

Wisniewski, Ariana

From: Rob Rosette [rosette@rosettelaw.com]
Sent: Friday, August 12, 2011 3:49 PM
To: Simermeyer, Sequoyah; Newland, Bryan; Porter, James; Kunesh, Patrice
Cc: wpipestem@ietan.com
Subject: FW: CVMT - Joint Status Report
Attachments: Joint Motion.pdf

All:

Attached is a Joint Status Report filed today by the Department of Justice and the non-member faction of the California Valley Miwok Tribe ("Tribe"), which was obtained via PACER. Please note Paragraph 13 of the Joint Filing which states: "The decision, however, is nearly finalized, and the Assistant Secretary anticipates the issuance of reconsidered decision by August 26, 2011."

I called Ken Rooney from DOJ to inform him it is disconcerting, from a third party perspective, that a faction purporting to represent the Tribe is able, through DOJ's facilitation, to obtain the exact status of when the DOI's decision will be rendered, while the Tribe itself is left in the dark. We are bringing this matter to your attention to simply ensure that the integrity of the Assistant Secretary's decision-making process, to which we have the utmost respect and confidence, is not compromised by various lawyers involved in the litigation.

Respectfully,

Robert A. Rosette
Rosette, LLP
Attorneys at Law
565 W. Chandler Blvd., Suite 212
Chandler, Arizona 85225
Tel (480) 889-8990
Fax (480) 889-8997
Cell (480) 242-9810
www.rosettelaw.com

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From: Saba Bazzazieh
Sent: Friday, August 12, 2011 12:37 PM
To: Rob Rosette
Subject: CVMT - Joint Status Report

Saba Bazzazieh
Rosette, LLP
Attorneys at Law
565 W. Chandler Blvd., Suite 212
Chandler, AZ 85225
Mobile: (480) 240-0238

Office: (480) 889-8990

Fax: (480) 889-8997

sbazzazieh@rosettela.com

www.rosettela.com

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

THE CALIFORNIA VALLEY MIWOK
TRIBE, *et al.*,

Plaintiffs,

v.

KEN SALAZAR, in his official capacity as
Secretary of the United States Department of
the Interior, *et al.*,

Defendants.

Case No. 1:11-cv-00160-RWR

Hon. Richard W. Roberts

**JOINT STATUS REPORT REGARDING THE STATUS OF THE RECONSIDERED
DECISION OF THE ASSISTANT SECRETARY - INDIAN AFFAIRS AND
UNOPPOSED MOTION FOR EXTENSION OF THE
TEMPORARY STAY OF LITIGATION**

Pursuant to this Court's order of July 11, 2011, the parties provide the following status report to the Court and request that the stay of this litigation be extended through August 26, 2011.

1. On January 24, 2011, Plaintiffs brought suit challenging the December 22, 2010 decision of the Assistant Secretary - Indian Affairs of the United States Department of the Interior ("Assistant Secretary"). *See* Dkt. No. 1.
2. On March 16, 2011, Plaintiffs filed a Motion for Preliminary Injunction, Dkt. No. 8, and, after granting the Defendants' Consent Motion for an Extension of Time, Dkt. No. 17, this Court ordered the Defendants to file their opposition to Plaintiffs' Motion for a Preliminary Injunction by April 5, 2011.

3. However, on April 1, 2011, the Assistant Secretary - Indian Affairs of the United States Department of the Interior set aside the prior December 22, 2010 decision regarding the organization and governance of the California Valley Miwok Tribe. *See Joint Motion to Stay Litigation, Dkt. No. 22, ex. 1.*
4. On April 8, 2011, the Assistant Secretary sent letters to both Mr. Yakima Dixie and Ms. Silvia Burley requesting responsive briefing pertaining to a number of issues. *Joint Motion to Stay Litigation, Dkt. No. 22, ex. 3.*
5. The April 8, 2011, letter set May 3, 2011, as the deadline for the respective parties' submission of briefs responding to the Assistant Secretary's inquiries. Both Mr. Dixie and Ms. Burley submitted briefs on May 3, 2011.
6. On April 19, 2011, the parties jointly requested this Court stay the litigation and all attendant deadlines so that the Assistant Secretary could prepare and issue the reconsidered decision. *See Joint Motion to Stay Litigation, Dkt. No. 22.*
7. On April 25, 2011, this Court issued a minute order granting the parties' joint motion to stay until July 7, 2011, and ordered the parties to file a joint status report and proposed order on July 7, 2011 as well.
8. On July 7, 2011, the parties filed a joint status report and requested this Court stay the litigation and all attendant deadlines until August 15, 2011, to accommodate the Assistant Secretary's ongoing preparation of the reconsidered decision. *See Joint Status Report Regarding the Status of the Reconsidered Decision of the Assistant Secretary - Indian Affairs and Motion for Extension of the Temporary Stay of Litigation, Dkt. No. 23.*

