

S. HRG. 107-862

**INTRA-TRIBAL LEADERSHIP DISPUTES AND TRIBAL
GOVERNANCE**

HEARING

BEFORE THE

**COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE**

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

ON

OVERSIGHT HEARING ON INTRA-TRIBAL LEADERSHIP DISPUTES AND
TRIBAL GOVERNANCE

SEPTEMBER 26, 2002
WASHINGTON, DC



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INTRA-TRIBAL LEADERSHIP DISPUTES AND TRIBAL GOVERNANCE

THURSDAY, SEPTEMBER 26, 2002

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 10:02 a.m. in room 485, Russell Senate Office Building, Hon. Ben Nighthorse Campbell (acting chairman of the committee) presiding.

Present: Senator Campbell.

STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR FROM COLORADO, VICE CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

Senator CAMPBELL. The Committee on Indian Affairs will be in session. Good morning, we welcome our witnesses this morning.

Historically, the Federal Government has determined whether and which groups of Indians exist as Indian tribes. Similarly, Indian tribes themselves have an inherent power to fashion their own form of government, and to make membership decisions affecting their tribe.

Historically, the Federal Government does not fashion the tribal governments. It accepts the decision of the tribe, after the tribe qualifies through a very rigorous recognition process.

So the decision whether to govern themselves by traditional religious forms of government, such as the Pueblos of Mexico, or to incorporate under the Indian Recognition Act, as many tribes have done, since 1934, rests with the Indian people themselves, and that is where it ought to be.

I think rightly the Federal Government has also historically tried to tread very gingerly when it comes to getting involved with decisions of the legitimacy of a particular tribal government.

This is a very complicated process. It does not satisfy all Indian people who may or may not be tribal members. In fact, even last week, those who were watching the debates on the floor of the Senate saw one attempt to stop the recognition process altogether.

Nonetheless, the Bureau of Indian Affairs [BIA] has been called on to step into what are often very messy and unpleasant situations, and to sort things out in a way that respects tribal sovereignty, but also the rights of individual members.

In the course of my tenure on this committee, first as a member, and then as the chairman, and now as the vice chairman, I have seen an unhealthy increase in disputes and leadership challenges

that are of an intra-tribal nature. That is not inter-tribal. Intra-tribal means the factions or groups within a single tribe, battling for control for the legitimacy of that tribe.

Just in the past several months, a series of such disputes has caused the Department of the Interior, as well as the Congress, to get involved. These include, but are not limited to, several instances. The BIA declined to reconsider a Regional Director decision to recognize one factor in over another in a leadership dispute with the St. Regis Mohawks in 2002.

The Bureau acknowledged the validity of a tribal constitution in the tribal election of the Crow Tribe in 2001. The Bureau got involved with a constitutional and membership question with the Seminoles of Oklahoma in 2002.

They recognized the interim leadership and Constitutional challenge for the Saginaw Chippewa Tribe in 2000, and they deferred the tribal membership decisions of the Shakopee Mdewakanton in Minnesota in 1997.

In the one that brings us here today, the BIA removed the tribal leadership in favor of a challenging faction for the Buena Vista Me-Wuks in 2002.

Today, we will hear from the department, as well as two groups who are vying for leadership of the Buena Vista Me-Wuk Tribe from Northern California.

I know something about this area. I knew many of the Me-Wuks very well. In fact, because I was born and raised in Me-Wuk Country around Auburn, CA, and I spent many years around Sacramento, I knew a number of the family members that are involved in this whole discussion. That is particularly how I got interested in this.

I certainly do not have any magic answers to the problems, but I believe we need to look at the problems, as well as potential solutions that have been offered by the Bureau.

Senator CAMPBELL. With that, I welcome the witnesses, and we will start with a witness from the Department, Aurene Martin. Welcome, Aurene; if you would go ahead, if you would like to make your statement.

STATEMENT OF AURENE MARTIN, DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY SCOTT KEEP, ATTORNEY, OFFICE OF THE SOLICITOR; MIKE SMITH, DIRECTOR, OFFICE OF TRIBAL SERVICES, BUREAU OF INDIAN AFFAIRS

Ms. MARTIN. Good morning, Mr. Chairman, I am pleased to be here today to present testimony on the role of the Department of the Interior in tribal and leadership disputes and tribal governance issues.

To the extent that the department does have a role in leadership issues, we are guided principally by the Supreme Court's decision in *Santa Clara Pueblo v. Martinez*, where the Court cautioned Federal agencies to tread lightly when taking actions that might intrude on tribal sovereignty.

As a general rule, the department does not become involved in the internal disputes of Indian tribes, because we understand that

to do so would constitute an interference with tribal autonomy and tribal self-government.

Instead, we encourage the establishment of tribal dispute resolution mechanisms such as tribal courts, that enable tribes to resolve disputes in a forum that they have established for themselves.

There are instances where the BIA's authority to become involved in tribal disputes is required by Federal law; for example, where Congress has mandated payment of judgment fund money to certain descendants of tribal members.

Notwithstanding the tribe's determination of its membership, we are authorized to compile tribal roles or certify them for distribution of these trust proceeds.

In addition, Federal law requires that we know with whom we are dealing, when we contract on a government-to-government basis with tribes, pursuant to laws like the Indian Financing Act and the Indian Self-Determination and Education Assistance Act of 1975, and other Federal statutes intended to benefit Indian tribal governments.

In those instances where there is a dispute as to the identity of the rightful tribal government empowered to conduct business on behalf of the tribe, and it's apparent that no tribal resolution is forthcoming, we are authorized to make that determination in furtherance of our mission; although we take that action in the least intrusive manner possible.

Furthermore, a tribe's own governing document may provide for our involvement. The department does not encourage tribes to include such provisions in their constitution bylaws or other organic documents, but in some cases, they do exist.

In those cases, the department may find it necessary to take action or make determinations concerning tribal disputes. Such determinations are handled in the least intrusive manner possible, to ensure that our actions and our decisions do not infringe upon the sovereign right of a tribe to govern itself.

The Administration respects the sovereign-to-sovereign relationship between the United States and the 562 federally-recognized tribes. We will continue to refrain from interference, unless noted within tribal governing documents, or as is otherwise statutorily mandated to us.

I would also just like to note a reluctance on our part generally to get involved with internal political disputes. That is something that we do not take upon ourselves, but only become involved in when the situation requires us to do so.

This concludes my prepared statement. I will be happy to answer any questions you may have.

Senator CAMPBELL. Thank you. In the case of the Buena Vista dispute, do you consider that an internal dispute? Because you did get involved at that, at the area level.

Ms. MARTIN. I think that a leadership dispute is something that would generally be felt by us to be an internal dispute, and we would hope that disputes concerning leadership or other internal disputes would be resolved within the tribe; usually through a tribal court or some other means, before we would have to deal with them at all.

Senator CAMPBELL. Well, I know you have only been over there at the Bureau for about 1½ years. The decision, as I understand it, was made at the area level. What did the Bureau look at, when it decided to get involved?

Ms. MARTIN. As I said earlier, we do not take these issues on of our own accord. I think what happened in this particular case was that there was a challenge made to the leadership.

It was brought to our attention, and there is some case law that guides our duty to look into those issues, when they are brought to our attention. So it was pursuant to that challenge, that we started to look into this issue.

Senator CAMPBELL. Well, as a precedent to that, and I am not an attorney; fortunately, I have some very good attorneys on staff, but I am not an attorney, but I am told that this case essentially held a previous case, that might have set a precedent, which was the *Santa Clara Pueblo v. Martinez* in 1978, quite some time ago. It held that the United States had no authority to get involved in the internal affairs of a tribe.

Martinez dealt with the question of membership in the Santa Clara Pueblo. So what was different in that case? 1978 was a long time ago, but have you researched that?

Ms. MARTIN. Well, the *Santa Clara Pueblo v. Martinez* case, I think, generally stands for the fact that tribes, as sovereigns, regulate their own internal affairs. To the extent that the Federal Government has those interactions with tribes, they are not to become involved in those internal workings.

I think that the context of our involvement in this case and other cases, where there are internal disputes, as to what our responsibility is to those tribes in operating Federal programs, that necessarily means sometimes that we have to know who the leaders are, or we have to at least determine for our purposes who the leaders are, so that we can administer our programs, like self-governance.

Who do we contract with? Who do we disburse that money to? If we have social services money, who do we give that money to, and who operates those programs? So it is in our interface with those tribes that we have to kind of make a determination as to who we deal with.

Senator CAMPBELL. So is it fair to say you get involved with them more, if there are some Federal programs involved, and if there are not Federal programs dealing with money that goes to the tribe, you are less inclined to get involved with internal disputes?

Ms. MARTIN. Yes; that is true.

Senator CAMPBELL. Is that a fair statement?

Ms. MARTIN. Yes.

Senator CAMPBELL. Your statement cites the *Martinez* case, and says that the department likes to tread lightly. Yet, it seems to me, at least from what I have been able to read, that when the decision was made at the area office, it did not sound to me like it was treading very lightly.

I have not received a response yet, but I did write to the Department of the Interior Inspector General's Office to get a little better handle on what actually happened at the area level. I do not have

a response to that yet, but I am hoping to get that in the next week or so.

Let me just go on to a couple more, because I think in your testimony, you did answer one or two. First of all, why was the Regional Office handling the case? The case was being dealt with by the Pacific Regional BIA Office, which I think is in Sacramento, if I am not mistaken.

Whatever the final outcome of the dispute may be, it appears to me that the involvement of the Bureau into this dispute must have been pretty important to this tribe, so it should be handled very delicately. Why was the decision not handled by the Washington Office, by Assistant Secretary McCaleb or somebody directly under him?

Ms. MARTIN. Under the procedures that we have laid out, the Regional Director is delegated with the authority to make these kinds of decisions.

Senator CAMPBELL. And has the Regional Director made these kinds of decisions; "these kinds" meaning recognizing one person in the tribe over another one? Have they have made those kinds of decisions in the past?

Ms. MARTIN. Yes; they have.

Senator CAMPBELL. Can you cite a couple of times that they have for me, so I know.

Identify yourself for the record, if you are going to speak.

Ms. MARTIN. I am accompanied today by Scott Keep from the Solicitor's Office.

Senator CAMPBELL. Okay, Scott, do you want to tell me a couple of other times, perhaps, that a very similar thing has happened?

Mr. KEEP. Senator, I think that the one that comes to mind, and it is important for us, is one at Lower Brule, the *Grassrope v. Goodface* case of a number of years back, where the Court basically concluded we had to make a decision.

The process that the department has of starting with the superintendent and then the regional director allows for appeals, and allows for the development of a full factual record. I would have to think back a little bit more for others.

Senator CAMPBELL. Well, let us just use that one. That is the *Lower Brule* case, you said?

Mr. KEEP. Yes.

Senator CAMPBELL. And did I understand you to say the Court required you to make the decision?

Mr. KEEP. The Court said we had tried to abstain in that case from making a decision. The Court basically said, the department has to identify somebody.

Senator CAMPBELL. Well, was this decision, done at the area level, also driven by a Court mandate?

Mr. KEEP. I am sorry?

Senator CAMPBELL. This decision in Sacramento over the Buena Vista Me-Wuks, was that driven by a Court requirement?

Mr. KEEP. I cannot recall the sequence of events, but my recollection is that there is pending litigation out there, and I am not sure at which point the events started. My recollection is, it was in the District Court.

Senator CAMPBELL. Well, I am skipping around a little bit. Maybe you could tell me, or Aurene, if you can give the sequence of events, about how it started, what happened in the beginning? We are going to hear from people on both sides of the issue. But from a department standpoint, could you do that for me?

Ms. MARTIN. I am also accompanied by Mike Smith, who is with our tribal services department, and he is more familiar with the events.

Senator CAMPBELL. Okay, Mike, give me a thumbnail sketch of how you got involved in this decision.

Mr. SMITH. Good morning, Mr. Chairman, I was not personally involved here; but this is as I understand it. The superintendent was approached by a person who claimed lineal descendancy from the Buena Vista rancheria.

At that point, there was a person in charge. The leader of the tribe had been recognized for a number of years after the Buena Vista rancheria was reorganized.

This person, who claimed lineal descendancy, was able, I believe, to convince the superintendent that she should be the leader, and should have the right to organize the tribe. I believe that is what triggered the whole action.

Now as I understand it, both sides have filed lawsuits in District Court. The decision of the superintendent was appealed to the regional director, which is the first level of appeal, and then beyond that, the regional director's decision went to the Interior Board of Indian Appeals.

Senator CAMPBELL. I see. Well, you have stated the technical part, and what happens in that sequence of the law. But Mr. Smith, there is another facet, too, that interests me, and always has.

You are an enrolled member of a tribe. The trauma that I would expect if somebody came to you and said, you know what, somebody is disputing the fact that you are a tribe, or you are a tribal chairman, or you are Indian. This really puts some scars on people, and I think it would on any Indian person.

So from that standpoint, that is what also interests me about this particular case, because I think that there has been some real emotional damage done to the people involved, too. But thank you for that answer.

Maybe I can go back to Aurene. Your written statement says that the Bureau must know with whom it is dealing. I think that is absolutely right, when you contact a tribe, pursuant to the different Federal statutes, such as the Indian Self-Determination Act and so on.

Ms. Potts' testimony, and I have read some of the testimony, is that her tribe had a self-governance compact with the Bureau for programs and services, and had relationships with other agencies, like HUD, and it had been going on for a number of years.

They had tribal employees actually hired and doing these programs, administering these programs. So the question is, until the appeals are finally decided, should those contracts not be in full force? Because as I understand it now, people have lost their jobs. Those contracts have been terminated. The benefits that would

have gone to some very, very needy people within the tribe, elders, children, and so on, have been also stopped.

Ms. MARTIN. My understanding is that every agency may handle that differently. In the case of the BIA, under the Indian Self-Determination Act, we do have the ability to suspend funding for a program, if we make a determination regarding leadership.

But it is my understanding that this case is complicated by Court-ordered injunctions in the Federal District Court. That is one of the reasons that there are no program moneys flowing to the tribes.

Senator CAMPBELL. So it was driven somewhat by a Court decision.

Ms. MARTIN. That is my understanding.

Senator CAMPBELL. When that happens, is the rug just pulled out from under them, or are they given prior notice, so people can look for other work; or is it just terminated and that is it, overnight?

Ms. MARTIN. I believe that we are required to give them notice, but I do not know how much notice they had, ahead of time, of that happening. Mr. Smith wants to speak to that.

Mr. SMITH. Mr. Chairman, if I might, under part 2 of 25 CFR, there is the appeal process for decisions of line officials, the superintendent being the first official.

Generally when there is an appeal, you are correct. The person in charge at the time would normally continue to be in charge until the dispute is resolved through the administrative process, but the administrative process was disrupted.

Senator CAMPBELL. I see. Well, let me broaden the question a little bit, just for my own information.

What is the standing of outside parties who challenge tribal leadership and their membership, too, for that matter? Can anyone come in and say, listen, I just remembered, I am a tribal member, and you were the chairman or you are the president, but I do not agree with that, and go to court and challenge that? Can anybody do that?

Ms. MARTIN. We would have, under the *Grassrope* case that Mr. Keep discussed earlier, a duty to look into an allegation that is made of that nature.

Senator CAMPBELL. Who is actually "we" that does the investigation?

Ms. MARTIN. That would be the BIA.

Senator CAMPBELL. Under what sub-agency?

Ms. MARTIN. We are the agency that—

Senator CAMPBELL. Do you just do that through area office or something; you ask them to look into it?

Ms. MARTIN. It would be the superintendent.

Senator CAMPBELL. The superintendent?

Ms. MARTIN. Yes.

Senator CAMPBELL. When you get involved in this, and you look into it, is there a timeframe by which you can notify all the parties that area involved about when you are going to find a resolution to it; like the people that lost their jobs in this case? Do they know that there is an end in sight of this process, whether they are going to have their jobs back, or have to go look somewhere else?

Ms. MARTIN. During the pendency of a decisionmaking process, I do not think that we have specific timelines laid out for this. But once we have a final agency action or an agency decision, say, at the superintendent's level, then the requirements of the APA kick in, and there are timelines and notice requirements and things of that nature that we have to follow.

I am advised that once it gets to IBIA, there are no timelines that govern their decisionmaking;

Senator CAMPBELL. I see. Since I have been on this committee, over a decade, we have tried very hard—you were with the committee a long time; you know hard we tried to encourage stable tribal governments.

Because in my belief, and I think Senator Inouye's, belief and other members, one of the things that has been very difficult for tribes to negotiate with outside concerns, to build factories, provide jobs to do whatever, is the fear of unstable tribal governments and losing their investment.

You might not want to comment on this, but I would like you to, if you feel you can.

I am really surprised that we have a tribe that 1 day can be negotiating with potential partners, borrow money, and literally get "in hock" for it, sign contracts, and do all that; and then, literally without a hearing or anything in place can be booted out, because it not only affects the tribal members, but anybody they have negotiated with, signed contracts with, done something else with, borrowed money from. So it seems to me, they all get pulled down this, in this mess.

Would you like to comment on that?

Ms. MARTIN. It would seem that a decision like this could have that effect. But, in fact, a person who is subject to one of these decisions, or a tribe that is involved in one of these decisions, has a lengthy appeal process in which to make their case, before a final decision is actually made and that can be enforced.

So it does not just happen overnight. There is a term of appeal that everybody has, to one of these decisions. In this particular situation, that is my understanding of what is happening.

Senator CAMPBELL. Well, okay, I understand your comments. I do not think that resolves the problem we have when contracts have been signed, and money has been borrowed, all of that for development.

Now I understand in 1983, there was a case by the name of *Tillie Hardwick*, that dealt with rancherias in California. The Court ruled at that time that the United States should deal with the rancheria members based not on lineal descendancy, but on the successors in interest in their pre-1958 residence. I want you to comment on that.

Now I do not know all the family members. But I did know a lady by the name of Marie Potts, even since I was young, even in high school. She was kind of the matriarch of the Me-Wuks in California, that valley and foothill area, a wonderful, wonderful lady. But some of her descendants are obviously the ones involved in this discussion.

If my reading is true, then I have trouble seeing how the Potts that is now involved, Donnamarie Potts, how she is seen as not le-

gitimate. Can you explain that to me, based on the *Tillie Hardwick* case that says lineal descendancy, that the membership should not be based on that, but on successors in interest to the pre-1958 residence?

Ms. MARTIN. I am going to defer to Mr. Keep on that.

Senator CAMPBELL. That is fine.

Mr. KEEP. Senator, I think that, with all due respect, your understanding, or the way the question was read, is not entirely accurate with regard to what Tillie Hardwick said, that descendancy is important.

In another case, and you had mentioned earlier that you wanted to have some other citations, involving the Cloverdale Rancheria, there was another dispute that was litigated, both through the Interior Board of Indian Appeals and through the Federal Courts.

The department was asked to look at whether or not it had consistently applied its standards for reorganizing rancherias post the *Tillie Hardwick* decision, and a report was done by the BIA, and accepted by the Court and IBIA that we had been consistent and that descendancy was one of the criteria.

Senator CAMPBELL. Was one of the criteria?

Mr. KEEP. Right.

Senator CAMPBELL. Not the only one?

Mr. KEEP. No; what the *Tillie Hardwick* case stands for is that when the Courts concluded that the department had not fulfilled all its obligations under the California Rancheria Termination Act, that we had to reinstate the Indian status and the rancheria status.

The Rancheria Act called for the distribution of the rancheria assets to distributees, dependents of the distributees, and minors, and their lineal descendants. So there were the distributees, the dependents of the distributees, and the minors who were residents on the reservation at the time of the distribution, as well as the lineal descendants.

Senator CAMPBELL. So it is your reading that under the 1983 *Tillie Hardwick* case, that successors in interest have no bearing or no standing in a tribe?

Mr. KEEP. Senator, I did not mean to imply that. But I did mean to say that lineal descendancy is one of the criteria.

Senator CAMPBELL. One of the criteria?

Mr. KEEP. Right, along with being a distributee or a dependent of a distributee.

