

JAN - 9 2007

DATE:

REPLY TO
ATTN OF:

Superintendent, Central California Agency

SUBJECT:

Notice of Appeal of Silvia Burley, California Valley Miwok Tribe

PACIFIC REGIONAL
OFFICE

TO:

Regional Director, Pacific Region, Bureau of Indian Affairs
Attention: Regional Tribal Operations Officer

The Bureau of Indian Affairs, Central California Agency, is in receipt of a Notice of Appeal filed pursuant to 25 CFR §2.9(a) by Silvia Burley. The Appellant is appealing the Superintendent's letter of November 6, 2006, wherein the Bureau of Indian Affairs, Central California Agency, will assist the California Valley Miwok Tribe (formerly Sheep Ranch Rancheria of the Me-Wuk Indians of California) in its efforts to reorganize a formal governmental structure that is representative of all Miwok Indians who can establish a basis for their interest in the Tribe and is acceptable to the clear majority of those Indians. The Notice of Appeal was received at the Agency on November 13, 2006.

The Agency also received the Appellants Statement of Reasons on December 13, 2006. Both the Notice of Appeal and the Statement of Reasons were timely filed pursuant to 25 CFR § 2.10 (c). In addition, the Agency is in receipt of an Answer of Interested Party dated December 12, 2006, filed pursuant to 25 CFR § 2.11 (a) to the Appeal of Silvia Burley, submitted by Chadd Everone, Deputy, on behalf of Yakima Dixie and Velma Whitebear. The Agency received the Answer of Interested Party on December 14, 2006.

The following is a brief narrative and description of the events that have occurred leading to this appeal:

Background

The California Valley Miwok Tribe (formerly the Sheep Ranch Rancheria of Me-Wuk Indians of California) was purchased August 5, 1916, by the United States Government for landless or homeless California Indians and is recognized and eligible for funding and services pursuant to Section 104 of the Act of November 2, 1994, (P.L. 103-454; 108 Stat 4791, 4792). The Tribe voted in 1935 to accept the terms of the Indian Reorganization Act; however, they never formally organized.

Pursuant to the provision of the California Rancheria Act P.L. 85-671, 72 Stat. 619; as amended, a Plan of Distribution of the Assets of the Sheep Ranch Rancheria, was approved by the Associate Commissioner of Indian Affairs on October 12, 1966, which listed Mabel (Hodge) Dixie as the sole distributee entitled to participate in the distribution of the assets of the Sheep Ranch Rancheria. On July 11, 1971, Mable (Hodge) Dixie passed away and an Order of Determination of Heirs was made regarding the estate of Mable Dixie listing Merle Butler, husband; Richard Dixie, son;

Yakima Edward Dixie, son; Melvin Dixie, son; and Tommy Dixie, son. Yakima Dixie, is one of the two remaining heirs, and was considered the spokesperson of the Tribe until April 1999.

On August 5, 1998, a letter signed by Yakima Dixie, Spokesperson/Chairman of the Sheep Ranch Rancheria, was provided to the Central California Agency accepting Silvia Fawn Burley as an enrolled Tribal member of the Sheep Ranch Rancheria along with her daughters Rashel K. Reznor and Angelica J. Paulk, and granddaughter, Tristian S. Wallace.

A transcription of a meeting videotaped on September 8, 1998, between Brian Golding, Sr., Tribal Operations Specialist, Raymond Fry, Tribal Operations Officer, Central California Agency, and Yakima Dixie, Chief, Sheep Ranch Rancheria and Silvia Burley, prospective member of the Sheep Ranch Rancheria, indicates that the meeting was held at the Sheep Ranch Rancheria, to discuss the process of formally organizing the Tribe, the status of the Tribe, membership, governance, grant funding, Bureau costs associated with organizing, and other issues. Mr. Dixie states (page 8 of transcript) that his main concern is to help Mrs. Burley because no one will help or listen to her. Mr. Raymond Fry, Tribal Operations Officer, (pages 8, 19, 20, 21, 23, 24 and 25) discusses the benefits possible to Silvia Burley, as a tribal member, from the Bureau's Scholarship Program and Housing Improvement Program (HIP). Mr. Fry also addresses the various membership criteria Mr. Dixie may choose on how to organize the Tribe. The Agency's position was to provide technical assistance for the organization of the Tribe and not dictate the membership criteria, but advised Mr. Dixie that he had the right to choose the membership criteria, which may possibly include a larger community. A follow-up meeting was also proposed to discuss draft resolutions and additional details of the organization process but it was never formally completed.

