

2007-02-28-Confirmation



California Valley Miwok Tribe, California
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**Please note
 address change**

Ms. Rogers-Davis:

I assume that you received the fax from Yakima Dixie which confirms his desire to attend the proposed meeting in mid-March and to advance the organizational process. Again, the preferred dates would be March 12-15; and attending will be Yakima Dixie, Velma WhiteBear, and Chadd Everone.

We understand that the meeting is being called by the BIA and that the Bureau has the prerogative of defining the attendance. However, the Tribe does express its position that Silvia Burley should be in attendance at the meeting, herself, and not be represented by surrogates.

With respect to the attendance of the Mediator from the D.C. Court of Appeals, we do have some questions which you might address in your forth-coming letter. Specifically, what is the role of the Mediator in the tribal organization. I am aware of his entry into the proceedings of Silvia Burley's Appeal (Case #06-5203) and some of the transactions in that matter. However, we were previously informed by the Bureau that a Facilitator (not a Mediator) would be involved (most likely one J.R. I'ben). In addition to the Mediator's role in tribal organization, I would like to know who is sponsoring the Mediator (i.e., who is paying his expenses). The last that I heard from our attorneys in D.C. was that, although he wanted to come to California, Jane Smith informed him that the BIA did not have funds for such consulting. It certainly would be inappropriate if Silvia Burley were paying the Mediator. So, again, what is the Mediator's role and who is paying him?

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Next, we take the Olsen Determination/Directive of February 11, 2005 to be the platform for resolving the issue of authority by tribal organization. Therein, Michael Olsen states the following:

"I encourage you, either in conjunction with Ms. Burley, other tribal members, or potential tribal members, to continue your efforts to organize the Tribe along the lines outlined in the March 26, 2004, letter so that the Tribe can become organized and enjoy the full benefits of Federal recognition. The first step in organizing the Tribe is identifying putative tribal members." (Emphasis is mine.)

In addition, Olsen determines:

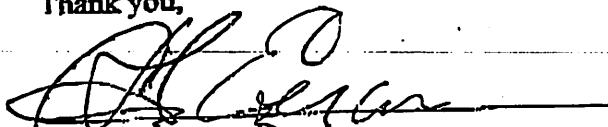
"In light of the BIA's letter of March 26, 2004, that the Tribe is not an organized tribe, however, the BIA does not recognize any tribal government, and therefore, cannot defer to any tribal dispute resolution process at this time. ... Should other issues arise with respect to tribal leadership or membership in the future, therefore, your appeal would properly lie exclusively with the BIA."

Consequently, we assume that the first order of business will be to "identify putative tribal members". And that requires the definition of the criteria which determines such putative members. The Tribe has presented its definition of such criteria in Part 6 of the Constitution of February 18, 2006, which was submitted to you for informal review. Those criteria were an extension of the criteria that were proposed by Raymond Fry to Yakima Dixie in March 2003, upon which Mr. Dixie acted. Thus, it is now up to the BIA to speak about what the Bureau, itself, recognizes as the criteria for putative membership class.

Now, if it is assumed that the Olsen Determination/Directive extinguished all prior acknowledgments by the BIA of any tribal authority (including any recognition over 20+ years of Yakima Dixie, as the authority, and the 5+ years of recognizing Silvia Burley) and if the Directive means to start *de novo* in determining the authority, then we must look to inherent and intrinsic criteria for tribal authority, which mostly formed the criteria that were adopted in the above mentioned Constitution. It is a simple fact that Silvia Burley has no inherent claim to membership, let alone authority, in this Tribe; and she any tribal status which she may have is derived solely from good graces of Yakima K. Dixie. The BIA should be prepared to address this line of reasoning.

Finally, the Tribal Counsel wants any children of Silvia Burley to be excluded from being putative members unless all of their own children are included in same. This is to prevent unfairly skewing the polity.

Thank you,



Chadd Everone, Deputy