Senator CAMPBELL. So based on that information and your reading of *Tillie Hardwick*, you would say that one of the people that brought this to our attention, this Donnamarie Potts, based on that, you would say that she is not a legitimate tribal member or heir?

Mr. KEEP. Senator, I would not want to get into the particulars of that. That is something that, while it is a frustration for some of the parties to this, but the advantage of starting with an agency and then a regional director's decision, is that it provides us with an opportunity to develop a full record; and that is what we are doing at this time.

Senator CAMPBELL. Well, I appreciate it, and I understand you do not want to get into it. But very frankly, you are into it. It just seems to me that the Bureau needs to back up a little bit on it.

In 1994, a Federal Court in California ruled that the Interior Department's appeals process for tribal membership decisions violated individual members' due process rights, when their property rights were extinguished without a full hearing.

I understand that some of the property rights in this case were literally extinguished. Can you comment on that?

Ms. MARTIN. Sir, I am not aware of the particular case that you are speaking about. But I do believe that our IBIA appeal rights do provide for a hearing for appellants to that body.

Senator CAMPBELL. Do you think they have due process to get their property back, you are saying; due process to get their property back, if they have lost property in the settlement?

Ms. MARTIN. Yes; I think that our IBIA appeals process does provide for that due process.

Senator CAMPBELL. I see. In 1996, before Ms. Potts conveyed a 67-acre parcel to the Buena Vista tribal government, she requested and received confirmation from the Bureau that:

No. 1, the Bureau recognized the tribe's constitution, and we have that on record somewhere around here, do we not? Yes, we have that on record.

No. 2, the Bureau recognized the tribe's members; and

No. 3, the Bureau recognized her as the legitimate tribal leader. All that has been documented. We have all that.

After getting those verifications, she conveyed the land that was private land, her own land, and that she had paid taxes on for years, and it was her piece of property, to the tribe. Now, because of the Bureau decision, she has effectively lost the land. What recourse does she have?

Ms. MARTIN. My understanding is that while she has the ability to appeal decisions made within the BIA to the IBIA, my understanding is that that is the procedure that is happening now, as well as some of the Federal Court actions that are ongoing.

Senator CAMPBELL. Is it the standard practice for the Bureau to accept into trust for a new tribe, privately-owned land by one of the members of the new tribe, as in this case?

Ms. MARTIN. That has happened in the past. I am advised that that has happened.

Senator CAMPBELL. That has happened? Has there been any record of when things go wrong, of the individual getting back her property or his property?

What happens, for instance, if they convey it to a tribe, and then the tribe builds something on it? That has changed the value of the property clearly. When she goes through this appeals process, is there any possibility of getting back the property, since the tribe is now building on it a factory or something else?

Ms. MARTIN. I am not aware of any case where we have had to deal with that particular issue.

Senator CAMPBELL. Okay, suppose an individual donates the land to the tribe, and later finds out that there was some innocent mistake made and, in fact, they are not eligible for tribal member-

ship? Should they get the land back or some compensation? What I am trying to get at is, does this constitute a taking, in your view?

Ms. MARTIN. I cannot speak to this specific situation. But if you have deeded your land over, if you have made that gift, then I do not know that that would be a taking.

Senator CAMPBELL. Okay, whose name is on the property deed for Buena Vista Me-Wuks' tribal reservation? Do you know that?

Ms. MARTIN. I do not know, at this time. I can get that information to you.

Senator CAMPBELL. Well, her name was on the deed when she owned the property. But when it was transferred to this new tribe, under normal circumstances, whose name would be on the deed then?

Ms. MARTIN. I believe it would be the name of the tribe, or it would be the United States holding it in trust for the tribe.

Senator CAMPBELL. The United States holding in trust, I see, okay.

Ms. MARTIN. And we are just not sure if that trust transaction has been completed, yet.

Senator CAMPBELL. In a written statement some time ago, Robert Anderson, the former counsellor to Secretary Babbitt, notes that tribes that choose to accept organizing under the Indian Reorganization Act of 1934 are not required to adopt a constitution under the act.

As applied to this, the Buena Vista Tribe, why then did the Bureau revoke its earlier constitution and require a new one?

I am told that that statement was just included as a part of the record recently, so you may not have had a chance to review that or see it.

Ms. MARTIN. Right, we do not have that information immediately before us. We can get that back to you.

Senator CAMPBELL. I would like you to get back in writing on that point for the members, if you would. Do you remember what I asked, or do you want to just get it off the tapes? Do you remember what I asked? I want to know why did the Bureau revoke its earlier constitution and require a new one for the tribe?

In 1994, Congress enacted the Federally Recognized Tribes List Statute, which requires the Bureau to publish annually in a Federal register a list of all tribes with whom the United States has a government-to-government relationship. Was the Buena Vista Me-Wuk Tribe included in that list in 1995, 1996, or 1996 through 2001?

Ms. MARTIN. I cannot tell you specific years, from 1995 through 2001. But it is my understanding that they have consistently appeared on the list of tribes that are recognized by the BIA in the United States.

Senator CAMPBELL. You do not know if it goes back through 1995?

Ms. MARTIN. Yes.

Senator CAMPBELL. Please provide that for the committee, too, if you would, Aurene.

Ms. MARTIN. I think we have printed that list since the 1970's.

Senator CAMPBELL. How does the Bureau determine which entities should be on the list and which should not?

I know these are tough questions. I do not mean to be putting you on the spot, because I know you have just taken this job over 6 months ago. But they are important to me. Answer what you can, and what you cannot, I want to get an answer in writing, for the record.

Ms. MARTIN. Okay, we can do that. The list is made up of tribes that have been historically recognized by the department, by the United States; and it also contains tribes who have been legislatively recognized, or who have gone through the acknowledgement process and have been recognized.

Senator CAMPBELL. So it is after they have completed the process; that is when they are included on the record?

Ms. MARTIN. Yes.

Senator CAMPBELL. I understand also that the Bureau provides a great deal of technical assistance to new tribes regarding their governmental organization. I presume that would include assistance in drafting a constitution, establishing membership criteria, and compiling a list of members. Is that correct?

Ms. MARTIN. For tribes that go through the bar process, they are required to have those items before their application is considered complete.

Senator CAMPBELL. That is before you offer any assistance?

Ms. MARTIN. Before we recognize them, they are required to have that information.

Senator CAMPBELL. But in the process of trying to find that information, do you give them any assistance?

Ms. MARTIN. We do provide technical assistance, yes.

Senator CAMPBELL. Did the Bureau help the Buena Vista Me-Wuk in drafting their constitution or approve the tribe's constitution, as has been claimed?

Ms. MARTIN. Yes; we did.

Senator CAMPBELL. They have? Did the Bureau assist the tribe in developing the initial roll of its members, as it does with most tribes, I assume?

Ms. MARTIN. We believe that we did do some research for that, yes.

Senator CAMPBELL. Would you find out for sure, and also let us know on the committee?

Ms. MARTIN. Yes, sir.

Senator CAMPBELL. How does the Bureau go about approving or confirming who should legitimately be included in the initial membership roll of new tribes?

That is a big question, enrollment and who is legitimate and so on. I know that there have been all kinds of accusations back and forth, such as, oh, they are not a real Indian or they were not on the roll, or something like that.

But how do you decide originally? Do they turn in a list, and do they have to do some research on ancestry or something? Is that correct?

Ms. MARTIN. I will let Mr. Smith answer that.

Senator CAMPBELL. Yes; go ahead, Mr. Smith.

Mr. SMITH. Mr. Chairman, in general, the tribe will adopt a base roll, and that would be their initial roll, and then they add to that over time.

Senator CAMPBELL. That is the first roll?

Mr. SMITH. The first roll.

Senator CAMPBELL. Okay, the tribe does that.

Mr. SMITH. Yes.

Senator CAMPBELL. They turn it in to the Bureau.

Mr. SMITH. Yes.

Senator CAMPBELL. You accept it verbatim?

Mr. SMITH. Well, in general, we would assist the tribe in assuring that everyone on the base roll has gone through some kind of analysis or evaluation, to make sure that those are their members that they want on the base roll.

Senator CAMPBELL. You let them do the analysis, though?

Mr. SMITH. Yes; but it is a tribal decision, and then they provide that roll to the BIA for approval.

Senator CAMPBELL. Okay, so that means, I do not know, they turn this roll in. They say, they have researched and they have done all they can to find out who is legitimate and should be on the base roll.

Then here is a blue-eyed blonde, and they say, no, we are absolutely sure, whatever the criteria is, that he is Indian and so on. That is what you accept. Is that correct?

Mr. SMITH. Yes, Mr. Chairman; in the case of the Tillie Hardwick Tribes, we reorganized the tribes in accordance with the distribution plan. The distribution plan listed those distributees, dependent members. And in some cases, we were able to find lineal descendants.

So in the first reorganization of the Tillie Hardwick Tribes after termination, that was the criteria that was used. That became the base roll.

Senator CAMPBELL. Well, you know as well as I do that, boy, a lot of people got dropped through the cracks. When tribes were reinstated, some in olden times were scared to death of even admitting that they were Indian.

I mean, that was the problem after the Trail of Tears, that people hid out in the woods and in the mountains in Georgia and Tennessee and so on, that did not go on the Trail of Tears, had little difficulty organizing that they were, in fact, Cherokees that refused to go on the trail.

In fact, when they were asked to come out to so-called "be recognized," I mean, holy mackerel. I said in a statement here the other day, if you knew that somebody was going to kill your family, would you step up to be recognized; hell, no, nobody would. So there are a lot of real Indian people out there that have got kind of lost in the mix, as you know.

When the BIA revoked the Buena Vista tribal constitution, in this case, you declared that the tribe's constitution was invalid because of a technicality, even though you helped draft the document in the first place; and the tribe had been operating and receiving Federal funds for nearly 10 years. Did the Bureau ever inform Ms. Potts that the constitution was defective and needed further approval, any time in that 10 years?

Ms. MARTIN. Sir, I would have to look into that and get an answer back to you in writing regarding that situation.

Senator CAMPBELL. Do any of your colleagues happen to know the answer to that? I would like to know that. I think that is a really important question. I want to know if they ever informed her of that.

If you have any documentation that they were informed any time in that 10 years that they needed to revised their constitution or needed to do anything with it, I would like to see that document, if you could provide that for the committee, too.

Are you aware that there are other tribes in the United States that have been recognized by the Bureau, but whose constitution, like this tribe, the Buena Vistas, are approved and functioning, that were not created by secretarial election?

Ms. MARTIN. Yes; I am aware of that.

Senator CAMPBELL. In that case, how do we explain singling out the Buena Vistas for rejection, and what kind of a precedent does this set, or how are we going to handle several other tribes that apparently are affected by this action?

Ms. MARTIN. Well, I think that what we are talking about here is a distinction between a tribe that has organized under the Indian Reorganization Act and tribes who have not.

I think that probably the most obvious of a tribe that has not organized, pursuant to the Indian Reorganization Act, is the Navajo Tribe. They are not required to hold secretarial elections in order to adopt a new constitution; whereas, tribes who have reorganized under that act do have to follow those requirements.

Senator CAMPBELL. Can you tell me any other tribes that are affected by this kind of an action?

Ms. MARTIN. I am advised that the Crow Tribe is also not organized under the Indian Reorganization Act.

Senator CAMPBELL. I have many Crow friends. My dad was in boarding school at Crow, and I understand the complicated process that the Crows have in their form of government.

As a broad policy, if Indian tribes are sovereign nations, why is the Federal Government still involved in approving their tribal constitutions, anyway?

Ms. MARTIN. Because of the Indian Reorganization Act and tribes that organize under that act.

Senator CAMPBELL. You are required to do it?

Ms. MARTIN. Right; as a broad policy matter, I know that the Assistant Secretary and myself are not fans of BIA involvement in approving tribal constitutions or tribal ordinances. We both believe very strongly that those are matters that are internal to the tribe, and those documents are not something that we should be approving.

Senator CAMPBELL. All right, and the last question, what is the final status of this matter? When do you expect an IBIA decision?

Ms. MARTIN. The IBIA process exists separately from the Assistant Secretary. We do not know when a decision will happen, but we do know that the opening briefs are due at the end of October.

Senator CAMPBELL. The end of October; opening briefs are due at the end of October?

Ms. MARTIN. Yes.

Senator CAMPBELL. Okay, well, I thank you and I thank you for appearing. Just let me say that I think you are a very fine public servant.

I did not mean to single you out or put you on the spot. You know that. You know that I have great respect for you. It is just that this is a very, very important question, and particularly important to me, because we are dealing with friends and family on both sides of the issue. But thank you for appearing.

Ms. MARTIN. Thank you very much; we will get those answers to you.

[Information not available at time of press]

Senator CAMPBELL. We will now hear from the folks that are directly involved with this. I would like Donnamarie Potts, if you would just come on up to the table. Do you have somebody with you?

Ms. POTTS. Yes; I have my attorney present.

Senator CAMPBELL. All right, is this the first time you have ever appeared before a committee?

Ms. POTTS. Yes.

Senator CAMPBELL. Okay, I hope that it is not intimidating and that you are just going to be able to relax.

Ms. POTTS. I will do my best.

Senator CAMPBELL. You know, what we are interested in is, just telling your story.

Ms. POTTS. Yes, sir.

Senator CAMPBELL. Go ahead and sit down. All of your written documentation will be included in the record for very, very careful study. If you want to abbreviate or add to it or something like that for the committee, it is all going to go on the record, your written testimony and your spoken testimony, too.

But I know sometimes when people come to Washington for the first time in front of a committee, they have a little anxiety. But we are not the enemy.

Ms. POTTS. Thank you.

Senator CAMPBELL. Many times we get involved in these things mostly to try to find the answers to very complicated problems. So just go ahead and tell us your story, and then I would like to ask you and your attorney some questions.

Ms. POTTS. All right.

Senator CAMPBELL. Would your attorney identify himself for the record?

Ms. PEEBLES. Yes, Mr. Chairman; my name is John Peebles. I am with the law firm of Monteau & Peebles. The office that I work out of is in Sacramento, CA.

Senator CAMPBELL. Okay, thank you, Donnamarie, go ahead.

STATEMENT OF DONNAMARIE POTTS, CHAIRWOMAN, IONE, CA, ACCOMPANIED BY JOHN PEEBLES, ESQUIRE, MONTEAU & PEEBLES, LLP

Ms. POTTS. Good morning Mr. Chairman, Mr. Vice Chairman, and the esteemed panel. Thank you for this opportunity to appear before this committee on a matter of great importance. This is the future of my family and my tribe.

I have numerous documents sitting in front of me. I have a document also to the left of me, that I received from the BIA, that documents some of the things that I will read today.

In 1994, with the assistance of the Sacramento Office of the BIA, my late aunt, Lucille Lucero, completed and adopted a tribal constitution. The constitution named myself and my children as historical members of the tribe. We have with us, of course, as I mentioned before, the photographs.

One of the ladies in the photograph was a lady visiting from Washington, DC, and I think it would be nice if I could find out who she was. I was given a business card, but it was not the person who was visiting at that time. She was a witness to the signing of our 1994 constitution.

Senator CAMPBELL. These are the photographs you have in front of the table here?

Ms. POTTS. Yes, sir.

In 1980, my elders had deeded the majority of the Buena Vista property ownership to my name, as I was the one that was chosen to carry on the tribal heritage, because I had a deep investment in our culture.

I bought the remaining rights to the last part of our 67 acres on the rancheria with my own funds, earned by working in those local fields, which are grapes. I worked in everything that is in the area and even up in the North Yuba area.

To ensure this would remain a home for my people, I decided to donate the land to the tribe, itself. Before doing so, I asked the BIA for confirmation of our constitution and the membership of my family into the tribe.

As you can see from his response, Superintendent Harold Bradford clearly states that I am a member of the tribe. In addition, he declares the constitution enacted by my aunt was valid.

This is only one example of confirmation from the BIA. I have over 30 examples briefly in front of me, which I am sure will be presented to this committee.

In this government-to-government relationship between the rancheria and the Federal Government, including participation in self-governance and other Federal programs available only to recognized tribes, to this day, I continue also to receive documents listing me as the chairperson to the Buena Vista Rancheria.

Unfortunately, at our local post office, a lot of my stuff is opened, especially when it comes from the Department of the Interior. Everything is always taped.

Senator CAMPBELL. Who opens that?

Ms. POTTS. I have no idea.

Senator CAMPBELL. Have you complained, since that is a Federal offense?

Ms. POTTS. I did make a complaint to the local postmaster, and my attorney is aware of that. We had an idea who it was. But like the postmaster locally there said, I had to prove who it was. I also had a letter from Harold Bradford, when I had complained about this in early 1995, and Harold talked to me about that.

Relying on the 1996 letter, I deeded all of my lands to the tribe, hired tribal employees, and began exploring opportunities for economic development and other projects to benefit, not only our tribe,

but all Indian people in the area, whether they were from California or not.

I consider this to be a right created from my own property under Federal Indian law. As you can understand, I was shocked and terrified in December of last year to receive a letter from that same BIA office, informing me that the Federal Government no longer considered me and my family members of a tribe or the rancheria.

Senator CAMPBELL. Harold Bradford signed your original letter. I have a copy of that. Who signed this recent letter you got that you are speaking of?

Ms. POTTS. This was Dale Risling.

They also now say that the constitution they enacted, approved and affirmed is no longer valid, as you will see in the materials I have presented.

The Government told us we were a tribe. They assisted us in preparation and approved our constitution. They recognized historic members, as designated by the elders. They recognized me as the tribal leader. The Government, over and over again, has told us our constitution was valid.

Then in a secretive, closed-door process, that same agency of this Government told us none of this had ever existed. There was no hearing, no opportunity to confront any accuser or decisionmaker, no opportunity to challenge documents that were fraudulently used against me. This, to myself and my own tribe, is nothing less than termination. God help us if we have another termination era.

This proclamation was made despite the fact that we have appealed to the Interior Board of Indian Appeals, the IBIA; but we understand that it make take years for this ruling to be in effect.

While Assistant Secretary Neal McCaleb has declined to take this appeal in his office, it is clear from the regulations that he will eventually have to rule on our tribal appeal to the IBIA. In my opinion and in my tribal opinion, this is a process that was taken away from the tribe.

I am encouraged by the interest you have taken to discuss our tribe's history and my family. Without this venue, our fate would entirely in the hands of the people who do not know or care about the history of my tribe and the family, and do not understand the importance of our vows to our elders.

The fact that you have taken this time out of your busy schedule, this esteemed panel and Mr. Chairman, it gives me the resolve to continue in this struggle. We will forever remember this, and pass the story of this event on to our children.

I wonder why, because I am a leader of a sovereign nation that dared to explore the financial opportunities available under Federal Indian law that might create competition or jealousy. It is just my small tribe against others. Without this opportunity to tell our story, we would be overwhelmed.

It has affected our family, our tribe. It has affected the other people in the area, other natives that I have helped before. Our Indian Big Time is coming up, and we have always helped the Roundhouse and all these tribal leaders. The Franklin family have come to us before, because we were one of the tribes that would help them with a little bit of money. That was part of our culture.

We are losing everything. I am not trying to be a cry baby about it, but we established a good credit base. We built up our tribe. We have never had to live on welfare. That is one misconception about native people, that we are all these poor people, hungry and living on welfare.

Luckily, we were in an area where we could work in the fields, and we always have. Even when our property belonged to us, it was very hard to get that money, but grandpa and grandma did it.

As I said before, I would like to thank you very much for giving me this time. For the other questions, I would like to defer them to my attorney, Mr. Peebles.

[Prepared statement of Ms. Potts appears in appendix.]

Senator CAMPBELL. Okay, we will maybe ask him some, and we are particularly interested in your own views.

Ms. POTTS. Thank you.

Senator CAMPBELL. I have a letter that has been introduced in the record with other documentation, May 17, 1996, signed by Harold Bradford, the superintendent for the Central California Agency. It is addressed to you, Donnamarie Potts, Buena Vista Rancheria, Sacramento, CA.

Dear Ms. Potts: This letter will serve to provide you with the formal position that the Central California Agency has in regards to both the status of the Buena Vista Rancheria, as well as the status of the tribal government.

