



STATE OF CALIFORNIA

GAMBLING CONTROL COMMISSION

2399 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833-4231

P.O. Box 526013
Sacramento, CA 95852-6013

(916) 263-0700
(916) 263-0499 FAX

Arnold Schwarzenegger, Governor

DEAN SHELTON, CHAIRMAN
MICHAEL C. PALMER
J.K. SASAKI
ARLO E. SMITH

October 19, 2005

George I. Steele
790 E. Colorado Blvd.
Pasadena, California 91101

**Sent via facsimile: (626) 240-0629
and U.S. Mail**

Phillip Thompson
Thompson Associates
9450 Pennsylvania Avenue, Suite 4
Upper Marlboro, MD 20772

**Sent via facsimile: (206) 203-3847
and U.S. Mail**

Peter Glick
400 Capitol Mall, Suite 1100
Sacramento, California 95814

**Sent via facsimile: (916) 448-2434
and U.S. Mail**

Re: **California Valley Miwok Tribe – Revenue Sharing Trust Fund (RSTF)
Distributions**

Dear Counsel:

Please reference my letters of August 4, August 17, August 24, and August 29, 2005, and attachments thereto. As my letter of August 29, 2005 indicated, we have withheld payment of the RSTF distribution for the quarter ending June 30, 2005 to the California Valley Miwok Tribe (the Tribe) based on our understanding of the views of the Bureau of Indian Affairs (BIA, the Bureau) regarding Ms. Silvia Burley's status within the Tribe. Specifically, we withheld payment based on our understanding, at that time, that Ms. Burley was not considered by the BIA to be a person of authority within the Tribe with whom the BIA conducted government-to-government relations.

Since that time, documents have been provided to us, which, when viewed in conjunction with the above referenced correspondence, indicate that our understanding was mistaken, and that Ms. Burley is the person with whom the BIA/Department of Interior (DOI, the Department) conducts government-to-government relations on behalf of the Tribe, and, contrary to our understanding, remains a person recognized by the BIA as a "person of influence within the Tribe", or a "spokesperson" for the Tribe, with whom such government-to-government relations are appropriate.

George Steele
Phillip Thompson
Peter Glick
October 19, 2005
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Specifically, we are in possession of copies of declarations supplied to us by George Steele, counsel for Ms. Burley. (Attached.) These are declarations by Scott Keep, Assistant Solicitor, U.S. Department of Interior; Ray Fry, Tribal Operations Officer, Bureau of Indian Affairs, Central California Agency; and Janice Whipple-Depina, Awarding Official, Bureau of Indian Affairs, Central California Agency. These declarations, sworn to on September 21 and 22, 2005, were filed in the matter, *California Valley Miwok Tribe v. United States, et al.*, U.S. District Court, District of Columbia, Case No. 1:05CV00739. We are informed that copies of these documents are also in the possession of counsel for Yakima Dixie.

Mr. Keep's declaration acknowledges that he was aware the State was inquiring about the Department's position regarding Ms. Burley's status, but is otherwise somewhat opaque regarding that status, or what information, if any, the Department/BIA was willing to provide the State. In a similar vein, Mr. Fry's declaration takes pains to distance itself from any position regarding Ms. Burley's status. In contrast, Ms. Whipple-Depina's declaration is forthright regarding the fact that, notwithstanding the BIA effort, since rescinded, to suspend the PL-638 contract, Ms. Burley remains a "person of authority" within the tribe.

Additionally, we are in possession of a letter dated September 14, 2005, from Troy Burdick, Superintendent, Bureau of Indian Affairs, Central California Agency, addressed to Ms. Burley as "Spokesperson," California Valley Miwok Tribe. (Attached.)

On balance, the above referenced declarations and correspondence demonstrate that, however reluctant BIA and Department of Interior officials may be when it comes to characterizing Ms. Burley's status, she remains, whether characterized as a spokesperson, or person of authority, the Tribe's contact person with whom the Bureau conducts government-to-government relations.