Shortly thereafter, a letter titled "Formal notice of resignation" was provided to the Agency by Mrs. Burley, stating that Yakima Dixie was resigning as Chairman on Tuesday, April 20, 1999, and it shall serve as formal notice within the Tribe and to the United States Government. The Tribe also provided a notice of "SPECIAL MEETING CALLED TO ORDER ON THE 20TH OF APRIL 1999," which states, "The General Council has agreed to accept the resignation of Chairperson from Mr. Yakima Dixie and appoint Mrs. Silvia Burley as the new Chairperson of the Sheep Ranch Rancheria. The Agency is in receipt of a letter to Silvia Burley, dated April 21, 1999, wherein Mr. Dixie, notifies Mrs. Burley that he cannot and will not resign as Chairman of the Sheep Ranch Rancheria but gives Mrs. Burley the right to act as a delegate to represent the Sheep Ranch Indian Rancheria. In correspondence dated December 26, 1999, Mr. Dixie requested a meeting with the elected officials for the purpose of clearing up the matter of who is the proper Chairperson at this time.

Issues

Since the resignation letter of Mr. Dixie was submitted to the Central California Agency in April 1999, Ms. Burley has initiated a number of actions to recognize herself

as Chairperson and her daughters as the only members of the Tribe. Meeting Notices were provided to the Agency by Ms. Burley, showing that the Tribe was proposing to adopt a Constitution and ordinances for the purpose of organizing the Tribe. Prior to this, the Tribe had never formally organized or requested assistance for the organization of the Tribe even though the Tribe voted to accept the provisions of the 1934 Indian Reorganization Act (IRA). Mr. Dixie claims that he did not resign as Chairperson and he did not submit the letter to the Agency. To this day, both parties have been in a constant dispute as to who is the rightful Chairperson of the Tribe.

It has been past practice of the BIA to assist tribes that are unable to work together as a tribal government. In 1999, Agency staff began working with a number of tribes within the jurisdiction of the Central California Agency experiencing the same political issues of the California Valley Miwok Tribe and provided technical assistance in completing the process of formally organizing.

The Bureau of Indian Affairs (BIA) has a responsibility to determine that it is dealing with a government that is representative of the Tribe, as a whole. In a letter dated March 7, 2000, to Silvia Burley, the Agency stated that it would not interfere in the internal matters of the Tribes unless the dispute regarding the composition of the governing body of the Tribe continues without resolution, and the government to government relationship between the Tribe and the United States may be compromised and in such situations, the Agency will advise the Tribe to resolve the dispute internally within a reasonable period of time. To date, both parties have been unable to resolve their dispute within a reasonable time period.

Beginning in 1999 the Agency provided technical assistance to the Tribe for the purpose of awarding a P.L.93-638 Contract. This process was to assist in the development of the Tribe and organization for the benefit of future tribal members. During this period, the Agency continued to work separately with Mr. Dixie and Mrs. Burley and provide technical assistance for the purpose of organizing.

Then, in Agency correspondence dated March 26, 2004, to Ms. Burley, the Agency addressed its concerns regarding a constitution Mrs. Burley had submitted to the Agency attempting to demonstrate that the Tribe is organized. The Agency advised Mrs. Burley, that she was considered as a person of authority within an unorganized tribe, for the purpose of receiving grants and services from the United States Government, such as the P.L.-638 grant. The Agency addressed the fact that the BIA also has a responsibility to determine that the organizational efforts reflect the involvement of the whole tribal community and that the Constitution provided did not demonstrate involvement of a greater tribal community. In fact, a Constitution, ratified March 8, 2000, submitted by Mrs. Burley, under Article III, Membership, identified the base roll, consisting of only five living members: Silvia Burley, Yakima Dixie, Rashel Reznor, Anjelica Paulk and Tristian Wallace. In a document dated January 9, 2006, submitted by Mrs. Burley, a revised Official Tribal Roll excludes Mr. Dixie. In an effort to provide technical assistance to the Tribe, the Agency has made numerous attempts to work with both factions and assist them with the organization of the Tribe.

Conclusion

It is the Agency's position that both factions are at an impasse and cannot come to an agreement for the organization of the Tribe. It is not the goal of the Agency to determine membership of the Tribe. The purpose of the November 6, 2006, letter was to bring together the "putative group" who believe that they have the right to participate in the organization of the Tribe, contrary to Mrs. Burley's assertions. It was, and is not, the intent of the Agency to determine who the members of the Tribe will be. Then the "putative" group can define the criteria for membership. As in past cases (*Jone v. Area Director and Pinoleville v. United States*) the Bureau assisted various tribes to work together and resolve their differences and retain a government-to-government relationship. Therefore, the Superintendent stands by his November 6, 2006, decision to assist the Tribe in its efforts to organize a government that will represent the Tribe as a whole.

We are transmitting the Notice of Appeal and the Agency's Administrative Records to your office for appropriate action. Please contact Carol Rogers-Davis, Acting Tribal Operations Officer, at (916) 930-3764 should you require additional information.

A handwritten signature in black ink, appearing to be the initials 'CRD' or similar, written in a cursive style.

Attachments