As the sole spokeswoman and surviving distributee of the recognized Buena Vista Rancheria, Lucille Lucero did enact and put into effect a governing document. This action by Ms. Lucero did, by definition, initiate and constitute a formal organization process for the Rancheria that has been completed.

I am not familiar with Lucille Lucero. Was she related to you?

Ms. POTTS. Yes.

Senator CAMPBELL. What is the relationship?

Ms. POTTS. She is my aunt.

Senator CAMPBELL. She is your aunt?

Ms. POTTS. She is the lady that raised me. We have numerous documents in the huge pile. That is too much to go into here. But it is for your reading later, of documentation of my photos. Because these are the people that raised me, which often happens in a lot of the native tribes.

Senator CAMPBELL. Yes, sure.

Ms. POTTS. You are adopted into the family and they take care of you, and they also train you. I was one of their trainers, as a singer and a dancer.

Senator CAMPBELL. It goes on to say:

Ms. Donnamarie Potts, by virtue of this governing document, was recognized as having historical tribal member status. Further, since the ultimate untimely passing of Ms. Lucero, the tribal government has been organized and has chosen Ms. Potts as the primary spokesperson for the Rancheria.

Additionally, the Central California Agency does recognize Ms. Potts as the formal representative for the Buena Vista Rancheria, and that a government-to-government relationship does exist between the Federal Government and this rancheria.

In this context, formal 638 contracts have been entered into between the BIA and the Buena Vista Rancheria, as well as the agency's continuous provision of other direct Federal services to the rancheria and tribal membership.

The Buena Vista Rancheria, by virtue of its Federal recognition status and formal organization of the tribe, is entitled to all benefits and services reserved for tribes with this classification. Hopefully, this correspondence will provide you with clarification as to the tribal status.

You relied on this record, this letter, to proceed to enter into contracts, to hire people, to set up all the things you did?

Ms. POTTS. Yes, Mr. Chairman; we also have photos of the signing of our constitution, with Ms. Lucero. And for someone to question to me, as a native person and getting older as to speak, to me, it is a direct insult from the BIA to state, you are not a tribe, and to take away our sovereignty.

This lady, there was nothing wrong with her mentally. She was in a wheelchair, yes. But to demean her character, to me, that is an insult.

Senator CAMPBELL. Is this Ms. Lucero, down here in this picture?

Ms. POTTS. Yes; it is.

Senator CAMPBELL. Who are the other people in the picture over here on the left? I see you in the picture. Who are the other people?

Ms. POTTS. Ben Charlie is in the picture, that works with the BIA; Harold Bradford, and Ray Fry are also in that picture, that signed this letter that I presented today.

The other lady in the picture was Mr. Bradford's assistant. She is no longer there. Then the lady in the floral dress was visiting from the Department of the Interior, that I have yet to identify. So I need to find out who she is, for my own record, for our family history.

The other photo that I have here is of Lucille and I. She made the comment, she is holding a tissue in her hand because grandpa and grandma could not read and write, and there was another issue where they had property taken. She was holding the tissue in her hand because she marked the document with her thumb, because that is what she was told to do with her arthritis so bad. But she could write a little bit.

Senator CAMPBELL. Was she related to the elder Marie Potts that I said I knew when I was young?

Ms. POTTS. Yes; they were cousins.

Senator CAMPBELL. This is her cousin?

Ms. POTTS. Yes.

Senator CAMPBELL. Marie Potts' cousin?

Ms. POTTS. Yes.

Senator CAMPBELL. Okay, after you verified and after you assumed you were on the right track and you got this letter and you conveyed your land, your 67 acres to the tribe, tell me what you did then. You entered into some contracts. You went out on a financial limb. You did some things of that nature?

Ms. POTTS. Yes; I did.

Senator CAMPBELL. Tell me what you did.

Ms. POTTS. I was approached and talked to several different people.

Senator CAMPBELL. During that time or before, by the way, did you have any problem with your membership or leadership with other tribal members?

Ms. POTTS. No, sir; I did not.

Senator CAMPBELL. Okay, go ahead.

Ms. POTTS. Well, during that time, I was approached by several different people to go into gaming. Our elders were a little bit afraid of gaming before. But then they thought that was an avenue to get money, because we did not have electricity. We did not have a working well, as you knew, on that property. We have, I call it, our own crystal springs there.

So we entered into and received a loan. I went out and got a loan from a developer, and that is what we were doing.

Senator CAMPBELL. Who is going to be responsible for that loan?

Ms. POTTS. We are.

Senator CAMPBELL. Do you have money to repay a loan like that?

Ms. POTTS. No; I do not.

Senator CAMPBELL. Did the Bureau ever tell you, at any time, that your constitution needed additional steps or ratification or changes?

Ms. POTTS. No.

Senator CAMPBELL. And they did not tell you, at any time from 1996 until roughly 10 months ago, that you were not the legitimate leader in the tribe, in the eyes of the Bureau?

Ms. POTTS. No; they did not.

Senator CAMPBELL. Under your constitution, are there procedures for individuals to apply for membership?

Ms. POTTS. Yes; there are.

Senator CAMPBELL. This is not the base roll that you started with, when you formed. But I mean now someone could come in and say, gee, my mother was such and such.

Ms. POTTS. Yes; we have researched that, and we have had some letters from other people.

Senator CAMPBELL. Okay.

Ms. POTTS. And we did research that for them, and we sent the reply.

Senator CAMPBELL. Tell me how they do it. How do they apply? Do they just write you a letter? Do they have to supply some kind of proof or what do they do?

Ms. POTTS. They do have to supply proof.

Senator CAMPBELL. What kind of proof?

Ms. POTTS. Well, for us, we go under the *Tillie Hardwick*. Some of our decisions are made under that, and we have an application for it.

Senator CAMPBELL. Which means what? I forget; *Tillie Hardwick* had dealt with lineal descendency? Maybe your attorney could answer that.

Ms. POTTS. I would like our attorney, Mr. Peebles to answer that.

Senator CAMPBELL. Mr. Peebles, can you tell me about that?

Mr. PEEBLES. Yes, Mr. Chairman; the current tribal constitution provides for a membership of individuals who are related to people who are on the historical rolls. There is a process by which people can apply to the tribe, and submit the information with regard to their heritage and their relationship to the tribe, and the relationship to Me-Wuk people.

Senator CAMPBELL. Okay, and that is done with most tribes. In this case, can the person that applies, do they have to be a blood

descendent? Can they be adopted? What are the parameters by which a person can apply?

Mr. PEEBLES. There are provisions for both.

Senator CAMPBELL. Provisions for both?

Mr. PEEBLES. That is correct.

Senator CAMPBELL. There are provisions for both?

Mr. PEEBLES. Yes.

Senator CAMPBELL. Have you had people apply that were accepted, that were then recognized by the Bureau, before 10 months ago? I mean, after you did your initial base roll, was there anybody that also applied, that was put on the roll, that then was accepted by the Bureau?

Ms. POTTS. No; there was not.

Senator CAMPBELL. There was not?

Ms. POTTS. No.

Senator CAMPBELL. Well, then the other person that is involved in this is Ms. Pope. I am sorry that she is not here with us today, so she could tell her story, but her attorneys are here. When did she apply for membership?

Ms. POTTS. She has not applied at all for membership, except to the Bureau. When she went into the Bureau, I was sent a letter, telling me to get off the rancheria, give up all my programs, and the letter was directly from Ms. Pope, herself.

To this day, I do not know what this person looks like. I really do not. I have never met her.

Senator CAMPBELL. You have never seen her?

Ms. POTTS. No, sir; I have not.

Senator CAMPBELL. She could be sitting right here in this room, and you would not know it?

Ms. POTTS. That is true, I would not.

Senator CAMPBELL. Well, let me ask your feeling about something. You have been the leader of a tribe for 10 years; basically, in terms of many statues, a sovereign nation.

This has always interested me, and it is a little bit aside. But how do you feel about having all of your documents, as a sovereign nation, having to be approved by Washington, DC?

Ms. POTTS. Well, personally, if you pardon my French, I wish they would leave us the hell alone. It is a tribal decision. We are a sovereign nation.

Senator CAMPBELL. You are not the first person that has expressed that.

Ms. POTTS. I wish they would just leave us the hell alone.

Senator CAMPBELL. I understand.

Ms. POTTS. Let us rule the way we usually do. It is a tribal thing.

Senator CAMPBELL. You know, I understand. It is for another time.

Ms. POTTS. Yes.

Senator CAMPBELL. It is not for a debate today. But on several occasions, I have said, it is interesting that American Indians are the only ones that have to be recorded and documented by a government set up by newcomers. But that is the way it works.

I understand that under the Indian Gaming Regulatory Act, in a gaming compact with the State of California, you have arranged with a developer to operate a casino on this property. Is that right?

Ms. POTTS. Yes, sir; I have.

Senator CAMPBELL. You have arranged for a developer?

Ms. POTTS. Yes; and that is a loan. That is not free money.

Senator CAMPBELL. Can you describe what you plan to do, if you went forward with this? I know there are many casinos, and California is a growing State.

Ms. POTTS. I highly believe in education. Because growing up, before I went to the college, myself, as an adult. I believe in education. I have always worked in education. I have worked in the V, VII, and title X programs.

Our native children really need to be kept in school. Our future is our education. Even if they just went to high school, they do need to learn how to vote, as so many of our kids do not even know that process.

Senator CAMPBELL. Yes.

Ms. POTTS. I would like to see an elder center. I would like to see moneys freed up for people that are in that little gray area, where you cannot get a loan. If you get a loan from someone, and you are on social security, you cannot spend that money. You know, you are penalized for it.

But there are so many elders there, that are sitting on an adjoining reservation, that need little windows in their house, right now.

Senator CAMPBELL. Yes; did you donate your 67 acres, the whole thing?

Ms. POTTS. Yes, sir; I did.

Senator CAMPBELL. You did that to make up the reservation?

Ms. POTTS. Yes, sir; I did.

Senator CAMPBELL. You did not keep any of it yourself? You donated the whole thing?

Ms. POTTS. I was advised by an elder to do that, but I did not.

Senator CAMPBELL. You were advised by elders to keep a little piece for yourself, but you did not?

Ms. POTTS. Yes.

Senator CAMPBELL. In this whole process, it is complicated. But have you offered or been offered an opportunity for a financial settlement, to kind of go away, to get out of this whole thing?

Ms. POTTS. Yes; I have and I would like to defer to my attorney for that comment and to answer.

Senator CAMPBELL. Yes, sir; go ahead.

Mr. PEEBLES. There have been some settlement discussions, Mr. Chairman, with regard to this issue.

Senator CAMPBELL. Do you have anything in writing for the record, or was that just conveyed verbally to you?

Mr. PEEBLES. No; it was verbal. There is nothing in writing.

Senator CAMPBELL. It was conveyed to you, as the attorney representing Donnamarie?

Mr. PEEBLES. That is correct.

Senator CAMPBELL. And what was her reaction to that? Did she consider it, or just out of hand reject it, or what?

Mr. PEEBLES. I was advised that Ms. Potts' heritage was not for sale.

Senator CAMPBELL. Donnamarie, how did you find out about all this? Were you consulted during the decisionmaking process, that you were going to be relieved of your chairmanship and all that?

Ms. POTTS. No, sir; after I received a letter from Ms. Pope, I called the Bureau, and the Bureau said that well, this person is a descendent. You need to let her be a member, and she did not apply for membership. That was it.

Senator CAMPBELL. I am informed that we do not have a copy of Ms. Pope's letter apparently on record. Do you have a copy of that?

Ms. POTTS. We have it in a pile of our documents that we brought.

Senator CAMPBELL. With your permission, I would like all those documents to be included in the record, everything you have.

Ms. POTTS. Okay, yes, sir, you may have them.

Senator CAMPBELL. So you did not find out the decision that the Bureau area office made until how long after you got this letter from Ms. Pope?

Ms. POTTS. When we had an advertisement in the paper, when you work with all the counties, and we have gone through all the county meetings and the water issues in the area, fire department, police, et cetera, in the community itself, it was put in the newspaper, because we did not see any reason to hide it.

After that was initially announced in the newspaper, that is when I received a letter from this person stating that she wanted to protect a cemetery.

Senator CAMPBELL. How many members does the tribe now have?

Ms. POTTS. We have 12 members.

Senator CAMPBELL. The tribe has 12 members?

Ms. POTTS. Yes, sir; we do.

Senator CAMPBELL. Were those all on what is called a base roll?

Ms. POTTS. Yes.

Senator CAMPBELL. Were those all of the 12 that formed the original roll?

Ms. POTTS. Yes.

Senator CAMPBELL. So no other people have been admitted to the roll since that time, since the base roll was established?

Ms. POTTS. No.

Senator CAMPBELL. And you already said you were not consulted during this decisionmaking process at all?

Ms. POTTS. No, sir; I was not.

Senator CAMPBELL. Well, maybe just a final question, Ms. Potts, what would you suggest as a remedy? What would you suggest that this committee do? This is an oversight hearing and not a legislative hearing. So we want to get testimony and add some transparency to this problem. But what would you suggest that we do?

Ms. POTTS. They need to butt out. It is a tribal decision, sir. I know there is a process, and if we do not set a precedent here today, there are many other tribes that are going to lose on this, if it goes against us, this decision.

Senator CAMPBELL. They need to butt out, meaning the Bureau or us, too?

Ms. POTTS. The Bureau, the local Bureau.

Senator CAMPBELL. Well, I appreciate your testimony and I thank you for appearing.

Ms. POTTS. Thank you.

Senator CAMPBELL. I know it was a long trip from California.

I would like now to hear from Derril Jordan, who is with the Stetson Law Office of Washington, DC. Mr. Jordan, is this the law office of Kate Stetson?

Mr. JORDAN. That is right.

Senator CAMPBELL. I know her well. She is a very fine lady, by the way.

I am sorry that the lady that I would have like to have heard from, from the other side, was not able to attend. Through staff, and I guess it was just yesterday, I was told that you wanted us to delay this. But unfortunately, people had already come across the country for it. It is not like they can buy a ticket every day to get on a plane. It was just not possible to do it.

But maybe I should ask you, right up front, you are speaking for Ms. Pope?

Mr. JORDAN. Yes; and I am accompanied by George O'Connell.

Senator CAMPBELL. Does she also have a statement that she would like to introduce?

Mr. JORDAN. We have two written statements that we would like to introduce.

Senator CAMPBELL. But they are signed by her?

Mr. JORDAN. We have two written statements that we will submit for the record, and we will definitely be submitting additional materials.

Senator CAMPBELL. May I also ask you what is the reason she was not here?

Mr. JORDAN. We did not get notice of this until Friday afternoon, after 5 o'clock Washington time. It was not until Monday that I made first contact with your staff, and I did not have any substantive discussion with your staff until Tuesday.

We had originally, given the late notice, decided that we would not attend. But after discussing it, we decided, with all due respect to this committee and the work that it does, that we wanted to be able to be here to help elucidate these issues for you. So we got people here as soon as we could.

Mr. O'CONNELL. Senator, can I introduce myself, as well?

Senator CAMPBELL. Yes.

Mr. O'CONNELL. My name is George O'Connell, and I am also a lawyer for Ms. Pope. In response to your question, I would like to tell you, Ms. Pope would very much like to have been here. But she is a single mother of three children. She has a job, and she was simply unable, on such short notice, to make arrangements.

Senator CAMPBELL. I understand, and really, I need to offer you a little bit of an apology, too. Because we only have about 10 more days or less of actually working time, and then we are going to adjourn in Congress, as you know, until the middle of January or something. I did not want to let this be delayed any longer than that, and we just could not find a time later on, in the next 2 weeks, to fit it in.

Mr. O'CONNELL. We appreciate that, Senator, and that is why we wanted to be here.

Senator CAMPBELL. I am glad you are here.

Mr. O'CONNELL. We think it is important that you understand that there are two sides to this story.

Senator CAMPBELL. That is what I want to hear.

Mr. O'CONNELL. Ms. Pope, whom I have the honor to represent, is the great-granddaughter of Louie and Annie Oliver. Those two people were some of the original inhabitants of Buena Vista.

Senator CAMPBELL. I am just trying to get something in my mind, between Ms. Lucero and Ms. Oliver, Marie Potts, and some of the other people.

Mr. O'CONNELL. That is what I would like to do, Senator.

Senator CAMPBELL. I just wondered what the blood connection was between those people.

Mr. O'CONNELL. Senator, the Olivers were original inhabitants of Buena Vista.

Senator CAMPBELL. Yes; I knew that.

Mr. O'CONNELL. And in 1958, when it was terminated, Louie and Annie Oliver were the two distributees of the property. They had children. One of them was Lucille Lucero. Another one was Eleanor Oliver. Eleanor Oliver is the grandmother of my client.

Senator CAMPBELL. Eleanor Oliver is, okay, and Lucille Lucero was the one that deeded the land over to Donnamarie Potts.

Mr. O'CONNELL. If it would be helpful, I can walk through quickly, I think, what the history of this is.

Senator CAMPBELL. If you have an opening statement, you can go ahead and do that, and then walk me through a little bit of it, and then I will ask you a few questions.

Mr. O'CONNELL. Okay, let us do that.

Senator CAMPBELL. And your complete written testimony, as well as Ms. Pope's, will be included in the record.

Mr. O'CONNELL. And we would like to be able to supplement it with some of the filings in this case, as well.

Senator CAMPBELL. Fine; I want every document you have got, or a copy of every document you have. If there is anything you would like to ready directly from Ms. Pope's statement or letter, please feel free to do so, too.

Mr. O'CONNELL. Senator, because this matter is under active litigation, I will need to limit my discussion of the facts to matters in the public record.

Senator CAMPBELL. All right.

STATEMENT OF DERRIL JORDAN, ESQUIRE, STETSON LAW OFFICE, ACCOMPANIED BY GEORGE O'CONNELL, O'CONNELL AND STEVENS

Mr. O'CONNELL. As you are aware, this dispute is currently the subject of an administrative proceeding before the BIA and IBIA. So far, Ms. Pope has prevailed in those proceedings.

I think it is important to stress that this was not some midnight secret-type of deal. In fact, with all due respect to Ms. Potts, she had ample opportunity to address her factual and legal arguments to the BIA in the administrative proceedings, and indeed she did.

Part of what we will supplement the record with are her affidavits that she filed with the BIA, before any decision was rendered.

She had her day in court. She presented her arguments, and her lawyer ably represented her.

No decision recognizing my client, Ms. Pope, as the proper person to organize the tribe, and unrecognizing, if you will, Ms. Potts, was made until after both sides had a fair opportunity to present evidence and an evidentiary record was presented.

So when Ms. Potts says that this came out of the blue and nobody ever told her, with all due respect, I am scratching my head. Because on the airplane yesterday, flying out here, I was reading the affidavit of Donnamarie Potts, submitted to the BIA.

Now the issues currently before the IBIA, and to correct slightly one thing, Ms. Potts' brief to the IBIA is due, as we understand it, tomorrow. Then we will have the opportunity to file an answering brief at the end of October.

Meanwhile, the U.S. District Court in Sacramento has issued a preliminary injunction, which bars Ms. Potts from building her casino project on the rancheria's land until the IBIA proceedings are complete.

The District Court issued its injunction, based on its conclusion, and I think this is important for you to understand, Senator. The District Court reviewed that factual and legal record that had been developed in the BIA.

It determined, in issuing the injunction, that my client, Ms. Pope, had a strong likelihood of success on the merits, and that she would continue to prevail because she was legally and factually correct and entitled to the judgment that had been given by the BIA.

So the District Court has reviewed that and at least issued a preliminary injunction, stopping any construction or other dissipation of tribal assets. In July, the Ninth Circuit Court of Appeals summarily affirmed that District Court ruling.

So the matter is now pending before the IBIA. Following its decision, it may well be appealed again to the District Court, but it is important to understand, a court has looked at this, too, and has ruled that there was a strong likelihood of success on the merits.

I would like to explain a bit about the nature of the dispute over Buena Vista, and how it is different from the typical tribal membership and leadership disputes, which this committee is familiar.