Therefore, in accord with the Commission's policy regarding such matters, Ms. Burley is the person to whom RSTF distributions should be directed, on behalf of the Tribe.

Accordingly, it is the Commission's intention, not later than October 31, 2005, to initiate the process leading to sending checks to the California Valley Miwok Tribe for the RSTF payment for the quarter ending June 30, 2005, as well as the annual RSTF shortfall payment. These checks, made payable to the Tribe, will be sent to Silvia Burley as tribal representative.

George Steele
Phillip Thompson
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Thank you for your patience in this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Rickards", with a stylized flourish at the end.

Cyrus J. Rickards
Chief Counsel

Enclosures

Scott Lee

ATTACHMENT
E

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**CALIFORNIA VALLEY MIWOK TRIBE,
formerly, SHEEP RANCH OF THE MI-WUK
INDIANS OF CALIFORNIA,**

Plaintiff,

**Judge James Robertson
No. 1:05CV00739**

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

DECLARATION OF SCOTT KEEP

I, **SCOTT KEEP**, declare:

1. I am the Assistant Solicitor, Branch of Tribal Government and Alaska, Division of Indian Affairs, in the Office of the Solicitor, United States Department of the Interior (Department). I have held this position first on an acting basis and then on a permanent basis since November 1976.
2. As the Assistant Solicitor for the Branch of Tribal Government and Alaska, I am responsible for providing the Secretary of the Interior, the Office of the Assistant Secretary - Indian Affairs, and Bureau of Indian Affairs (BIA), legal counsel on matters relating to tribal governments, their organization and functioning under the supervision of the Solicitor, the Deputy Solicitor, and the Associate Solicitor - Indian Affairs.
3. On August 26, 2005, I received a telephone message from Marc A. Le Forestier, Deputy Attorney General, State of California.

4. I have spoken with Mr. Le Forestier on a number of occasions over the years.
5. When I returned his call, Mr. Le Forestier indicated that he was representing the California Gambling Control Commission and was trying to clarify the Department of the Interior's position with regard to the July 19, 2005, letter from Janice Whipple-DePina, the Awarding Official for the Bureau of Indian Affairs, Central California Agency, to Ms. Silvia Burley concerning the suspension of the Bureau's Aid To Tribal Government contract with the California Valley Miwok Tribe.
6. I do not recall much about my conversation with Mr. Le Forestier but I believe he indicated he had received a copy of the August 19, 2005, letter from Ms. Whipple-DePina reinstating the contract.
7. I believe I also indicated to Mr. Le Forestier that senior Bureau officials had met with Ms. Burley and her counsel on the afternoon of August 19, 2005.
8. I believe we talked, briefly, and generally, about the use of an escrow when it was unclear who represented a tribe.
9. I believe I indicated that I had some recollection of instances in which the Bureau of Indian Affairs had not distributed Federal funds or had placed them in some sort of escrow when it was not clear who represented a tribe.
10. I did not presume to tell Mr. Forestier that the Commission should withhold from the Tribe the current quarterly distribution of gaming monies, which I recognized was a decision that only the Commission could make.
11. I believe I indicated to Mr. Forestier that I had previously been in contact with officials from the Gambling Control Commission about the dispute within the tribe. What I was

referring to was my letter of May 20, 2004, to Mr. Gary Qualset, Deputy Director for Licensing and Compliance, a copy of which is attached as Exhibit 1. Also attached as Exhibit 2, is my copy of Mr. Qualset's letter of May 28, 2004, to Thomas Wolfrum, attorney representing Yakima Dixie, indicating that the Commission would seek further clarification of Mr. Dixie's appeal but that it would not withhold payment of the gaming funds in the meantime.

12. My understanding was that the Commission released the gaming funds in 2004 to the tribe.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 22nd day of September, 2005.


