Q Okay. About how many interested folks were
6 there, if you remember?

7 A I can't recall for sure. Less than ten.

8 Q Okay. To your knowledge, have people contacted
9 the BIA about enrolling in the tribe that the BIA has
10 not informed the tribe about?

11 A We've put in two FOIA's about has there been
12 any contact that had to do with the Sheep Ranch
13 Rancheria or California Valley Miwok Tribe on any
14 matter, and we have never received anything back yet.
15 And we've got letters, I think, from 2001, 2002. The
16 FOIA's have never been answered, so I don't know.

17 MR. STEELE: Okay. Thank you. That's it.

18 MS. LUTHER: I don't have any response to that,
19 I think we're done. Thank you.

20 (Thereupon the foregoing deposition was
21 concluded at 3:53 p.m.)

22

23

DATE

24

25

SILVIA FAWN BURLEY