In most intra-tribal disputes, there is an established tribal constitution, a fairly well defined tribal membership, or at least or core of individuals who are indisputably tribal members.

Then the disputes, as you know better than I, usually involve competing claims between two or more groups, as to which of them can appropriately lead an existing and established government, or otherwise take part in the affairs of the tribe. In those cases, we think, just as Ms. Potts does, that that should be left to the tribes to determine.

But the dispute over Buena Vista is different. At Buena Vista, the question is not whether one individual or another is entitled to lead an existing tribal government or enforce an existing tribal constitution. The question is whether Buena Vista ever had a legitimate tribal government, after it was restored in the 1980's.

As you know, Senator, a number of tribes were terminated in California in the 1950's, and Buena Vista was one of them. At the time of termination, the two individuals who received the tribal

land were my clients great grandparents, Louie and Annie Oliver. In turn, on their deaths, their heirs received some of the lands.

One of the people who received a portion of the land was Lucille Oliver. Another was her brother, Enos Oliver, and another person who received a portion of the land was my client's father, Jessie Pope.

Senator CAMPBELL. Let me interrupt you. Was that land conveyed by deed, and then the following deeds, whose names were on those deeds, after it was conveyed?

Mr. O'CONNELL. My understanding, Senator, is that when the land was conveyed from the United States, it was conveyed to Louie and Annie Oliver. There was a plan of distribution drawn up.

Senator CAMPBELL. Are we talking about the same 67 acres?

Mr. O'CONNELL. The same 67 acres were conveyed by the United States in, I believe, 1958, to Louie and Annie Oliver.

Senator CAMPBELL. Okay, so it is their land and they can do what they want with it, right?

Mr. O'CONNELL. It is their land in fee.

Senator CAMPBELL. Private and fee, and they can leave it to anybody they want?

Mr. O'CONNELL. They can leave it to anybody they want, when they died; and I apologize, I do not recall whether they transferred the land on their deaths by will or it was intestate. But in event, the land was transferred to Lucille Lucero.

Senator CAMPBELL. Okay, so her name is on the deed now.

Mr. O'CONNELL. Right, and then two other people.

Senator CAMPBELL. Two other people?

Mr. O'CONNELL. Enos Oliver, who was her brother, and Jessie Pope.

Senator CAMPBELL. Okay, I see.

Mr. O'CONNELL. Jessie Pope was Eleanor Oliver's son.

Senator CAMPBELL. So you are saying, in effect, then that when Ms. Lucero deeded the land to Donnamarie Potts, that she did not have the legal right to do that?

Mr. O'CONNELL. Now by that point, she did.

Senator CAMPBELL. What about the other two people that were supposed to be on the deed?

Mr. O'CONNELL. Mr. Pope, my client's father, in the mid-1970's, while my client was still a small child, gave his interest away, and we are not talking about Indian land now; we are talking about private land.

Senator CAMPBELL. Yes; private land.

Mr. O'CONNELL. He gave his interest and signed it over to his Aunt Lucille and his Uncle Enos. Then upon Enos' death, his son got an interest in the land, which ultimately was purchased apparently by Ms. Potts, at some point.

So. Ms. Lucero, in the 1980's, deeded her private land to Ms. Potts, and Ms. Potts subsequently, by purchase—

Senator CAMPBELL. Yes; let me ask you something right in there. If I am a little boy, and my father deeds the land that he owns over to something, because his name is on that deed, and he gives it to somebody else, whoever; and I am 10 years old, and I am not an attorney so I am asking this, can I come back later and dispute that deed?

Mr. O'CONNELL. The short answer is, probably not. But what your father cannot do is sign over your heritage, as a Native American.

Senator CAMPBELL. But with ownership of the land, if you are a little kid, and you grow up and your dad gave the land to somebody else, you have no legal recourse? It was his land. He was on the deed, and he could do what he wanted with it.

Mr. O'CONNELL. As to that land, I would agree with you, Senator.

Senator CAMPBELL. But the 67 acres, is that not the kind of thing we are talking about?

Mr. O'CONNELL. It is, but that is why I would like to, if I could, explain a little bit about this case.

Senator CAMPBELL. Yes; please.

Mr. O'CONNELL. After the *Tillie Hardwick* case was decided, the BIA had to organize or help in the organization of 17 tribes. As you pointed out, Senator, there were a lot of people with competing interests and competing desires, when that happened.

What the BIA did, and what it has historically done since the mid-1980's, is the following. In any restored tribes in California that is one of the so-called *Tillie Hardwick* tribes, if there was no pre-termination constitution or governing document, and there was none here, the BIA has said that the following group of people can participate in the organization of the tribe: Distributes, and that would have been Louie and Annie Oliver; their dependents, meaning the minor children; or their lineal descendants.

Now in this case, there were two lineal descendants alive in the early 1990's. There is Lucille Lucero and there was my client, Rhonda Pope.

My client, Rhonda Pope, had gone to the BIA in 1992, before any constitution was adopted or the tribe was organized, and she had said she wanted to visit her father's grave, because her father, in fact, is buried at Buena Vista.

Senator CAMPBELL. When she went to the Bureau, did she do that in writing? Is there some documentation about that?

Mr. O'CONNELL. There is not writing at that time. She went to the Bureau, because at that point, she was trying to connect with her heritage, and she wanted to visit her father's grave site.

Senator CAMPBELL. For the record, there is no document on that.

Mr. O'CONNELL. There is nothing in writing.

Senator CAMPBELL. All right.

Mr. O'CONNELL. She was referred to Lucille Lucero. Because at that point, Buena Vista had not been organized or reorganized, following its restoration. When she went to Ms. Lucero, she identified herself. Ms. Lucero was not friendly. She was her great aunt, but she was not friendly.

Senator CAMPBELL. Had she ever met Ms. Lucero before that time?

Mr. O'CONNELL. Senator, I believe that when she was a small child, she visited the land. But she was a very small child when her father died. She was about 4 or 5 years old on her father's death.

So she remembers visiting the land. She has a recollection of her great grandmother. I do not think that she could say, one way or another, whether she had ever met Ms. Lucero, at that point.

Senator CAMPBELL. Okay.

Mr. O'CONNELL. In any event, Ms. Lucero referred her to Donnamarie Potts, and told her she would have to call Ms. Potts if she wanted to visit. So she did, and did not get an answer.

Senator CAMPBELL. Do you know what year that was?

Mr. O'CONNELL. 1992/1993.

Senator CAMPBELL. So that was before they formed the roll and the constitution?

Mr. O'CONNELL. That is correct.

Senator CAMPBELL. Okay.

Mr. O'CONNELL. And in papers that have been filed with the U.S. District Court, Ms. Potts has acknowledged, and she initially said in a filing with the BIA that Ms. Pope had never contacted anybody until the year 2000.

In District Court, she changed her story. She said, in fact, she was aware from Lucille Lucero that Ms. Pope had contacted Ms. Lucero, and that Ms. Pope had said she was the daughter of Jessie Pope; and that she and Ms. Lucero had decided that she really was not the daughter of Jessie Pope, even though not only her birth certificate, but Social Security Administration documents, court orders of support and the like, all establish her as the daughter of Jessie Pope.

So the two of them decided in 1994 that they were not going to tell Ms. Pope what they were doing, and they were not going to tell the BIA about Ms. Pope's existence.

So before the constitution was written and purported to be adopted, one of the two lineal descendants of the Olivers, my client, was there, was known to Ms. Potts and Ms. Lucero, and was not given any notification that they were purporting to organize the tribe.

Senator CAMPBELL. Your client, meaning Ms. Pope?

Mr. O'CONNELL. Ms. Pope.

Senator CAMPBELL. You said she was known to Ms. Potts. Ms. Potts said she never saw her before and does not know what she looks like, even today.

Mr. O'CONNELL. She knew of her existence, because Ms. Potts has filed a declaration with the District Court in the underlying case, acknowledging that she was aware that Ms. Pope had come out to the property, had spoken to Lucille Lucero, and that Lucille Lucero took the position that Ms. Pope was not, in fact, a child of Jessie Pope, and had no right to have anything to do with Buena Vista.

Senator CAMPBELL. So at a later date, after the roll was done and accepted by the Bureau, did Ms. Pope seek to join the membership of the Buena Vista Me-Wuks at that time?

Mr. O'CONNELL. No; Ms. Pope, at that time, when she found out, in 1999, that a constitution had been adopted without her participation.

Senator CAMPBELL. This is 4 or 5 years after it was adopted?

Mr. O'CONNELL. This is 4 or 5 years after it was adopted.

Senator CAMPBELL. How could she not find out in that amount of time?

Mr. O'CONNELL. Senator, you need to understand, and I heard Ms. Potts say that this is a tribe with 12 members. That may have been the original roll. There are three living members of the tribe: Ms. Potts and her two children.

Ms. Pope was visiting with various people who are Me-Wuk in the area, but who are not part of Buena Vista. Ms. Pope attempted, on a number of occasions by telephone, to contact Ms. Potts, and never received a response. It was not until 1999 into 2000 that she learned that a constitution had been adopted.

Senator CAMPBELL. Just for the record, do you have any verification of her trying to contact Ms. Potts or the tribe during that time or was it strictly verbal?

Mr. O'CONNELL. It was her words, Senator, that she did in her affidavit.

Senator CAMPBELL. Okay.

Mr. O'CONNELL. Ms. Pope was entitled, under the BIA's consistent practice, in organizing *Tillie Hardwick* tribes to have been part of that original organization. She was not. She began, at that point, to do a number of things. She submitted her own constitution to the BIA.

Senator CAMPBELL. That was about what time?

Mr. O'CONNELL. 2000.

Senator CAMPBELL. 2000?

Mr. O'CONNELL. Before that had been done, again, by May 2000, she had submitted to the BIA evidence that she was Jessie Pope's child.

Senator CAMPBELL. All right.

Mr. O'CONNELL. In fact, one of the things that we would like to submit to this committee, in supplementation of the record, is a letter to Ms. Potts, from the BIA, in May 2000, in which the BIA says to Ms. Potts, in substance, and I do not have the letter in front of me, but we will provide it, Rhonda Pope has come to us and convinced us that she is a lineal descendant.

Under the way in which Buena Vista was supposed to be organized, lineal descendants are the ones who are supposed to be tribal members and so on. In substance, the letter asked, would you supply us with information about yourself and about your two children, and show that you are lineal descendants? As far as we know, Ms. Potts never responded to that letter.

Following that, my client submitted a proposed constitution to the BIA, along with evidence of her lineage, and there were proceedings before the BIA, with both the superintendent and the regional director, which resulted, as I said before, in the filing of affidavits, evidence, and so on.

The evidence, Senator, is that my client, as she has said, is Jessie Pope's daughter. The evidence further shows, and the conclusion of the BIA is, that Donnamarie Potts is not a lineal descent of the Olivers.

Senator CAMPBELL. I have lost my notes somewhere here. I do not even know where I was, I am getting so much information. But there was some question, I understood, in the Bureau of whether they had to be lineal descendants or not.

If the tribe submitted all their information, then the tribe decided if they were lineal descendants or not. But if they accept

them and they were not lineal descendants, they were still members of the tribe. Is that your reading of the law, too?

Mr. O'CONNELL. It is not my reading of it, Senator. There has been a dispute. I think the case was mentioned involving *Cloverdale*, which is another *Tillie Hardwick* tribe. In that case, there was a dispute. A gentleman had actually organized a tribe over in *Cloverdale*, and then there was a later challenge.

The BIA concluded, during the course of that challenge, that a fellow named Jeffrey Allen Wilson, who had formed a tribal government was, in fact, not a lineal descendent of the original distributees, and as a consequence, could not have formed a legitimate government.

In that case, the BIA, on reviewing it said, well, that is a reasonable approach. It is a reasonable approach on *Tillie Hardwick* to say that the people who can participate in the reorganization of the tribe after it has been restored are distributees, their minor children, dependents, or lineal descendants.

But we want to know if the BIA has consistently followed that practice with the *Tillie Hardwick* tribes. The BIA came back in and it said, yes, we have, and demonstrated to the BIA that that was the consistent practice it followed. It furnished that report to the BIA.

Now that matter was actually taken up and challenged and appealed in the District Court, and was upheld. The record, we believe, both from that case and in this case, is that the BIA consistently has taken the position that if the distributees are no longer around, then the people who are entitled to form the Government in the first place are the lineal descendants. In this case, it was Ms. Pope and Lucille Lucero. But Ms. Pope was not part of it in 1994.

Senator CAMPBELL. I understand. You know, I lived out there for years and years. I knew a lot of Me-Wuks; probably 100 or more of the different bands. I used to go to the Acorn Festivals with them. I used to participate in some of the things, watching them. I used to watch them with their dances, using what is called a yellow hammer, their feathers that they made their outfits out of.

I knew the older folks, my age and older, and even older than me, the Potts family. I knew the Taylors. I knew the Franklins. I knew a lot of them. They were really good friends. I taught school. I taught their kids in school. I knew them.

They were a loving people, very inclusionary people, you know, a sharing people, a very traditional people, and boy, have times changed. I cannot help to think that one of the big changes is because of the new opportunities of money, of gaming and making money.

So let me ask you, first, has Ms. Pope entered into any kind of agreement with anybody to develop that land, or to build something, as Ms. Potts has?

Mr. O'CONNELL. Senator, anything my client has told me about that would have to be privileged.

Senator CAMPBELL. Well, I take that to mean, she probably did.

Mr. O'CONNELL. Senator, I can tell you this, and it is honest and sincere, and she would love to look you in the eye and tell you this. It is her absolute desire that that land not be developed. She would

not forego for the future development opportunities that could be pursued elsewhere.

But she absolutely wants, if it is humanly possible, to maintain that land, these 67 acres, where father and her grandfather, great grandfather and grandmother are buried, undeveloped and in the state it is in now.

But Senator, there is something in terms of the status of the land. I do not believe this land has been accepted into trust by the United States. I believe that Ms. Potts deeded it over. So the deed, as it sits there now, if you were to go to Amadore County and run the deed, I believe that it is deeded in the name of—

Senator CAMPBELL. Well, can I interrupt you there? Aurene Martin from the Bureau is still here. Could you tell us that, if that land has been taken into trust?

Ms. MARTIN. I am not entirely sure that the transaction has been completed.

Senator CAMPBELL. Has an application been made or anything; do you know at all?

Ms. MARTIN. My understanding is that it has.

Senator CAMPBELL. Okay, Aurene, could you provide the committee with at least an update of where that is, if you would?

Well, your client may say she is not interested in it, and I do not question her integrity. If she is not, I will accept that.

But let me tell you, I was raised up by the little town of Auburn. There is a band of Me-Wuks there. They live on what is called Indian Hill Road. When I was a boy, I went to school with all of them in high school.

I remember some years ago, when the question first came up about reinstating some of the California tribes, and some of the people that I knew, when I was young, they came back to see me, because I was on the House side then.

They said, gee, we want to get reinstated as a federally-recognized tribe. I was teasing with them a little bit, and I said, oh, you want to build a casino, huh? It was after the 1988 IGRA Act.

They said, no, no, we do not want to do that. We just want to keep this land in perpetuity for historical, traditional purposes. I call it "waiving the feathers." That is what we want to do.

Well, right now, there is a big disagreement about who is going to control the casino on that very same land that I helped get them reinstated as tribal lands.

So your client, I do not question her motives or anything, but I can tell you that casino money has driven a lot of these cousin-to-cousin bitter feuds.

Mr. O'CONNELL. Senator, I think that is right, and I want to make myself clear. I am not saying that my client, as anybody in her position, would not want to pursue development.

Senator CAMPBELL. If people get offered an opportunity to better their lives, you cannot blame them, very frankly. I am not condemning anybody that does that. I mean, I understand what it is like to be poor. I was poor.

Mr. O'CONNELL. She would like to pursue development. But she also would like to be able to do it, if it is possible, by leaving this land the way it is, and seeing if development can be pursued elsewhere.

Senator CAMPBELL. Well, let us pursue that, maybe, in my last question or two. What does Ms. Pope want? What does she want in the near future, and what does she want in the long run, from this whole fight that is going on? Does she want to pretty much disenfranchise Ms. Potts?

Mr. O'CONNELL. Ms. Pope would like to be recognized for what she is, a lineal descendent. She would like to organize this tribe.

Senator CAMPBELL. So she does not want to be a part of this one that was recognized once? She wants to form another tribe?

Mr. O'CONNELL. I am afraid that there is bitterness on both sides.

Senator CAMPBELL. All right.

Mr. O'CONNELL. And I do not know that the solution here is to have these two people live together. She believes, Ms. Pope, that she represents the heritage of the Oliver family, and that she is the person who should organize the tribe and lead it.

Senator CAMPBELL. Ms. Potts seems to have an equally strong case. It would seem to me that you, as an attorney, you ought to sit down and see if there could not be something worked out to calm the waters a little bit.

With only 12 members, holy smoke, I mean, that is not a very big tribe, and if Ms. Pope wins this debate, and she forms another tribe, I will bet it will still be the same. It may be 12 different people or it may be the same people, but it will be about the same number in that band.

And if their long-range goal is to develop it or to do something that would make it better for all of the members, I have no problem with it at all.

I encourage that, in fact, whether it is to build a factory or a casino or whatever. I mean, when you are talking about elders and kids and so on, who are desperately in need of the help that comes from economic development, I really do encourage that. But with a group that small, golly, I just cannot help but think there has got to be some way to get a dialog going.

Mr. O'CONNELL. Senator, we have always been open to discussion, and we are still open to discussion.

Senator CAMPBELL. Have you met with Ms. Potts' attorneys at all, in trying to open up an avenue, a dialog?

Mr. O'CONNELL. Senator, I respect Mr. Peebles. Both of us have agreed to respect confidentiality. I can say, there has been a meeting. More than that, I really feel that I am obligated by my pledge to Mr. Peebles not to reveal.

Senator CAMPBELL. Well, you do not need to reveal anything. I understand that client/attorney relationship. But I would, just from my own standpoint, encourage you to sit down and see if something could be worked out.

Because as I understand this, I mean, if it goes the distance, the Bureau is not going to find, I do not think, anyway, for some equal inclusion of both sides of this debate. It would seem to me, that is up to the principals. That means that somewhere along the line, Ms. Potts is going to be a loser, or Ms. Pope is going to be the loser.

I mean, I have tracked casinos and I have tracked development for Indian tribes. With groups that small, if they are anywhere

near a metropolitan area, hey, there is plenty of opportunity to go around with a group that small. I have seen it over and over.

I would just encourage you to try to sit down, first of all, and see if you could not work something out, at least attorney to attorney, with something. Then if you can get the principals involved, then hopefully there would be some way to get over some of the bad blood, and discuss things, and find an equitable solution for everybody, it would seem to me.

Mr. O'CONNELL. I mean this sincerely, I will take that, not only myself seriously, but I will convey your thoughts, which I think are good ones, to my client.

Senator CAMPBELL. Well, I appreciate it, and since Ms. Potts and her attorney are here, I would encourage them to do the same; to find a time when at least you can sit down and see if there is an avenue that you can move something along.

Mr. O'CONNELL. I will, Senator.

Senator CAMPBELL. Well, with that, I appreciate everyone who has come to testify before committee, and I would hope that you would, in the case of Ms. Pope's attorney, give my best to Kate Stetson, who is a good friend.

Mr. O'CONNELL. I will, Senator.

Senator CAMPBELL. And in the case of Ms. Potts' family, give my best to those people who I have known for years in the foothills of California.

The record will stay open for 3 weeks, to you, to the attorneys, to Ms. Potts, to Ms. Pope, and to any person who wants to comment on this, or in fact, any other tribe that would like to submit some kind of material related to this case or broader issues related to intra-tribal disputes.

Because I tell you what, I do not like being a referee in things like this, when I know people of goodwill, they can get so much done without the Government messing it up.

Mr. O'CONNELL. I agree with you on that, Senator, and thank you for your time and consideration.