SCOTT KEEP



STATE OF CALIFORNIA

GAMBLING CONTROL COMMISSION

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DEAN SHELTON, CHAIRMAN

MICHAEL C. PALMER

J.K. SASAKI

ARLO E. SMITH

May 28, 2004

Thomas Wolfrum, Attorney at Law
1460 Maria Lane, Suite 340
Walnut Creek, CA 94596

Dear Mr. Wolfrum:

This letter will acknowledge receipt of your facsimile transmittal on May 21, 2004, after the close of normal business hours that was dated May 20, 2004. In your facsimile document you state you represent Yakima K. Dixie and the Sheep Ranch Rancheria of MiWok Indians of California (aka California Valley Miwok Tribe). Additionally, you sent a copy of a letter addressed to me from Scott Keep, Assistant Solicitor, with the Office of the Solicitor - United States Department of Interior.

In your facsimile document you also state that Mr. Keep's letter should be sufficient for the California [Gambling Control] Commission to withhold payment from the California Valley Miwok Tribe until Yakima K. Dixie's appeal is resolved. We have reviewed Mr. Keep's letter from the Office of the Solicitor with the United States Department of Interior and have followed up on the meaning of the comments regarding an "(appeal) pending before it". We will continue to seek clarification of this matter with the United States Department of Interior and the Bureau of Indian Affairs. However, at the present time this letter does not provide sufficient information to determine if a valid and accepted appeal is in the receipt of either of these agencies, or any other proper entity, that will be addressed and ruled upon. Therefore, until such time as we receive appropriate documentation that a valid appeal of the BIA recognition of tribal leadership has been accepted for review we will not be able to withhold payments from the Indian Gaming Revenue Sharing Trust Fund to the California Valley Miwok Tribe.

Thank you for your recent correspondence. If you have any questions please contact me at the below telephone number.

Sincerely,

Gary Qualset, Deputy Director
Licensing and Compliance Division
(916) 263-4600

**Declaration S. KEEP
Exhibit 2**

cc: Scott Keep, Assistant Solicitor, US Department of the Interior – Office of the Solicitor
CVMT-2011-000950

Kaku no File

ATTACHMENT
C

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CALIFORNIA VALLEY MIWOK TRIBE,)
formerly SHEEP RANCH OF ME-WUK)
INDIANS OF CALIFORNIA,)

Plaintiff,)

v.)

UNITED STATES OF AMERICA,)

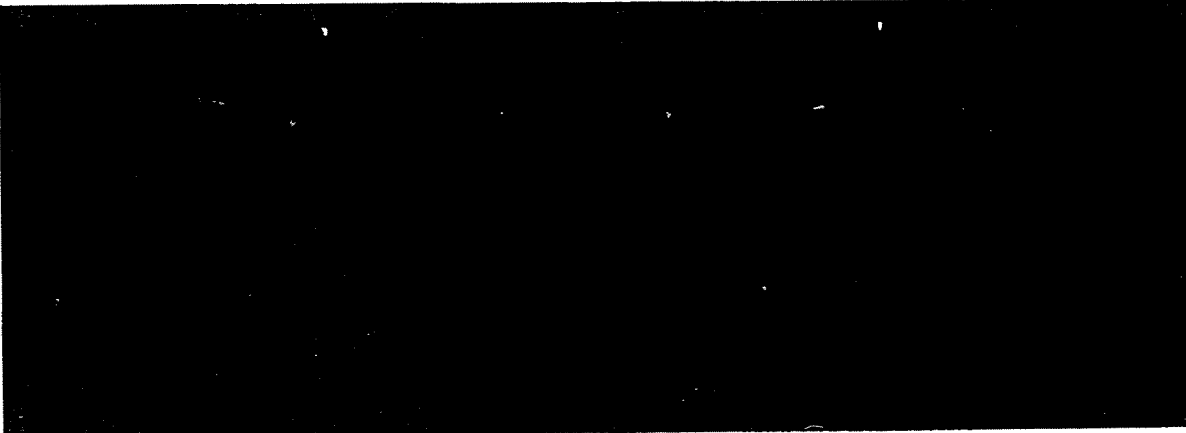
GALE A. NORTON, Secretary of the)
Interior,)

MICHAEL D. OLSEN, Acting Assistant)
Secretary - Indian Affairs,)

Defendants.)