9. Plaintiffs consented to the extension on the condition that it was the final extension and that this Court order the Assistant Secretary to issue his reconsidered decision by August 15, 2011. *Id.* §§ 9, 9(a).
10. Defendants would not consent, however, to a condition mandating final agency action, and requested that should the Assistant Secretary not issue a reconsidered decision by August 15, 2011, that the result be a release of the voluntary stay. *Id.* §§ 9, 9(b). Accordingly, the parties each submitted a separate proposed order. *See id.*, Attachment 1-2.
11. On July 11, 2011, this Court granted the Joint Motion for Temporary Stay of Litigation and adopted Plaintiffs' proposed order. *See* Order Granting Joint Motion for Temporary Stay of Litigation, Dkt. No. 24. This Court's order struck paragraph 2, which requested, "This extension of the temporary stay shall be the final one granted by the Court and is conditioned upon the Assistant Secretary issuing his decision on reconsideration of the December 22, 2010 Decision on or before August 15, 2011." *Id.*
12. Since this Court granted the Joint Motion for Temporary Stay of Litigation, the Assistant Secretary and his staff have diligently attended to the preparation of the reconsidered decision. Due to work and travel obligations during the months of July and August, the Assistant Secretary and his staff are unable to issue the reconsidered decision at this time.
13. The decision, however, is nearly finalized, and the Assistant Secretary anticipates the issuance of reconsidered decision by August 26, 2011. Accordingly, the

Assistant Secretary respectfully requests an extension of the temporary stay until

Friday, August 26, 2011. Plaintiffs agree to this extension.

Respectfully submitted this 12th day of August, 2011.

Respectfully submitted,

/s/ Kenneth Rooney

KENNETH D. ROONEY

United States Department of Justice

Environment & Natural Resources Division

Natural Resources Section

P.O. Box 663

Washington, D.C. 20044-0663

Phone: (202) 514-9269

Fax: (202) 305-0506

E-mail: kenneth.rooney@usdoj.gov

OF COUNSEL

James W. Porter

Attorney-Advisor

Branch of Tribal Government and Alaska

Division of Indian Affairs

Office of the Solicitor, Department of the Interior

1849 C Street, N.W. Washington, D.C. 20240

Mail stop 6518

/s/ M Roy Goldberg

M. ROY GOLDBERG

(D.C. Bar No. 416953)

CHRISTOPHER M. LOVELAND

(D.C. Bar No. 473969)

ATTORNEYS FOR PLAINTIFFS

Sheppard Mullin Richter & Hampton LLP

1300 I Street, N.W., 11th Floor East

Washington, DC 20005-3314

Tel: (202) 218-0007

Fax: (202) 312-9425

Email: rgoldberg@sheppardmullin.com

cloveland@sheppardmullin.com

ROBERT J. URAM (*admitted pro hac vice*)
Sheppard Mullin Richter & Hampton LLP
Four Embarcadero Center, 17th Floor
San Francisco, California 94111-4109
Tel: (415) 434-9100
Fax: (415) 434-3947
Email: ruram@sheppardmullin.com

CERTIFICATE OF SERVICE

I certify that on August 12, 2011, I filed a copy of the Joint Status Report Regarding the Status of the Reconsidered Decision of the Assistant Secretary - Indian Affairs and Unopposed Motion for Extension of the Temporary Stay of Litigation with the Court pursuant to the electronic filing rules. All participants are registered CM/ECF users, and will be served by the CM/ECF system.

/s/
Kenneth Rooney