Senator CAMPBELL. And in that 3 weeks, if you or Ms. Potts' attorney, if you could just kind of keep me informed, if you are talking or doing anything to try to open up a dialog, I would appreciate, and I know Chairman Inouye would, too.

Mr. O'CONNELL. We will do that, sir.

Senator CAMPBELL. Thank you, this committee is adjourned.

Mr. O'CONNELL. Thank you.

[Whereupon, at 11:42 a.m., the committee was adjourned, to reconvene at the call of the Chair.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF WAYNE SHAW, ACTING INTERIM CHAIRMAN OF THE
GENERAL COUNCIL OF THE SEMINOLE NATION OF OKLAHOMA

Chairman Inouye, Vice Chairman Campbell, and members of the committee:

My name is Wayne Shaw. I am the acting tribal chairman of the General Council of the Seminole Nation of Oklahoma, and a member of the—band of that tribe. For—years I have served my nation in public service as band chief, tribal gaming commissioner, youth athletics organizer, and general council representative.

[ETC.]

Your hearings today concern the issue of [intra-tribal disputes.] With your permission, I respectfully submit by the following testimony an account of the recent experiences of the Seminole Nation of Oklahoma in regards thereto.

The Seminoles of Oklahoma have a long, proud history. It goes back before the Americans, back before the British, back even before the Spanish and the jurisdiction they called La Florida. Seminole history tells us who we are, what to honor, and what to defend. It gives us our traditions and our customs, and our form of government. It transmits to us our bands and clans, and the matrilineal rules of belonging. And it establishes our General Council and the offices of principal chief and vice chief.

That's Seminole history, and that's who I am. I didn't learn that history from books, essays or articles, or from white men or from government records. I learned it at the feet of my elders, who learned in the same way from their elders. For us, the Seminole people, as for many native peoples, history is not something lost behind us. It is here in our present, and guides us toward our future.

Let me now tell you something about our contemporary history, which speaks to the topic before you today.

The Seminole Nation has finally emerged, thanks to the decision in *Seminole Nation v. Norton II*, delivered 3 days ago, from over 1 year of turmoil, uncertainty, and sorrow brought on by what the large majority of Seminoles consider to have been the unnecessary, small-minded and vindictive intrusion of the Bureau of Indian Affairs into our internal affairs. This uncompromising and deplorable interference has led directly to documented violence, the exposure of members of our community to greater risks to health and well-being, and the jeopardizing of our students' future educations.

This sad episode in an already tragic history of Seminole-United States relations began in the Nation's attempts 2 years ago to amend its Constitution and the criteria for tribal membership. Our goal was to exclude from tribal membership all persons who could not show lineal blood descent in any of the traditional Seminole clans or bands in accordance with our traditional, customary laws.

Much has been made of these amendments '96 in the courts, in the press, and in the offices of the Federal Government '96 and of the supposedly "racist" Seminoles who enacted them. The fact remains that under the Nation's laws any person who can show matrilineal descent through a traditional band '96 regardless of any

other native or ethnic heritage which that person may proudly share /96 is to be considered a Seminole Indian and a member of the Seminole Nation of Oklahoma.

It's true that the amendments would have removed from the Nation's General Council the representatives of the Freedmen, African-American descendants of ex-slaves. That fact, however, goes not to the supposed racism of the Seminoles, but to the sad and miserable /96 not to say denied /96 history of the United States' own race relations with Indians and with Blacks.

In enacting the amendments in August 2000, the Seminole people sought to reassert their traditional ways and forms of government. This, we believe, is the nation's right as a federally recognized native sovereign, and is a right guaranteed to the tribe by the treaty of 1866. No law has ever been enacted nor treaty signed that requires the Seminoles to recognize or accept new or non-traditional bands into its legislative assembly. Where it was done, it was done at the sufferance of the Seminole people, acting as sovereigns. In the same way it was withdrawn.

For protecting our traditions and attempting to preserve our heritage we are attacked as racist. Yet we did not create the circumstances that prompted us to act. Nor have we been alone in acting as we did. Yet only we have been made examples of and forced to suffer the consequences of the BIA's disapproval of our traditional ways.

Immediately after the Civil War, the United States "negotiated" new treaties with each of the so-called Five Civilized Tribes. Each treaty contained similar provisions for the settlement of Freedmen among them. The ostensible reason for the settlement was, as the treaties indicate, the failure of the United States to provide civil rights for the newly freed slaves and freedmen. Over the ensuing years, each of the other Five Tribes removed the Freedmen from their tribes. What has distinguished the Seminoles, the last of the Five Civilized Tribes to attempt to confine their Council to traditional tribal members, has been the response of the United States to their attempt.

Immediately after their ratification and adoption, our constitutional amendments were disapproved by the BIA. We challenged that disapproval in court, as is our right. While the decision was pending, the Nation conducted its 4-yearly general elections in July 2001. The elections were conducted according to the unamended and unchallenged provisions of the nation's federally approved Constitution. The results were clear, decisive, and most importantly for the honorable members of this Committee, they were unchallenged by anyone. Later that summer, the new officers-elect of the Nation were sworn in, and the new Seminole government set about the business of the Nation.

In early October 2001 an opinion in *Seminole v. Norton I* issued, holding that the membership amendments were unlawfully adopted and therefore without effect. We respectfully disagreed with the court's reasoning and holding and immediately appealed.

In the meantime the nation's general council nevertheless took action in accordance with the court's opinion pending the outcome of its appeal. The council passed a resolution formally noting the continuing and integral presence of the Freedmen bands on the general council, notifying the Freedmen band representatives by hand of the same, and requesting the honor of their presence in the deliberations and actions of the general council. That, we thought, should have been that, at least until the outcome of the appeal (which, by the way, was ultimately denied on the grounds that the decision was non-final, and hence not appealable).

It turns out that for the BIA, it was only the beginning.

It's not given to us mortals to know the thoughts of bureaucrats; but that way lies madness. The BIA, perhaps still smarting from the Seminole's challenge to its authority, seized upon *Seminole Nation v. Norton I* as a whip with which to punish the nation. Where there had been only a satisfied electorate, the BIA stepped in to create "warring factions"; where there had been only one sore loser, the BIA created an "intra-tribal dispute" by denying the existence of the nation's government and instead choosing to recognize only a former chief. Not content with that mischief, the local agency superintendent advised the Freedmen to ignore the actions of the General Council and stay away from its meetings.

Having invented fictional factions and bogus intra-tribal disputes, the BIA next informed my no-longer recognized government that if the nation wanted to continue to receive its Federal funds, and if it wished to maintain government-to-government relations with the United States, it would have to re-install a former chief (a man resoundingly and incurably voted out of office) and immediately conduct new general elections. It offered no advice, though, on how to do so in conformity with the provisions of our federally approved/constitution.

Needless to say, the Seminole people, pending the outcome of the appeal of *Seminole Nation v. Norton I*, refused. In the meantime, however, the newly recognized

former chief, backed by the resources and support of the BIA and its staff, traveled around Seminole County trying his best to sow seeds of confusion. He did a pretty good job. He threatened anyone doing business with the nation, he issued "executive orders" hiring staff, firing directors, and taking over assets; and he publicly attacked the Seminole government and its people at meetings in which he was joined on the podium by officials of the BIA and the National Indian Gaming Commission, all while the nation's appeal of the court decision was pending. With the tacit approval of the BIA, he even went to Federal court seeking to have the Seminole government turned out of office, an effort quickly dismissed.

Despite this, the nation continued to work diligently and in good faith through its attorneys with the Department of Justice and the BIA to try and resolve what was, at best, an inter-government dispute. The road was steep and the attitude of the BIA, if not hostile, was at best indifferent.

The Bureau's initial actions suggested to us that they weren't interested in our laws or our constitution. That suspicion was confirmed at our negotiation meetings with them. At one conference at the Wewoka Agency offices, literally across the road from Seminole Tribal Headquarters, the Regional Director assigned to mediate said he'd never seen a copy of the Seminole Constitution, much less read it. We then discovered that the Wewoka Agency office didn't even have a copy. The Director asked if we would get him a copy.

Six months later, at another settlement conference, this time in Oklahoma City, the Deputy Assistant Secretary of the Interior, who'd flown in especially for the meeting, confessed she hadn't read the Seminole Constitution, didn't have a copy, and didn't know its provisions; nor was she familiar with the Seminole government's structure. She asked if we would get her a copy as soon as the meeting was finished.

Members of the committee, the Seminoles are not a large tribe, and were not a wealthy one, either. Our home is one of the poorest counties in Oklahoma, which is itself one of the poorer States in the Union. But recent years have brought us a measurable, if modest, amount of success from gaming and other businesses. Last year alone we grew to become the largest employer in Seminole County, moving ahead of the Wrangler Jeans Company. As well as jobs, these businesses provided revenues that went into the nation's treasury, where they allowed us to provide much needed services to our people and resources for their problems in ways we couldn't do before. But that is all gone now.

Events of last May scared off our gaming customers, and chased away many current and at least one prospective business partners. That was when a BIA judge issued a series of ex parte orders, each more outrageous than the previous, shutting down the nation and turning over control of the nation, its assets and its property to the BIA's anointed leader. Men /96 many of them non-Seminoles /96 with automatic weapons and military fatigues appeared at our government offices and our gaming facilities, demanding entry. Our General Council House seized and vandalized. Records from the nation's Business and Regulatory Commission were taken, and others destroyed. One member of the General Council was attacked and hospitalized, another arrested. Yet the Seminole people did not rise to the bait, but stood firm on their rights under law.

The BIA court orders, issued with the full knowledge and tacit approval of the Bureau itself, went so far beyond the pale of judicial responsibility that an appellate panel met in emergency session and quickly overturned them. But by then the damage to the nation, its businesses, and their reputation, was done.

Thanks to the BIA's policy of bad faith negotiations, of cutting off of Federal funds for essential services on the pretext of upholding their "solemn" trust responsibilities (the solemnity of which has certainly been called into question by the Secretary of the Interior herself), the nation's gaming operations have suffered, perhaps irreparably. Employees have now been laid off, staff hours reduced, and revenues to the nation's treasury have dwindled.

Some Seminoles have asked whether what has befallen them really has anything to do with the Freedmen at all, or whether it's really just a big game /96 maybe of skill, maybe of chance /96 played by folks in Washington and Oklahoma City, folks with the desire to win at any cost. But I'm sure the better informed among you can judge as to that.

As for myself, like I said at the beginning, I'm sort of a historian. All Seminoles are. Long after this committee adjourns, after this Senate's term expires, and this administration leaves office, the Seminoles will still be here making their own history. We survived the Spanish, the British, the Seminole Wars, and removal. We'll survive the New York Times, the Chicago Tribune, and all the other authorities on Seminole ways. We'll most certainly survive the Bureau of Indian Affairs, those makers of factions and ridiculers of "solemn trust." This will be true of all Indian peoples faced with the consequences of intra-tribal disputes which are, in reality,

the product not of their own internal politics, but those of outsiders who continue to attempt to use the tribes as a vehicle for their own desires.

The issue for this committee, and the Government it represents, is what kind of a history you will leave behind for your people, and whether you will finally allow the Seminoles the honor of their own history.

I thank you all for having permitted me to present you with these views.

PREPARED STATEMENT OF DONNAMARIE POTTS, CHAIRWOMAN, IONE, CA

Mr. Chairman, Mr. Vice Chairman, thank you for the opportunity to appear before this committee on a matter of great importance to the future of my tribe and my family. I have a number of documents I would like to submit for the record, but would like to take my allotted time here to tell you our story.

Like most California reservations, Buena Vista was created in the 1920's as a refuge for homeless Indians who were the survivors of the genocide brought upon us by first the Spanish and then the gold miners. While the origins of the Me-Wuk Indian People of the Buena Vista Rancheria go back to the late 1800's, in the interest of time I will start with more recent events.

In 1994, with the assistance of the Sacramento Office of the Bureau of Indian Affairs, my late aunt, Lucille Lucero, completed and adopted a tribal constitution. This constitution named myself and my children as Historical Members of the tribe. We have with us today photographs of the signing ceremony at the BIA office. My Elder and I worked over 10 years with no funds to assist us to reach this point.

In the early 1980's, my Elders had deeded the majority of the Buena Vista land ownership to my name as the one chosen to carry on the tribe's heritage. By early 1996, I had bought the remaining rights to the last small part of our 67 acres on the Rancheria with my own funds, earned by working in the local fields. To ensure this would remain a home for my people, I decided to donate that land to the tribe. Before doing so, I asked the BIA for confirmation of our constitution and my family's membership in the tribe. As you can see from his response, Superintendent Harold Bradford clearly states that I am a member of the tribe. In addition, he declares the constitution enacted by my aunt to be valid.

This is only one example of confirmation from the BIA. I have over 30 examples over the years of similar evidence of a government-to-government relationship between the Rancheria and the Federal Government, including participation in Self-Governance and other Federal programs available only to recognized tribes. To this day, I continue to receive weekly documents from the BIA showing our ongoing recognition and participation in programs.

Relying on that 1996 letter, I deeded all of my land to the tribe, hired tribal employees, and began exploring opportunities for economic development and other projects to benefit not only our tribe, but all Indian people in the areas. I consider this to be a right created from my property under Federal Indian law.

As you can understand, I was shocked and terrified in December of last year to receive a letter from that same BIA office informing me that the Federal Government no longer considered me and my family members of the Rancheria. They also now say that the constitution they assisted with and approved and then affirmed is no longer valid. As you will see in the materials I have submitted, this decision contradicts the legislation and Federal court ruling that established and reinstated this tribe. It also arbitrarily reverses nearly a decade of a government-to-government relationship.

Simply put:

The Government told us we were a tribe. The Government assisted in preparation and approved our constitution. The Government recognized us as historic members as we were designated by our Elders. The Government recognized me as the tribe's selected leader. The Government, over and over again, told us our constitution was valid and provided Tribal Self-Governance funds.

Then, in a secretive, closed-door process, that same agency of the Government told us none of that had ever existed. There was no hearing. No opportunity to confront any accuser or decisionmaker. No opportunity to challenge documents that were fraudulently used against me.

This is nothing less than termination. The Federal Government once again terminated my tribe. And, in doing so, they took my land and my family's heritage.

This proclamation was made despite the fact that each of these historical members were recognized in the tribe's constitution, a constitution prepared and executed in 1994 with the Superintendent and other BIA personnel in the BIA's Sacramento offices, and despite the fact that the BIA has affirmed its recognition of

the tribe's constitution, the tribe's members, and/or the tribe's chairperson over 30 times over the past 8 years.

We have appealed this decision to the Interior Board of Indian Appeals (the "IBIA"), but we understand that it may take years for IBIA to rule on this case and that the IBIA often merely remands cases to the regional officials who made the original decision. Also, while Assistant Secretary Neal McCaleb has declined take this appeal in his office, it is clear from the regulations that he will eventually have to rule on my appeal, as the IBIA is precluded from making any membership decisions. In the meantime, my land and the tribe's property rights have been taken without due process, the tribe is being destroyed and years of work "by the book" to achieve economic development will be gone forever.

I have come to this hearing to plead with you for help. As I worry daily about the possible extinction of my tribe and my Elders' legacy, I use this opportunity for strength and resolve.

I am encouraged by the interest you have taken to discuss our tribe's history and my family. Without this venue, our fate would be entirely in the hands of people who do not know or care about the history of this tribe and my family, and do not understand the importance of our vows to our Elders. The fact that you have taken this time out of your busy schedules to listen, gives me the resolve to continue in this struggle. We will forever remember this and pass the story of this event down to our children.

It is devastating and frightening to us that the Federal Government could take our land, take our tribe's history and its future and strip us of our status as Indian people—and then make us wait years for the IBIA's version of justice, while the BIA uses economic starvation as a weapon to further weaken us. How can they have that power over a sovereign nation? Is our sovereignty and very existence so fragile that it can be taken away in an instant at the whim of a local agent? It is also amazing that the Federal Government could recognize a tribal government dozens of time and then, without a formal process, wipe it out. Is the era of termination back?

Since this action was taken, my tribe has suffered in ways I thought were a thing of the past. The local BIA office has cutoff our Self-Governance funds and has refused to reinstate them, even though their own regulations require them to continue such obligations while an appeal such as this is pending. As chairperson of the tribe, I have no income and have had to lay off all the tribal employees. All utilities for the tribal government office—power and telephone have been shut off. The tribal government cars and even the small trailer we used for our home are being repossessed. Without assistance from our friends, we would be helpless.

As recently as last fall, this was a thriving Indian community with the opportunity for a great future ahead of us. We had worked for decades doing everything "by the book," following all the Government's regulations, to finally be ready to reach economic stability. We had established a good working relationship with the community and business vendors. Now, everything is gone.

And why? Because I, the leader of a sovereign nation, dared to explore financial opportunities available under Federal law that might create competition or jealousy? It is just my small tribe against many others. Without this opportunity to tell our story, we would be overwhelmed.

I would like to briefly address two issues I have seen raised in the news media. The first is the debate over tribes, especially in California, that some judge to be "too small." Yes, many California tribes can be considered small when compared with those in other parts of the country. That is a result of waves of European invasion, first the Spanish and then others looking for gold. The newcomers killed my ancestors, moved them around and broke them up. In the 1920's the California Rancherias were created by Congress for the benefit of the remaining Indians living without land. The situation we live in today is not our doing. It is the doing of the Federal Government.

Second, I am sure many in this room see this dispute as just being about gaming. I must point out that the Secretary of the Interior herself, in an interview with Indian Country today earlier this month, has stated that gaming should not be considered when looking at tribal governance issues. I quote: "The decisionmaking process on recognition is one that ought to be objective and not depend on what the motivation is for the people that are seeking approval." Secretary Norton is talking about new recognition of tribes. I am talking about the termination of mine.

Senator Campbell has often said that Indians are the only people in this country that need a card proving their heritage. Although humiliating, I got such a "card" from the Sacramento BIA many decades ago. The Federal Government has now taken that away, along with my land, my status as a tribal leader and our chance to better the lives of many Indians in the Sacramento area. I now live in fear that all we have believed in and worked for, and all that we promised our Elders, will

be lost forever. I know that you know all of this, but feel I should say it here for the benefit of other Members of Congress.

I am convinced that this hearing will prove we are the proper Me-Wuk Indian People of the Buena Vista Rancheria, as many know us to be. I have been here, on this land, all my life, and cannot imagine that this type of arbitrary forced extinction can still occur. Centuries ago, our people were able to travel the whole valley in search of game and resources. Today, I am merely trying to protect the last 67 acres our tribe has left. This hearing, today, is our only hope.

Thank you, once again, for the opportunity to tell our story. Our Elders would want the story of our history told to this committee and would want me to fight to the end. This is our last chance to save what is left of our history, and our future.

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GEORGE L. O'CONNELL

FILE NUMBER
1207.1

October 16, 2002

By Messenger

The Hon. Ben Nighthorse Campbell
Vice Chairman
Committee on Indian Affairs
United States Senate
Washington, D.C. 20510-6450

Re: Buena Vista Rancheria of Me-Wuk Indians of California

Dear Senator Campbell:

We are writing on behalf of Rhonda L. Morningstar Pope to provide the Committee with additional information regarding the dispute over the Buena Vista Rancheria of Me-Wuk Indians of California (the "Buena Vista Rancheria"). We respectfully request that this letter and the accompanying Appendix of Exhibits be entered in the record of the Committee's proceedings. Under separate cover, Derril Jordan is responding to the questions raised in your letter of October 4, 2002.

At the Committee's hearing on September 26, 2002, it became clear that the Committee had been provided a one-sided – and, in many instances, erroneous – view of the dispute over the governance of the Buena Vista Rancheria. While we do not wish to burden the Committee with a refutation of every factual inaccuracy presented to it, we do believe it is important that the Committee have a clear understanding of certain key facts.

1. This dispute concerns the legitimacy of an initial tribal government and is therefore appropriately before the BIA and the IBLA.

The testimony of Donnamarie Potts and the questions raised in your October 4th letter both start from the premise that the dispute now before the IBLA is one over whether Ms. Pope may be a member of the Buena Vista Rancheria. That premise is faulty, and any questions or conclusions drawn from it are necessarily flawed. This is not a dispute about one individual's right to be a member of a tribe; it is a dispute about whether the initial government of that tribe is legitimate. As set forth below, the BIA and the IBLA have an important and entirely appropriate role to play in the resolution of such a dispute.