No. 1:05CV00739
Judge James Robertson

DECLARATION OF RAYMOND FRY



I, RAYMOND FRY, declare:

1. I am the Tribal Operations Officer for the Bureau of Indian Affairs Central California Agency located in Sacramento, California. I have personal knowledge of the facts set forth in this Declaration.

2. By letter dated August 4, 2005, the California Gambling Control Commission (Commission) informed Sylvia Burley and Yakima Dixie of its decision to not release the scheduled quarterly distribution for the California Valley Miwok Tribe from the Revenue Sharing Trust Fund (RSTF) or make any subsequent distributions to the Tribe. This decision, according to the letter, was grounded in the July 19, 2005 suspension of the P.L. No. 93- 638 contract between the BIA and the Tribe.

3. By letter dated August 24, 2005, the Commission informed the respective counsel for Sylvia Burley and Yakima Dixie, of its decision to make the current quarterly distribution to the Tribe, thereby reversing its August 4th position. According to the letter, this reversal of position was largely attributable to BIA's August 19, 2005, reinstatement of the P.L.No. 93-638 contract with the Tribe.

4. On August 29th, the Commission informed the respective counsel for Ms. Burley and Mr. Dixie of its reversal of its August 24th position because of "several conversations with the Bureau of Indian Affairs (BIA)" and its review of the March 26, 2004, and February 11, and July 19, 2005 letters from BIA to Sylvia Burley and Yakima Dixie. The Commission stated: "... [W]e have determined that "... despite the reinstatement of the PL 93-638 contract, Ms. Burley

is no longer considered by the BIA to be a person of authority within the tribe, with whom the BIA conducts government- to-government relations.”

5. Prior to August 24, 2005, the Chief Legal Counsel for the Commission, Cy Rickards, contacted me by telephone to request that the BIA provide him with documentation relating to the present status of the Tribe's relationship with the BIA. Prior to this inquiry, it had been my experience that the Commission was interested in two things for the purpose of making distributions from the RSTF to non-gaming tribes - namely, whether the tribe was federally recognized and whether there existed a tribal contact person to whom distributions could be sent. However, in this instance, the Commission was seeking information which might affect the identity of the appropriate contact person for the California Valley Miwok Tribe.

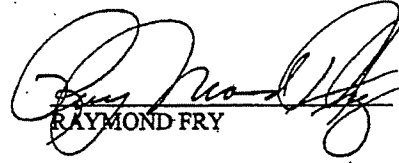
6. I agreed to provide the Commission with the information requested. However, I told the Commission that it had to “make its own call” as to whether Sylvia Burley was still the appropriate contact person within the California Valley Miwok Tribe. At no point during this telephone conversation did I urge or encourage (either directly or by implication) the Commission to withhold any current or future RSTF distributions from the Tribe.

7. I did not have any telephone conversation (or other contact) with the Commission between August 24, 2005, and August 29, 2005, because I was on annual leave the entire week of August 22nd.

8. I do know that Janice Whipple-DePina was also contacted by the Commission in August, 2005.

Pursuant to the provisions of 28 U.S.C. 1746, I declare any under penalty of perjury that
the foregoing is true and correct.

Executed on the 27th day of September, 2005.


RAYMOND FRY



JANICE COLUCCI DE RINA

ATTACHMENT
D

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**CALIFORNIA VALLEY MIWOK TRIBE,)
formerly SHEEP RANCH OF ME-WUK)
INDIANS OF CALIFORNIA,)**

Plaintiff,)

v.)

UNITED STATES OF AMERICA,)

**GALE A. NORTON, Secretary of the)
Interior,)**

**MICHAEL D. OLSEN, Acting Assistant)
Secretary - Indian Affairs,)**

Defendants.)