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Tribal governments generally have jurisdiction over intra-tribal disputes, and the BIA and federal courts should generally defer to the resolution of those disputes by tribal forums. However, deference to tribal forums begs the question when the dispute is whether the purported initial tribal government has been properly organized and whether it is, in fact, the legitimate tribal government. Thus, the IBIA has recognized that the federal government must play a role when questions are raised as to whether a tribe was ever legitimately organized in the first place. "In such a case," the IBIA has held, "BIA and this Board have a responsibility to ensure that the initial tribal government is organized by individuals who properly have the right to do so." *Jefferey Alan-Wilson v. Sacramento Area Director, Bureau of Indian Affairs*, 30 IBIA 241, 252 (1997).

This is such a case. In the petition she filed with the BIA in September 2000, Ms. Pope argued that the constitution adopted by Lucille Lucero in 1994 was invalid and that the government it created was therefore illegitimate. (A copy of Ms. Pope's September 1, 2000 petition is included in the Appendix as Exhibit 1; her amended petition filed on November 4, 2000 is included as Exhibit 2.) The Superintendent of the BIA's Central California Agency initially rejected Ms. Pope's petition, and Ms. Pope appealed to the Pacific Regional Director. After all of the parties – including Donnamarie Potts – submitted substantial briefing on Ms. Pope's challenge, the Regional Director issued a ruling on October 2, 2001, in which he recognized that Ms. Pope's petition raised questions which the BIA has a responsibility to address. (A copy of the Pacific Regional Director's Order is included in the Appendix as Exhibit 3.) The Regional Director explained:

Under most circumstances involving the review of a petition requesting a Secretarial election, a Superintendent properly defers to a recognized Tribe's determination of whether a petitioner is a Tribal member. However, the Interior Board of Indian Appeals in *Jefferey Alan-Wilson, Sr. v. Sacramento Area Director, Bureau of Indian Affairs* (30 IBIA 241, 252) has stated that the BIA and the IBIA have a responsibility to ensure that the initial tribal government of a previously unorganized group is organized by individuals who properly have the right to do so. Ms. Pope's requests have raised the question of whether she or the leadership of the Tribe presently recognized by the BIA is properly entitled to reorganize the Tribe. Yet the administrative record does not show whether the Superintendent ever considered this question.

Therefore . . . this matter is remanded to the Superintendent, Central California Agency to consider . . . whether under the circumstances Ms. Pope or the leadership presently recognized by the BIA has a right to participate in the reorganization of the Buena Vista Rancheria . . .

See Exhibit 3 at pp. 2-3.

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On remand, the Superintendent allowed all parties – including Potts – to submit full briefing and evidence to support their respective positions. After reviewing that briefing, and in reliance on the Regional Director's ruling and the IBIA's holding in the *Alan-Wilson* case, the Superintendent of the Central California Agency proceeded to analyze whether the initial organization of the Buena Vista Rancheria had been legitimate. The Superintendent issued his ruling on December 27, 2001. In that ruling, he held that Ms. Pope – and not Potts or her children – had a right to participate in the organization of the Buena Vista Rancheria. (A copy of the decision is included in the Appendix as Exhibit 4.)

A month after the Superintendent ruled, Potts filed a motion for a preliminary injunction in the U.S. District Court in which she argued – as she did before the Committee last month – that the BIA had no right to determine the legitimacy of the initial government of the Buena Vista Rancheria. The U.S. District Court denied Potts's motion and affirmed the BIA's appropriate role in this process. (A copy of the District Court's March 7, 2002, Order is included in the Appendix as Exhibit 5.)¹ Potts appealed the District Court's Order to the U.S. Court of Appeals for the Ninth Circuit, which affirmed the District Court.

In her presentations before the BIA, the District Court and this Committee, Potts argues that, because she purports to be the government of the Buena Vista Rancheria, only she can determine whether she is the government of the Buena Vista Rancheria. This argument is contrary to law, fairness and common sense, and the IBIA, the Pacific Regional Director, the U.S. District Court and the Ninth Circuit have all so held. This matter is presently before the IBIA on review of a full factual and legal record. That is precisely where this case belongs.

2. Potts has had a full and fair opportunity to participate in the administrative proceedings regarding the dispute over the Buena Vista Rancheria.

In her testimony before the Committee, Potts suggested that the BIA proceedings in this matter have been "secretive"; that she has somehow been denied a right to participate fully in the proceedings; and that the Superintendent's December 2001 ruling came as a complete surprise that she could not have anticipated. Potts's suggestions are simply not accurate. Potts has been on notice of the BIA's investigation into her government since at least May 2000, and she has participated fully in the BIA's administrative proceedings since at least July 2001.

In May 2000, the Superintendent of the Central California Agency notified Potts that serious concerns had been raised about the legitimacy of her government. In a letter dated

¹ At the same time, the Court confirmed a preliminary injunction prohibiting Potts from building a casino or otherwise impairing the assets of the Tribe. In so doing, the Court found that Ms. Pope had a strong likelihood of success in the proceedings before the BIA and IBIA.

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May 2, 2000, the Superintendent stated that "direct lineal descendency" from the Buena Vista distributees was a "requisite for enrollment" in the tribe; that Ms. Pope was a "documented direct lineal descendent"; and that Potts and her family were apparently "not direct lineal descendents." The Superintendent asked Potts to provide the BIA evidence to establish that she and her children were in fact "direct lineal descendents" of the Rancheria's distributees. (A copy of the Superintendent's letter is included in the Appendix as Exhibit 6.)

To the best of our knowledge, Potts never responded to that letter.² Potts also failed to respond when Ms. Pope wrote to her later in May 2000 asking that she cease and desist in her purported representation of the Buena Vista Rancheria. (A copy of Ms. Pope's May 22, 2000, letter to Potts is included in the Appendix as Exhibit 7.)

Having received no response from Potts, Ms. Pope filed her petition with the BIA's Central California Agency in September 2000. (See Exhibits 1 and 2.) Potts has attempted to portray the resulting administrative proceedings as mysterious and nefarious, a "secretive, closed-door process." In fact, we believe the proceedings were conducted exactly as required by the Indian Reorganization Act and by the federal regulations for appeals from administrative actions set forth in 25 C.F.R. §2.1 *et seq.* Pursuant to those regulations, Potts was given the opportunity to participate fully in the proceedings. The record establishes that she did, in fact, participate fully in the proceedings.

On April 24, 2001, the Superintendent denied Ms. Pope's petition. Pursuant to 25 C.F.R. §2.4, Ms. Pope appealed to the BIA's Pacific Regional Director. Ms. Pope served her Notice of Appeal on all interested parties, including Potts as the purported tribal representative of the Buena Vista Rancheria, pursuant to 25 C.F.R. §2.9(a). Potts received the Notice of Appeal and related documents on June 29, 2001, and her lawyers responded by filing an Answer on or about July 30, 2001, and an Amended Answer on or about August 2, 2001. (Copies of these filings are included in the Appendix as Exhibit 8.)

The Pacific Regional Director issued his ruling on October 2, 2001, and served it on counsel for Potts. (See Exhibit 3 at page 3.) As set forth above, the Regional Director's ruling remanded the case back to the Superintendent for consideration of whether the individuals who had originally been involved in organizing Buena Vista had the right to do so. During the course of that remand, Potts and her lawyers filed a mountain of documents with the BIA. They filed a 13-page legal brief on October 17, 2001, and a 17-page reply brief on October 31, 2001. (Copies of these filings are included in the Appendix as Exhibit 9.) Potts herself filed two separate sworn affidavits during the proceedings before the Superintendent: one on October 17, 2001, that included 48 separate exhibits, and a second

² It should be noted that the May 2, 2000, letter from the BIA was sent to Potts before she allegedly borrowed millions of dollars from her gambling-company partner to buy slot-machine licenses.

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affidavit on October 31, 2001, that included a substantial number of additional exhibits.³ (Copies of Potts's affidavits are included in the Appendix as Exhibits 10 and 11.)

All told, Potts and her lawyers submitted several hundreds of pages of argument and evidence to the Superintendent prior to the issuance of the Superintendent's decision on December 27, 2001. Thus, there is simply no basis for her to claim that the BIA proceedings were secretive or that she was denied the opportunity to participate in them. She had every opportunity to participate, and she took full advantage of that opportunity.

3. Potts has not been the victim of unfair surprise.

In her testimony before the Committee, Potts repeatedly complained that the BIA had somehow misled her – that it had confirmed that she was the recognized leader of the Buena Vista Rancheria and then reversed that confirmation after she had borrowed millions of dollars to build a casino on the Rancheria land. What Potts failed to mention – and what the record clearly establishes – is that the BIA only “confirmed” Potts's role at Buena Vista after Potts and Lucero affirmatively misled the BIA about both Potts and Ms. Pope.

a. Potts and Lucero misled the BIA about Ms. Pope when they purported to adopt a constitution for Buena Vista in 1994.

In November 1993, Lucero and Potts sent a letter to the BIA in which they requested the BIA's assistance in organizing a government for the Rancheria. (A copy of this November 1993 letter is included in the Appendix as Exhibit 12.) In that letter, Lucero and Potts claimed that Lucero was “the only lineal descendent and recognized tribal member of the Buena Vista Rancheria.” (*Id.*)

That claim was false, and both Lucero and Potts knew it was false at the time that it was made. Lucero was not the only living lineal descendent in 1993. As Potts's counsel has now conceded, there was at least one other direct lineal descendent: Rhonda L. Morningstar Pope. (*See* Transcript of Proceedings before the District Court, January 25, 2002, at page 13, included in the Appendix as Exhibit 13.) Ms. Pope is the great-granddaughter of Louie and Annie Oliver, the Buena Vista distributees. (*See* December 10, 2001, Declaration of Rhonda L. Morningstar Pope at paragraph 3, included in the Appendix as Exhibit 14.)

³ In the brief Potts's lawyers filed on October 31, 2001, and in the accompanying Affidavit of Donnamarie Potts, Potts and her lawyers argued at length about the veracity of certain documents that had been submitted to the BIA. Thus, we are bewildered by Potts's claim before the Committee that she had “no opportunity to challenge documents that were fraudulently used against me.” In fact, she had such an opportunity and made such a challenge.

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Ms. Pope's father, Jesse Flying Cloud Pope, lived on the land of the Buena Vista Rancheria for much of his life. He died of a gunshot wound in 1975, when Ms. Pope was just four years old. His body is buried in the Indian cemetery on the Rancheria land, alongside the bodies of Ms. Pope's great-grandparents, grandmother and other ancestors. Although Ms. Pope was raised by her mother in Yolo County, she spent a significant amount of time on the Rancheria land when her father was alive. (See Exhibit 14 at paragraph 8.) As a young adult, Ms. Pope felt a deep-rooted need to learn more about the history and heritage of her family and her tribe. So in 1992, when she was 21 years old, Ms. Pope contacted the Bureau of Indian Affairs for assistance in locating and visiting her father's gravesite. (See Exhibit 14 at Paragraph 12.) At that time, Ms. Pope informed the BIA that she was a direct lineal descendent of the Olivers. (*Id.*) The BIA referred Ms. Pope to Lucille Lucero, her late father's aunt. (*Id.*)

In the summer of 1992, Ms. Pope traveled to the Rancheria land and met with Lucille Lucero. (See Exhibit 14 at Paragraph 13.) She told Mrs. Lucero that she was the daughter of Jesse Flying Cloud Pope, and she asked to see her father's gravesite. (*Id.*) Mrs. Lucero refused, telling Ms. Pope that she would have to contact Potts if she wanted to visit her father's gravesite. (*Id.*) Over the next several years, Ms. Pope made repeated efforts to contact Potts. Her calls were never returned. (Exhibit 14 at Paragraph 14.)

Thus, there is no dispute that Potts and Lucero knew about Ms. Pope when they wrote their letter to the BIA in November 1993. Potts has conceded as much in her filings with the District Court. As Potts admits, she and Mrs. Lucero unilaterally decided that Ms. Pope had no right to participate in the Buena Vista Rancheria. As a consequence, they chose not to tell the BIA about Ms. Pope in 1993 – and, further, to state falsely that Lucero was the only living direct lineal descendent. Based on these false representations, the BIA worked with Lucero and Potts to help them organize Buena Vista without any notice whatsoever to Ms. Pope. In August 1994, Lucero purported to adopt a constitution for the Rancheria – again, without any mention of or notice to Ms. Pope, a direct lineal descendent of the Buena Vista distributees.

As with so much else Potts has said, her explanation for the exclusion of Ms. Pope has evolved over time. In a sworn affidavit filed in the BIA proceedings in October 2001, Potts stated that Ms. Pope “never had any personal contact with the residents of the Rancheria” until 2000. (See Exhibit 10 at paragraph 29.) But in the sworn Declaration she filed in the U.S. District Court in January 2002, Potts acknowledged that Ms. Pope met with Lucero on the land of the Buena Vista Rancheria in 1992. (See January 25, 2002, Declaration of Donnamarie Potts at Paragraph 19, included in the Appendix as Exhibit 15.)

Having reversed her prior false statement, Potts admitted to the District Court that the exclusion of Ms. Pope from the 1994 process was not inadvertent. As Potts told the District Court, she and Lucero simply took it upon themselves to decide that Ms. Pope had

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no right to participate in the organization of the Rancheria and to withhold notice of the organization from her. Potts stated in her declaration:

Rhonda Pope had no right to participate in the organization of the Rancheria in 1994 or the process of drafting and adopting the Constitution *and for that reason we did not notify her about the process nor did we notify the BIA that she had come to see Lucille.*

(See Exhibit 15 at Paragraph 20, emphasis added.) In choosing to unilaterally and unlawfully exclude Ms. Pope from the 1994 process, Lucero and Potts chose to deny themselves a valid constitution. Having made that choice in 1994, Potts has no basis to complain now about any “unfairness” arising out of the BIA’s attempts to set matters straight.

b. Lucero misled the BIA about Potts’s lineage in 1994, and Potts misled the BIA about both Ms. Pope’s lineage and her own lineage in 1999.

At the time of the purported adoption of the 1994 constitution, Lucille Lucero allegedly made oral representations to the BIA that Donnamarie Potts was herself a direct lineal descendent of the Olivers. (See Exhibit 15 at Paragraphs 39-40.)⁴ Potts repeated this false representation to the BIA in July 1999, when she claimed that the current tribal members – Potts and her adult children – were the “only living direct lineal descendents” of Louie and Annie Oliver. (A copy of Potts’s July 16, 1999, letter to Superintendent Dale Risling, Sr., is included in the Appendix as Exhibit 16.) As Potts has now all but admitted, these representations were false. Potts is not a direct lineal descendent of the Buena Vista distributees (Louie and Annie Oliver), and – in light of the undisputed existence and lineage of Ms. Pope – Potts and her children were certainly not the only such descendents in 1999.

Potts has claimed that she was the secret, illegitimate daughter of Elinor Oliver, who in turn was the daughter of the Buena Vista distributees. When confronted in the BIA proceedings with the true facts of her birth – including a birth certificate showing that Potts is, in fact, the daughter of a woman named Margaret Lucero and a man named Leonard Potts – Potts changed her story. She told the BIA she was “frankly uncertain” about her birth, and she swore in an affidavit filed with the BIA in October 2001 that “nothing in [her] life” ever would have suggested to her that she was the daughter of Margaret Lucero and Leonard Potts until she was confronted with the birth certificate in the BIA proceedings. (See Exhibit 10 at Paragraph 21.)

⁴ Although Potts claims that Lucero made these representations, there is no legally admissible evidence that this is so. Rather, Potts relies solely on inadmissible hearsay testimony about what Lucero may or may not have said.

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Ms. Pope subsequently filed a brief with the BIA setting forth evidence that Potts swore that her parents were Margaret Lucero and Leonard Potts in connection with obtaining marriage certificates in 1962, 1976 and 1997. (A copy of Ms. Pope's December 2001 supplemental brief to the BIA is included in the Appendix as Exhibit 17.) Faced with this evidence, Potts had to invent yet a third version of her personal history. In this version, set forth in a Declaration she filed in the District Court in early 2002, Potts said that she has always known that there was some mysterious "secret" involving her birth, and that she finally learned of the secret – the alleged "fact" that she was Elinor's daughter – in 1994. (See Exhibit 15 at Paragraph 39.)⁵

More recently, Potts has offered a fourth explanation of her family lineage. In this version, unveiled for the first time in appellate proceedings before the Pacific Regional Director, Potts has suggested that she is not the Donnamarie Potts listed on her birth certificate but rather some other person who somehow took the place of the first Donnamarie Potts after that individual died as a child. (See Statement of Reasons of Donnamarie Potts, *et al.*, at pages 12-13, included in the Appendix as Exhibit 18.) There is no evidence to support this theory, of course: no death certificate for the first Donnamarie Potts, no birth certificate for the substitute Donnamarie Potts, nor any testimony explaining when or how this bizarre chain of events might have transpired. There is only Donnamarie Potts continuing to make up new fantasies to deal with the one key fact here: She is not a lineal descendant of the Buena Vista distributees and was therefore never entitled to participate in the organization of the Buena Vista Rancheria.⁶

⁵ Although Potts claims she discovered this purported "fact" in 1994, she identified her parents as Margaret Lucero and Leonard Potts in the course of obtaining a marriage certificate in 1997. (See Exhibit 17 at Exhibit H.) She suggests that she did so to maintain the family "secret" and because that was the "information that is written on my birth certificate" (See Exhibit 15 at Paragraph 38) – the same birth certificate that supposedly came as a surprise to Potts when she was confronted with it during the BIA proceedings in 2001.

⁶ During the course of the proceedings before the BIA – and in her testimony before the Committee – Potts has also made false statements about the extent of her residency on the land of the Buena Vista Rancheria. Potts claims to have been a lifelong resident of the Rancheria land. The evidence now establishes, however, that, at the very most, Potts was a visitor to the Rancheria land as a child and a non-resident from at least 1962 until the mid 1980s. And while Potts claims she has lived on the land since the early 1980s, the evidence Ms. Pope submitted to the BIA establishes that Potts lived in Marysville, California, until at least 1983, and that she lived in a string of rental units in Marysville and Sacramento at various times between 1985 and 1996. Potts's residency is ultimately irrelevant because lineage, not residency, determines one's right to participate in the organization of a *Tillie Hardwick* tribe. But Ms. Pope submits that Potts's evolving, contradictory and demonstrably false statements about her residency should give the Committee further pause in crediting any other assertions she makes.

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c. Potts has known since at least May 2000 that her right to govern the Buena Vista Rancheria was in serious question.

While Potts suggested at the Committee hearing that the Superintendent's December 2001 decision came as shock to her, the reality is that Potts has known – or should have known – that the Lucero-Potts government was questionable from its very inception. In seeking BIA assistance in organizing Buena Vista in 1994 and again in seeking BIA approval of an amended constitution in 1999, Potts stressed in writing the “fact” that she and Lucero were the only living direct lineal descendants. Potts obviously knew this “fact” was important – in fact, that it was the determining factor in deciding whether Potts and Lucero had the right to organize Buena Vista in the first place. As set forth above, Potts also knew from the very inception that she was not a direct lineal descendant.

But even if Potts was somehow ignorant of these facts, subsequent events plainly put her on notice of the problems with her government long before she borrowed millions of dollars to buy licenses for slot machines to be installed on Buena Vista's land. Potts has acknowledged that the legitimacy of her government was “questioned” in 1999. If the legitimacy of the Potts government was “questioned” in 1999, it was under full-blown attack by early 2000. In May 2000, Potts received the letter from the Superintendent noting that “direct lineal descendency is a requisite for enrollment” and stating that Potts was not a direct lineal descendant. (*See* Exhibit 6.)

Potts ignored the letter and never responded to it. The very next week, however, she borrowed millions of dollars from her gambling-company partner to secure licenses for slot machines to be installed on the Rancheria land. (*See* Memorandum of Points and Authorities Re: Bond at page 10, included in the Appendix as Exhibit 19.) Evidence such as this led the U.S. District Court to conclude that at least some of Potts's alleged suffering was self-inflicted. As the Court explained, “[I]t appears that Potts knew that her tribal government was subject to question when she entered gaming compacts and obtained [slot machine] licenses.” (*See* Exhibit 5 at page 14.)

There is no question that Potts finds herself in a difficult position today, but it is one in which she put herself through a decade of deceptions and misrepresentations about Ms. Pope's lineage and her own. If Potts suffers economic uncertainty and loss as a result of her deceit, she has no one to blame but herself.

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4. In holding that Ms. Pope is entitled to participate in the organization of Buena Vista, the Superintendent has followed the BIA's long-standing and consistent practice with respect to Tillie Hardwick tribes; a contrary result would call into question the legitimacy of the governments of all 17 Tillie Hardwick tribes.

In complaining of the "shocking" nature of the Superintendent's December 2001 ruling, Potts has suggested that the Superintendent's reliance on a "distributee-dependent-direct-lineal-descendent" test for the organization of *Tillie Hardwick* tribes was surprising and unprecedented. It was neither. In fact, in *every* single case in which the BIA has aided in the organization of *Tillie Hardwick* tribes, it has held that the individuals who are entitled to organize such tribes are the tribes' distributees, their dependents (*i.e.*, minor children) and their direct lineal descendents. Thus, for all her talk about preserving stable governments for Indian tribes, Potts fails to mention that a ruling in her favor in this case would result in instant turmoil for the 16 other *Tillie Hardwick* tribes that were organized under the distributee-dependent-direct-lineal-descendent test Potts wishes to avoid.

In prior administrative proceedings and federal court litigation over another *Tillie Hardwick* tribe – the Cloverdale Rancheria of Pomo Indians of California – the BIA, the IBIA, the U.S. Justice Department and the U.S. District Court all examined whether the BIA had a "consistent practice" with respect to identifying those individuals who were entitled to organize governments for *Tillie Hardwick* tribes. Ultimately, they all embraced the same conclusion. As the U.S. Justice Department explained in a filing with the U.S. District Court in the Cloverdale case:

BIA recently completed its review of past practices concerning organizing tribes under the *Tillie Hardwick* judgment. . . . It was determined that in all instances (other than with respect to [the Cloverdale case then being litigated]), BIA limited participants to those that were *Tillie Hardwick* distributees, dependents and their lineal descendents.

(See Federal Defendants' Status Report on BIA Past Practices and Recent Meeting of General Council Members, filed November 20, 1997, in *Cloverdale Rancheria of Pomo Indians v. United States of America*, U.S. District Court Case No. 96-1037-CW (N.D. Cal.), included in the Appendix at Exhibit 20.)

The IBIA considered the BIA's approach in reviewing the BIA's decisions in the Cloverdale matter, and the IBIA concluded that the BIA did in fact have a "consistent practice" of limiting participation to distributees, dependents and direct lineal descendents, and that such a practice was reasonable. (See *Jefferey Alan-Wilson v. Acting Sacramento Area Director, Bureau of Indian Affairs*, 33 IBIA 55, 57 (1998), included in the Appendix as Exhibit 21.) Based on that consistent practice of the BIA, the IBIA held that it was appropriate for

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the BIA to de-recognize a previously recognized tribal government because the individual who had led the organization effort for that government was not a distributee, dependent or direct lineal descendent. (*Id.*)

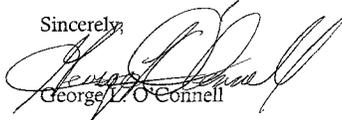
Thus, while Potts has attempted to portray the Superintendent's decision in this matter as a shocking and unpredictable departure from settled law and practice, nothing could be further from the truth. The BIA has consistently applied the distributee-dependent-direct-lineal-descendent test to the restored *Tillie Hardwick* tribes of California. The BIA also applied this test, with the approval of the IBIA and the knowledge and acquiescence of the U.S. Justice Department, in the Cloverdale case to de-recognize a previously recognized government headed by someone who did not meet the test. Given this history and this precedent, there is simply no reason for Potts to have been surprised by the Superintendent's decision.

Moreover, the history just described makes it obvious that a reversal of the BIA's decision in the Buena Vista case would have sweeping and devastating consequences for the other *Tillie Hardwick* tribes. As each of those tribes has been organized using the distributee-dependent-direct-lineal-descendent test, the abrogation of that test would call into question the governments of each of those tribes. Thus, in the name of ensuring the stability of Potts's fraudulent government, the governments of all of the other *Tillie Hardwick* tribes would be thrown into turmoil.

In holding that Ms. Pope, not Potts, has the right to participate in the organization of a government for Buena Vista, the Superintendent of the Central California Agency began to correct an injustice caused by a decade worth of deceptions and untrue statements. While Potts is no doubt disappointed in the Superintendent's decision, her disappointment provides no reason for this Committee to intervene in the ongoing administrative and judicial proceedings or somehow dictate a result in them. The administrative and judicial processes are working now. They are ensuring that the individuals involved in organizing the Buena Vista government are the ones who have a right to be so involved, and they are ensuring that the governments of other *Tillie Hardwick* tribes are not thrown into unnecessary chaos and turmoil. The process should be allowed to run its course.

On behalf of Ms. Pope, thank you, again, for giving us an opportunity to present testimony and other evidence to the Committee. Please do not hesitate to contact us if we can provide additional information or be of further assistance.

Sincerely,



George V. O'Connell

Encls.

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October 17, 2002

Via Facsimile and U.S. Mail

The Hon. Ben Nighthorse Campbell
 United States Senator
 Senate Committee on Indian Affairs
 Washington, D.C. 2051-06450

Re: *Buena Vista Rancheria of Me-Wuk Indians of California*

Dear Senator Campbell:

I am writing in response to your letter of October 4, 2002, concerning the ongoing dispute over the Buena Vista Rancheria of Me-Wuk Indians of California. I appreciate the Committee's interest in this matter and will endeavor to address each of the questions the Committee has raised.

1. Until ordered to cease and desist by the United States District Court, Donnamarie Potts intended to begin construction of a Las Vegas-style casino on the land of the Buena Vista Rancheria. You have asked if Ms. Pope has "similar plans." While Ms. Pope may be considering tribal development opportunities, she is absolutely determined to protect sacred sites on the Buena Vista land to the best of her ability. In any event, we respectfully submit that any discussion of what Ms. Pope *might* do when she eventually gains control of Buena Vista, or whether she has "financial backing" for her "considerable legal and other professional expenses," is both premature and irrelevant to the resolution of the dispute now pending before the IBLA. **Pursuant to the BIA's consistent practice with respect to so-called Tille Harwick tribes, what matters in resolving the dispute over Buena Vista is whether Ms. Pope or Ms. Potts are direct lineal descendants of the Buena Vista distributees.** Ms. Pope is a direct lineal descendant—she is the great grand-daughter of the distributees, Louie and Annie Oliver—and Ms. Potts plainly is not. That is the only relevant fact in determining the issue of who has the right to organize the Buena Vista Rancheria.

2. You have asked whether Ms. Pope has ever applied for membership in the Buena Vista Rancheria. Ms. Pope is the great-granddaughter of Louie and Annie Oliver, the distributees of the Buena Vista Rancheria. Since at least 1992, Ms. Pope has attempted to become more involved in the life of the Buena Vista Rancheria. Lucille Lucero and Donnamarie Potts repeatedly thwarted those efforts going back to 1992. Indeed, in 2000, Potts purported to adopt a constitution for Buena Vista that appears to have been designed specifically to exclude Ms. Pope from membership in the Tribe. As the evidence conclusively establishes - and as the BIA's Superintendent and Regional Director have held - Potts is not a direct lineal descendant of the Buena Vista distributees (Louie and Annie Oliver), and has no right to participate in the organization of a government for Buena Vista. Thus, Ms. Pope has not applied for membership in the current illegitimate government of Buena Vista. Instead, she has requested - and received - recognition from

the BIA that she is a direct lineal descendent of the Buena Vista distributees and therefore entitled to participate in the organization of a new government for Buena Vista.

3. You have asked how long Ms. Pope has been pursuing her claims with the BIA. As set forth more fully in George O'Connell's testimony before the Committee on September 26, 2002, and in supplemental submissions Ms. Pope is making to the Committee this week, Ms. Pope first contacted the BIA in 1992 to discuss her Buena Vista lineage and her interest in connecting to the Tribe. She repeated such contacts in 1993 and 1994. The BIA directed Ms. Pope to contact Mrs. Lucero, who in turn directed Ms. Pope to contact Donnamarie Potts. Ms. Pope tried for several years to contact Potts, but Potts did not respond to Ms. Pope's inquiries. During 1999 and 2000, Ms. Pope corresponded extensively with the BIA in an effort to establish her right to participate in the affairs of the Buena Vista Rancheria. Based on Ms. Pope's inquiries, the BIA notified Potts in May 2000 that direct lineal descent was a requisite for enrollment in Buena Vista, that Ms. Pope was a direct lineal descendent of the Olivers, and that Potts and her children apparently were not direct lineal descendants. (A copy of the May 2000 letter is attached hereto for your reference.) The BIA asked Potts to provide evidence establishing her lineal descent from the Buena Vista distributees and the basis for her participation in the Tribe. Potts failed to do so, and then failed to respond to subsequent correspondence from Ms. Pope herself. Thus, in September 2000, Ms. Pope initiated formal administrative proceedings with the BIA in which she challenged the legitimacy of the Potts government and sought recognition of her rightful role at Buena Vista. After full briefing by all parties, including Potts, and the development of an extensive evidentiary record, the BIA's Central California Agency Superintendent and Pacific Regional Director have both now ruled in Ms. Pope's favor, as have the U.S. District Court and the U.S. Court of Appeals for the Ninth Circuit. Ms. Pope will continue to fight to protect Buena Vista as Potts pursues her appeals through the IBLA and, if she so chooses, the U.S. District Court.

4. You have asked whether Ms. Pope initially sought to "join the membership" of the Buena Vista Rancheria. I have addressed this question in the two previous responses.

Thank you for the opportunity to provide this additional information. Please do not hesitate to contact George O'Connell or me if the Committee has further questions or desires additional information.

Cordially,

STETSON LAW OFFICES, P.C.

By 
Derril Jordan

D:ml

Enclosure (1)

cc George O'Connell
Judy Albietz



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Central California Agency
1824 Tribune Road, Suite J
Sacramento, CA 95815-4508

104-RUP/REBA TO

MAY 2 - 2000

Ms. Downs Marie Potts, Chairperson
Buena Vista Rancheria
4650 Coltrane Road
Lone, California 95640

Dear Ms. Potts:

The purpose of this correspondence is to convey concerns that a direct lineal descendant of your Band roll has, regarding the redefined membership roll for the Buena Vista Rancheria.

The question raised is as follows:

According to ARTICLE III-MEMBERSHIP Section 1. (a) of the latest tribally approved constitution resolved at the Agency, the Band Roll for the tribe shall consist of the adult direct lineal descendants of Louis Oliver and Annie Oliver and their direct lineal descendants.

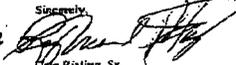
The question raised by Ms. Potts, was where does the Potts, Selvey or Vega families fit in here, as these families are not direct lineal descendants of the Oliver family but may be collaterally related.

Under normal circumstances the BIA does not involve ourselves with internal tribal matters, especially those that center around tribal membership. In cases where we have been apprised of a possible enrollment issue that may impact the government-to-government relationship the BIA has with the Buena Vista Rancheria through your elected officials, we have a responsibility to address that issue.

According to tribal laws of membership, direct lineal descendency is a requisite for enrollment and it would appear that to answer the question raised by Ms. Rhonda Potts, a documented direct lineal descendant of Jessie Pope (father) and John Pope/Eleanor Oliver (grandparents) and is the great granddaughter of Louis and Annie Oliver, that all precluded members of the Buena Vista Rancheria would have to furnish documentable membership information that bears out the direct lineal descendency, so Louis and Annie Oliver.

To put this governance issue to rest, please provide this Agency with the proper documentation, which shows the makeup of the tribe.

If you have any questions in this matter, please contact Raymond Fry, Tribal Operations Officer, at (916) 566-7124.

Sincerely,
FOR 
Dale Rising, Sr.
Superintendent



BUENA VISTA RANCHERIA

4650, Coal Mine Rd.
Loma, CA 95640
Phone 209-274-6512

DONNAMARIE POTTS
Tribal Spokesperson
FAX 209-274-6514

October 11, 2002

Via Facsimile -- 202-224-5429

Ben Nighthorse Campbell
United States Senate
Committee on Indian Affairs
Washington, D.C. 20510-6450

Dear Senator Campbell:

Thank you for allowing me to testify in the September 26, 2002 hearing on intra-tribal leadership disputes and tribal government. This letter responds to your dated October 4 requesting additional written responses to committee questions. I will respond to each question as they were set forth in the October 4, 2002 letter.

1. At the time of the signing ceremony, or any other time thereafter, did the BIA ever tell you your Constitution needed additional steps for ratification?

A: The BIA contacted the tribe and assisted in the preparation of the tribe's constitution and specifically advised the tribe with regard to the membership provisions provided in the Constitution. The Constitution was signed on August 4, 1994 in the offices of the Central California Agency of the Bureau of Indian Affairs. The Superintendent of the Bureau of Indian Affairs, as well as staff members were present. Less than two (2) years later, on May 17, 1996, the Central California Agency of the Bureau of Indian Affairs wrote a letter stating as follows:

"This letter will serve to provide you with a formal position that the State of California Agency has with the status of the Buena Vista Rancheria, as well as status of the tribal government."

"As the sole spokesperson and surviving distributee of the re-recognized Buena Vista Rancheria Ms. Lucille Lucero did enact and put into effect a governing document. This action by Ms. Lucero did by definition initiate and constitute a formal organization process for the Rancheria.

That has since been completed.”

“Ms. Donnamarie Potts by virtue of this governing document was recognized as having historical member status.”

The BIA letter went out to state:

“The Buena Vista Rancheria, by virtue of its federal recognition status and formal organization of the tribe, is entitled to all benefits and services reserved for tribes with this classification.

“Hopefully, this correspondence will provide you with the clarification as to the Rancheria status.”

The Bureau of Indian Affairs on June 26, 2000 advised the tribe that the Constitution had not been approved pursuant to the provisions of 25 U.S.C. Section 476. However, for tribal purposes, the BIA recognized 1994 Constitution as the tribal governing document.

Q: Did they ever tell you there was any problem with your membership or leadership?

A: No.

Q: So from 1996 when you got confirmation of your status until 10 months ago, you were the legitimate leader of the tribe in the eyes of the BIA?

A: Yes

2. You verified with the BIA the status of the tribe and yourself as the chairperson before you conveyed the 67 acres to the tribe.

Q: In terms of generating economic activity what specifically did you do after you received the BIA response in 1996?

A: The tribe applied for and received funds from the Bureau of Indian Affairs and the Department of Housing and Urban Development in order to develop the tribal infrastructure and maintain the reservation lands and roads.

Further, we attempted to set up a water bottling company and then began negotiations with commercial entities to develop a gaming

facility on the Rancheria lands. To that end, we adopted a gaming ordinance which was approved by the Chairman of the National Indian Gaming Commission and then negotiated a compact with the State of California for the conduct of Class III Gaming on tribal land.

3. Under your Tribe's Constitution, are there procedures for individuals to apply for membership?

A: Yes.

Q: Did Ms. Pope ever apply for membership?

A: No.

4. How do you feel as the leader of a sovereign nation about having to get your governing documents approved by officials in Washington, D.C.?

A: The first element of tribal sovereignty is the power of the tribe to determine and define its own form of government. Any limitation on this inherent tribal authority fundamentally changes the ability of an Indian tribe to define its own form of government.

5. I understand that under the Indian Gaming Regulatory Act and a Gaming Compact with the State of California, you have an arrangement with a developer for the operation of a casino.

Q: Can you describe how and when you began these negotiations and what plans to (sic) you have for the profits from that?

A: After I transferred the rancheria land to the tribe, I began negotiating with commercial entities to develop a gaming facility on the rancheria. My search to find a reputable and capable business partner took approximately three (3) years and in August of 1999 the tribe executed an agreement that would provide for the development of the gaming facility on the rancheria lands. The agreements were negotiated and have been submitted to the appropriate federal agencies for their review and approval. However, because of the action of the Bureau of Indian Affairs, this process has come to a halt.

With regard to the use of the proceeds received from the gaming facility, the tribe intends to fund the education of Indian people, the care of elderly Indian people, youth programs, and set up related programs to assist Indian people both socially and economically.

Q: Were these negotiations begun after you had verified your status with the BIA and conveyed your land to the tribe?

A: Yes

6. Do you have any suggestions for this committee on how to remedy this situation?

A. The tribe requests that the committee propose legislation that would prohibit the Bureau of Indian Affairs from voiding any document adopted by a tribe which defines its own form of government. Further, I would request that legislation be developed that prohibits the Bureau of Indian Affairs from altering rights of Indians because of their status as Indians without substantial due process guarantees.

7. Did you donate the land that now makes up the Buena Vista Miwok reservation? All 67 acres?

A: Yes.

A: Yes.

8. How did you find out about the decision by the BIA office? Were you consulted during the decisionmaking process?

A: I was advised by a letter from the Superintendent of the Central California Agency on October 2, 2001 that the Bureau of Indian Affairs had been considering the status of the leadership presently recognized by the BIA and whether the request of a non-member of the tribe conformed to the requirements of the Indian Reorganization Act for the adoption of a Constitution.

A: Prior to October 2, 2001, there had been no consultation nor had I been informed of the decisionmaking process.

9. How many members does the tribe currently have enrolled? Does that include those on the initial roll as well as those the BIA is now saying are members?

A: There are currently twelve (12) tribally enrolled members.

A: The membership includes those on the initial roll but does not include the individual the BIA is now recognizing for the reason that she has not applied for membership.

If I can be of any assistance, please contact me.

Sincerely,

Donnamarie Potts, Chairperson
Buena Vista Rancheria of Me-Wuk Indians



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Central California Agency
1824 Tribune Road, Suite J
Sacramento, CA 95810-4106

INVESTIGATIVE

MAY 17 1986

Ms. Donna Marie Potts, Spokesperson
Buena Vista Rancheria
#6 Glynis Falls Ct.
Sacramento, California 95831

Dear Ms. Potts:

This letter will serve to provide you with a formal position that the Central California Agency has in regards to both the status of the Buena Vista Rancheria as well as the status of the tribal government.

As the sole Spokesperson and surviving distributee of the re-recognized Buena Vista Rancheria Ms. Lucella Lucero did enact and put into effect a governing document. This action by Ms. Lucero did by definition initiate and constitute a formal organization process for the Rancheria, that has been since completed.

Ms. Donna Marie Potts by virtue of this governing document was recognized as having historical tribal member status.

Further, since the untimely passing of Ms. Lucero, the tribal government has been organized and chosen Ms. Potts as the primary spokesperson for the Rancheria.

Additionally, the Central California Agency does recognize Ms. Potts as the formal representative for the Buena Vista Rancheria and that a government-to-government relationship does exist between the federal government and this Rancheria. In this context, formal 538 contracts have been entered into between the Bureau of Indian Affairs and the Buena Vista Rancheria, as well as the agency's continuous provision of other direct federal services to the Rancheria and Tribal Membership.

The Buena Vista Rancheria by virtue of its Federal recognition status and formal organization of the tribe, is entitled to all benefits and services reserved for tribes with this classification.

Hopefully, this correspondence will provide you with the clarification as to the Rancheria's status.

If you have any questions in this matter, please contact Mr. Raymond Fry, Tribal Operations Officer, at (916) 566-7124.

Sincerely,

FOR

Harold M. Bradford
Superintendent



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Central California Agency
1824 Tribute Road, Suite J
Sacramento, CA 95816-4308

IN REPLY REFER TO

Ms. Donnamarie Potts
Buena Vista Rancheria
4650 Coalmine Road
Yone, California 95640

JUN 26 2000

Dear Ms. Potts:

This letter will serve as a followup to the meeting held at the Central California Agency on June 6, 2000, between Buena Vista Representatives and my staff.