**No. 1:05CV00739
Judge James Robertson**

DECLARATION OF JANICE WHIPPLE-DEPINA

I, JANICE WHIPPLE-DEPINA, declare:

1. I am the Awarding Official at the BIA's Central California Office located in Sacramento, California. I have personal knowledge of the facts set forth in this Declaration.

2. In 2002, I awarded (pursuant to the Superintendent's authority) a P.L. 93-638 contract between the BIA and the California Valley Miwok Tribe. An annual funding agreement with respect to this contract was signed on February 8, 2005, and reflects FY 2005 funding.

3. On July 19, 2005, I sent a letter to Sylvia Burley enclosing a modification of the "638" contract which "suspends the current ["638"] contract in its entirety." I explained my reasons for my action in this letter. Nothing in this letter should be read to indicate that BIA is taking the position that Ms. Burley is no longer "a person of authority" within the Tribe.

4. Based upon the recommendations of the Office of the Solicitor, on August 19, 2005, I sent Ms. Burley a succeeding modification of the "638" contract the substance of which is described as follows:

"The contract is hereby reinstated only for the purposes of fulfilling the Scope of Work and approved Standards for the Aid to Tribal Government Program as outlined in the original contract dated April 10, 2002."

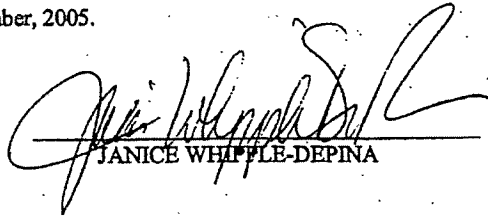
The quoted language is not intended in any way to that the BIA recognizes Ms. Burley as the Tribal Chairperson of the California Valley Miwok Tribe. It is my understanding that her status continues to be that of a person of authority within the Tribe.

5. The August 19th reinstatement of the contract, in my view, amounted to a complete revocation of the July 19th suspension of the contract.

6. On August 24, 2005, I returned a telephone call to Mr. Cy Rickards, an employee of the California Gambling Control Commission. He requested that I provide him a copy of BIA's August 19, 2005, modification of the Tribe's "638" contract. I sent him both a copy of the modification and a copy of the August 19th letter transmitting that modification to Ms. Burley. At the end of our conversation, Mr. Rickards informed me that the Commission had decided to reverse its prior decision of August 4, 2005, to not release the current quarterly distribution of RSTF (Revenue Sharing Tribal Funds) monies to the California Valley Miwok Tribe and would now be releasing these monies to the Tribe.

Pursuant to the provisions of 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 21 day of September, 2005.



JANICE WHIPPLE-DEPINA



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Central California Agency
650 Capitol Mall, Suite 3-500
Sacramento, California 95814

REFER IN REPLY TO
Indian Self Determination

SEP 14 2005

Ms. Sylvia Burley, Spokeperson
California Valley Miwoks Tribe, California
10601 Escondido Place
Stockton, CA 95212

Dear Ms. Burley:

This letter is a notification to California Valley Miwoks Tribe, California for their six Single Audit Reports for period beginning with December 31, 1999 and ending December 31, 2004 has successfully been recommended for closure and removal from the bureau tracking system with the Office of Audit and Evaluation and Office of Financial Management.

As we had worked diligently, to come into compliance with A-133 Circular Single Audit Report, I strongly encourage you to maintain your good standing with your audit compliances.

Therefore, as a friendly reminder, September 30, 2005 is the due date for your Single Audit Report ending December 31, 2004. If you are not required to submit A-133 Single Audit Report, due to revised regulations of June 27, 2003 Federal Register Notice of increasing the threshold to \$500,000 to qualified for a Certification. Enclosed for your use is a copy of the Certification that needs to completed and return to Central California Agency on/prior to September 30, 2004.

Should you have any questions, please do not hesitate to call upon Janice Whipple-DePina, Self Determination Officer at (916) 930-3742.

Sincerely,

Troy Burdick
Superintendent

Enclosure - 2004 Certification
Federal Register Notice