The Bureau of Indian Affairs has recognized a government-to-government relationship with the tribe through its governing body and as such the Agency continues to recognize your constitutionally defined form of government and you as the Chairperson for the governing body of the Buena Vista Rancheria. The Agency has historically been and continues to be supportive of tribes situated within our service area in their efforts to develop tribal laws and structure their governing bodies.

In 1994, for tribal organization purposes, Ms. Lucille Lucero, daughter of Louis and Anne Oliver, the distributees of the Buena Vista Rancheria, did adopt a governing document, which included a historical membership listing which included your name.

The governing document that was adopted by Ms. Lucero was not completed through a Secretarial Election process. As a tribe that voted to organize pursuant to a federal statute, that election process must be completed in order for the federal government to recognize the formal organization of the tribe. However, for tribal purposes the 1994 constitution is recognized by this office until the Secretarial procedure is completed.

If you have any questions in this matter, please contact Raymond Fry, Tribal Operations Officer at (916) 566-7124

Sincerely,

FOR

Dale Rising, Sr.
Superintendent



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
 Central California Agency
 1894 Tribune Road, Suite J
 Sacramento, CA 95818-4808

INHERSLEY BEEBETO

Ms. Rhonda Pope
 P.O. Box 162283
 Sacramento, California 95816-2283

Dear Ms. Pope:

This letter will serve to acknowledge receipt of your latest correspondence at the Central California Agency dated May 30, 2000, and to respond to your inquiries.

In an attempt to have your issues regarding the Buena Vista Rancheria addressed, the Agency has forwarded your concerns to the tribe.

It is evident by your numerous letters to the Agency and tribe, that you strongly believe that as a lineal descendent of the tribe that you belong on the membership roll.

To date, the Bureau of Indian Affairs has developed and maintained a government-to-government relationship with the tribe and this relationship starts and ends with the governing body of the tribe, led by Donnamarie Potts. In this case that governing body is the elected tribal council.

Based upon the response from the tribe, it appears that you have not exhausted all tribal remedy in this matter. These remedy would include completing an enrollment process with the tribe.

At this time, we would encourage you to work with the Buena Vista Rancheria tribal representatives, to resolve the issues you have raised.

If you have any questions in this matter, please take them to the tribe, as they are internal and need to be resolved at that level.

Sincerely,

Sgd. Dale Rising, Sr.

Dale Rising, Sr.
 Superintendent

CC: Ms. Donnamarie Potts, Chairperson

TOTAL P. 02

JUL 11 1967

Mr. Shirley Smith, Chairperson
 Potter Valley Rancheria
 417 C Talmore Road
 Ukiah, California 95420

Dear Ms. Smith:

This letter will serve to acknowledge receipt of the March 2, 1967, tribally adopted Potter Valley Rancheria constitution and to provide you with the Central California Agency concern.

When the Potter Valley Rancheria was terminated under the Rancheria Act of 1953, a list of distributees and their dependent members was defined and published in the July 26, 1961, Federal register. This list included the following individuals:

1. Mr. Geraldine W. Reeves
2. Ms. Norma Mitchell
3. Mr. Millard Anderson
4. Mr. Maddy Anderson
5. Mr. Frank Williams
6. Ms. Helena Anderson
7. Mr. Mack Williams
8. Ms. Sarah Williams
9. Ms. Edna Guernsey
10. Mr. James Mitchell
11. Mr. Paul Anderson

In 1965, the Willie-Hardwick judgment order restored federal recognition to the Potter Valley Rancheria, and as a result, they regained the status it had prior to termination.

The Willie-Hardwick judgment order further states that Section 11 of the Potter Valley Rancheria Distribution Plan, approved by the Assistant Secretary of the Interior on September 24, 1969, would be set aside. This meant that if the tribe had a constitution in effect at the time the Distribution Plan had been approved, it could be restored by the tribe and be in full force and effect. Unfortunately, the Potter Valley Rancheria was not organized prior to termination and had no such document in place.

Lacking a governing document, in order for the tribe to formally reorganize, the distributees, dependent members and direct lineal

dependents thereof who have reached an age of majority by election day, would be the only individuals eligible to vote in this organization effort by the tribe.

A constitution not adopted by the tribe under Section 16 of the Indian Reorganization Act cannot be considered valid by the Bureau of Indian Affairs. Although, in the past, given the multiple tribes lack of resources, political instability and in order to develop a government-to-government relationship on an interim basis, the Agency had allowed tribes to operate with tribally approved governing documents.

Today, tribes including the Fortier Valley Rancheria, have the resources and political stability to carry out a Secretarial Election process and have their constitutions adopted by the eligible voters, at an election authorized for that purpose by the Secretary of the Interior, or his authorized representative.

The Agency supports the efforts of the tribe and recommends that the tribe consider formally organizing as required by the Indian Reorganization Act.

If you have any questions in this matter, please contact Mr. Raymond Fry, Tribal Operations Officer, at (916) 866-7124.

Sincerely,

/s/ Harold M. Bradford

Harold M. Bradford
Superintendent

BUREAU OF INDIAN AFFAIRS
CENTRAL CALIFORNIA AGENCY
1824 TRIBUTE BLDG, SUITE J
SACRAMENTO, CA 95815-4308

JAN 26 1994

Ms. Lucille Lucero, Spokesperson
Buena Vista Rancheria
4650 Coal Mine Road
Yona, California 95640-9998

Dear Ms. Lucero:

The Bureau of Indian Affairs would like to take this opportunity to extend an invitation to you and the designated Buena Vista Rancheria representatives to attend a meeting at the Central California Agency. The purpose of this meeting will be to explore tribal government development, criteria for entering into a 638 contract/grant agreement for the Rancheria and to review a draft Enrollment ordinance which will identify current members as well as criteria for determining future members.

Tentative dates that the Central California Agency staff could meet with yourself and the Rancheria representatives would be either February 17th or 18th. If either of these dates is convenient for you, please contact the agency as soon as possible to confirm a date and time.

If you have any questions, please contact Mr. Raymond Fry, Tribal Operations Officer, at (916) 578-4346.--

Sincerely,

/s/ Harold M. Bradford

Harold M. Bradford
Superintendent

cc: Ms. Donna Marie Potts
Ms. Renee Selvey
Ms. Margaret Lemley
Mr. Fred Steele
Mr. Frank Vega

Order No.
Escrow No. 101504-RC
Loan No.

WHEN RECORDED MAIL TO:

THE BUENA VISTA RANCHERIA OF MEWUK INDIANS
#6 Glynis Falls Ct
Sacramento, CA 95831

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MAIL TAX STATEMENTS TO:
THE UNITED STATES DEPARTMENT OF
THE INTERIOR, BUREAU OF INDIAN AFFAIRS

DOCUMENTARY TRANSFER TAX NONE
- Computed on the consideration or value of property conveyed; OR
- Computed on the consideration or value less rents or encumbrances
remaining at time of sale.

The undersigned Grantor declares
Signature of Declarant or Agent determining tax - Firm Name

GRANT DEED

APN 12-100-005

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

DONNAMARIE POTTS

hereby GRANT(S) to

THE BUENA VISTA RANCHERIA OF MEWUK INDIANS

the real property in the unincorporated area of the
County of Amador State of California, described
as

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Dated July 30, 1996

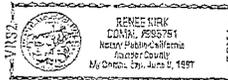
STATE OF CALIFORNIA)
COUNTY OF AMADOR)

On July 31, 1996 before
me, Renee Kirk, Notary Public

personally appeared Donnamarie Potts
personally known to me (or proved to me on the basis of satisfactory
evidence) to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s) or the entity upon behalf of
which the person(s) acted, executed the instrument.
WITNESS my hand and official seal.

Signature Renee Kirk
Renee Kirk

Donnamarie Potts
DONNAMARIE POTTS



"EXHIBIT A"
Legal Description

All that real property situated in the State of California, County of Amador, Unincorporated Area, described as follows:

Commencing at the Northeast corner of Section 19, Township 5 North, Range 10 East, M.D.S. & M., and thence running West along Section line 578 feet; thence at right angles South 5280 feet; thence at right angles East 578 feet; thence at right angles North 5280 feet to a place of beginning.

EXCEPTING THEREFROM THE FOLLOWING:

All the portion of the Northeast Quarter of Section 19, Township 5 North, Range 10 East, M.D.S. & M., described as follows:

Beginning at a 3 inch iron pipe fence end post at the Southerly end of a new road fence, from which point a 1 1/2 inch capped iron pipe stamped "U.S.I.S. 1953 17, 18, 19 AND 20" found marking the Northeast corner of said Section 19, bears North 30° 08' 30" East 1099.38 feet distant; thence, from said point of beginning, along the Southerly prolongation of said new road fence, South 00° 39' 30" East 65.11 feet to a 3/4 inch steel reinforcing rod tagged R.C.E. 10761; thence South 01° 58' 50" West 385.29 feet to a similar steel rod; thence South 19° 02' 00" West 186.24 feet to a Z iron fence post; thence South 62° 22' 50" West 6.19 feet to a 3/4 inch steel reinforcing rod tagged R.C.E. 10761 set on the Westerly line of that certain parcel of land conveyed by the United States of America, Department of the Interior to Louis Oliver and his wife, Annie Oliver, by instrument dated October 6, 1959, and recorded in the Office of the Recorder of Amador County on October 8, 1959, in Book 85 of Official Records at Page 198; thence along the Westerly line of said Oliver Parcel of land, North 01° 58' 50" East 481.11 feet to a similar steel rod, from which point the Northwest corner of said Oliver Parcel of land, bears North 01° 58' 50" East 1100.00 feet distant; thence South 88° 01' 10" East 40.00 feet to a similar steel rod; thence North 08° 28' 00" East 151.30 feet to the point of beginning.

ALSO EXCEPTING therefrom all minerals and metals as reserved by B. Accampo in Deed filed for record October 5, 1925 in Book 45 of Deeds at Page 43, Records of Amador County.

A.P.N. 12-100-005

COUNTY OF AMADOR

MICHAEL E. RYAN
TREASURER / TAX COLLECTOR
108 Court Street, Jackson, Ca. 95642
(209) 223-6364

October 11, 1994

Donna Marie Potry
6 Glynis Falls Ct.
Sacramento, Ca. 95831

RE: 12-100-005-00

Dear Ms. Potry,

Recently we received your payment of taxes on parcel #12-100-005-00. The amount you sent was \$237.03 was short, this was the amount to pay on or before April 10, 1994. After this time the amount to redeem these taxes on or before October 31, 1994 is: \$299.95.

After April 10th there is a 10% penalty and \$10.00 cost added. After June 30th, there is a 1.5% redemption penalty added per month on the tax amount and a \$15.00 state fee.

Each month the redemption amount will increase by the redemption penalty interest.

We will hold this money order until October 30, 1994, or until we hear from you. After that time we will return your money order to you. The amount needed to redeem these taxes is an additional \$62.92. If you wish to pay these taxes after this point please write or call the number above for the correct redemption amount.

Thank you,



Cecilia Williams, Deputy
Amador County Tax Collector's Office

1995-96 SECURED PROPERTY TAX BILL (7-1-95 TO 6-30-96) - MICHAEL E. RYAN, TAX COLLECTOR
 AMADOR COUNTY TAX COLLECTOR, 581 ANCONA WAY, JACKSON, CA. MAILING ADDRESS: 108 COURT STREET, JACKSON, CA 95327

TAXPAYER NUMBER 12-100-005-00		ASSESSMENT IDENTIFICATION LAND 43887 IMPROVEMENTS 11865 IMPROVEMENT FEATURES 0 PERSONAL PROPERTY 55672 GROSS TAXABLE VALUE 7060 HOMEOWNERS EXEMPTION AMPC. EXEMPTION 48672 NET TAXABLE VALUE		BASIC RATE 1.		TAXES \$556.72	
TAX BILL NO. 5427		TAXABLE CHG. 52-046		1ST INSTALLMENT 12/10/1995 \$243.36		2ND INSTALLMENT 04/10/1996 \$213.36	
PROPERTY DESCRIPTION ENOS OLIVERA POTTS DONNARIE POTTS DONNARIE 6 GLENDALE FALLS CT SACRAMENTO CA 95831		FULL VALUE 43887 11865 55672 7060 48672		NET TAX RATE 1.		NET TAX DUE \$186.72	

YOUR CANCELLED CHECK IS YOUR RECEIPT. IF A RECEIPTED BILL IS REQUIRED, INCLUDE RECEIPT WITH A SELF-ADDRESSED STAMPED ENVELOPE.

PROPERTY DESCRIPTION: SEE REVERSE SIDE FOR IMPORTANT INFORMATION

VALUATION ADJUSTMENT: Assessor's Office: Phone (929) 226-6871
 COUNTY OF AMADOR: Assessor's Office: Phone (929) 226-6871
 COMMISSIONER: CA. S. Board: Office: Phone (929) 226-6871

ADDRESS OR OWNERSHIP CHANGE NOTICE

DO NOT COMPLETE & RETURN THIS FORM UNLESS ADDRESS OR OWNERSHIP HAS CHANGED

OWNERSHIP CHANGED ADDRESS CHANGED

PARCEL NUMBER 12-100-005-00

PLEASE CHANGE THE MAILING ADDRESS ON ABOVE PARCEL

NAME: ENOS OLIVERA POTTS DONNARIE

NEW ADDRESS: 6 GLENDALE FALLS CT, SACRAMENTO, CA 95831

CITY: SACRAMENTO STATE: CA ZIP: 95831

COUNTY OF AMADOR 1895-1896 SECURED TAX SECURED INSTALLMENT STUB

RETURN THIS STUB WITH YOUR PAYMENT

ASSESSED OWNER NAME: ENOS OLIVERA POTTS DONNARIE

PARCEL NUMBER: 12-100-005-00

BILL NO.: 5427

TAX BRANCH & LEAD IDENTIFICATION: 52-046

PAY THIS AMOUNT ON OR BEFORE 12/10/1995 : \$243.36

AFTER PAY THIS AMOUNT (INCLUDES 10% PENALTY AND \$10.00 COST) : \$277.70

TOTAL AMOUNT PAID

COUNTY OF AMADOR 1895-1896 SECURED TAX SECURED INSTALLMENT STUB

RETURN THIS STUB WITH YOUR PAYMENT

ASSESSED OWNER NAME: ENOS OLIVERA POTTS DONNARIE

PARCEL NUMBER: 12-100-005-00

BILL NO.: 5427

TAX BRANCH & LEAD IDENTIFICATION: 52-046

PAY THIS AMOUNT ON OR BEFORE 12/10/1995 : \$243.36

AFTER PAY THIS AMOUNT (INCLUDES 10% PENALTY) : \$257.70

TOTAL AMOUNT PAID

AMADOR COUNTY **JUNIOR CO. UNIFIED TAX BILL**
 CITIES, COUNTY SCHOOLS, & ALL OTHER TAXING AGENCIES IN AMADOR COUNTY

ELMER G. EVANS, TAX COLLECTOR
 108 COURT STREET
 JACKSON, CALIFORNIA 95842
 FOR FISCAL YEAR: 1 JULY 1985
 OWNER OF RECORD TO 30 JUNE 1986

LUCERO LUCILLE G. OLIVER E905
 CURRENT OWNER
 OLIVER ENOS
 6650 COAL MINE RD
 LONE CALIF 95640

TAXING AGENCY	AMOUNT
SERVICE AGENCY	1.0000
BASIC RATE	333.11
UNIFIED SCHOOL BOND	10.59
TOTAL TAXES DUE	363.70

KEEP THIS PORTION FOR YOUR PERSONAL RECORDS

PARCEL NUMBER	TAX RATE AREA	BILL NUMBER
12-100-005-00	052-049	04310

LOCALLY ASSESSED PROPERTY IS ASSESSED AT 80% OF FULL VALUE.
 519 15 810 70.00A

PAID	PAID
NOV 4 1985	APR 7 1986
ELMER G. EVANS	ELMER G. EVANS
TAX COLLECTOR	TAX COLLECTOR
181.85	181.85
TOTAL TAXES DUE	TOTAL TAXES DUE
363.70	363.70

LAND VALUE	TAX AMOUNT
37,308	394.27
IMPROVEMENTS	51.53
TOTALS	42,511
TAX AMOUNT	435.80
SPECIAL ASSESSMENTS	435.80
UNUSUAL TOTAL	435.80
EXEMPTIONS	72.10
NET TOTAL	363.70

PAID	PAID
NOV 4 1985	APR 7 1986
ELMER G. EVANS	ELMER G. EVANS
TAX COLLECTOR	TAX COLLECTOR
181.85	181.85
TOTAL TAXES DUE	TOTAL TAXES DUE
363.70	363.70

SEE REVERSE SIDE FOR GENERAL AND SENIOR CITIZENS INFORMATION

THIS PROPERTY IS DELINQUENT DUE TO FEWER THAN THE INDIVIDUAL TAXES.
 TAX DELINQUENT ATTRIBUTABLE TO THE STATE FINANCED HOMEOWNERS TAX RELIEF PROGRAM.

AGENT **Check Mart** PURCHASER'S RECEIPT REFER TO THIS NUMBER FOR PROMPT SERVICE

CHECK CASHING CENTERS **107 7846 116**

Amador County Tax Collector DATE *June 4 91*

PAY TO THE ORDER OF AMOUNT

NON-NEGOTIABLE

TERMS: PLEASE READ THE TERMS OF THIS MONEY ORDER ON THE REVERSE SIDE

Ronnelman Falls \$12,8416 451.47 NO SLD

1933 Bell St. # 72 Sac. Ca. 95820

AGENT **Check Mart** PURCHASER'S RECEIPT REFER TO THIS NUMBER FOR PROMPT SERVICE

CHECK CASHING CENTERS **108 9754 833**

Amador Tax Collector DATE *12 10 91*

PAY TO THE ORDER OF AMOUNT

NON-NEGOTIABLE

TERMS: PLEASE READ THE TERMS OF THIS MONEY ORDER ON THE REVERSE SIDE

Ronnelman Falls 003203 12-05-91 783

14650 Coal Mine Rd. Lone CA. 95640

AGENT **Check Mart** PURCHASER'S RECEIPT REFER TO THIS NUMBER FOR PROMPT SERVICE

CHECK CASHING CENTERS **108 9838 248**

Amador Tax DATE *Jan 28 92*

PAY TO THE ORDER OF AMOUNT

NON-NEGOTIABLE

TERMS: PLEASE READ THE TERMS OF THIS MONEY ORDER ON THE REVERSE SIDE

Ronnelman Falls 013271 01-25-92 124475

4650 Coal Mine Rd. Lone CA. 95640

PURCHASER'S COPY NOT NEGOTIABLE

RETAIN THIS PURCHASER'S COPY. IT MUST BE INCLUDED WITH ALL REFUND REQUESTS. BE SURE TO READ IMPORTANT INFORMATION BELOW AND ON BACK.

Acct. # 12-100-005-00 21-267967914

Amador Co. Taxes
Bonnamie Potts
4650, Coal Mine Rd, Tule
Ca 95640

Issued by American Express Travel Related Services Company, Inc., Englewood, Colorado.

PURCHASE AGREEMENT: You, the purchaser, agree that American Express need not stop payment on or replace or refund a lost or stolen American Express® Money Order unless (1) you fill in the "TO THE ORDER OF" line on the front of the Money Order at the time of purchase; and (2) you report the loss or theft to American Express in writing immediately.

PURCHASER'S COPY NOT NEGOTIABLE

RETAIN THIS PURCHASER'S COPY. IT MUST BE INCLUDED WITH ALL REFUND REQUESTS. BE SURE TO READ IMPORTANT INFORMATION BELOW AND ON BACK.

Parcel # 12-100-005-00 21-267966114

Amador Co. Taxes
Bonnamie Potts
4650, Coal Mine Rd, Tule
Ca 95640

Issued by American Express Travel Related Services Company, Inc., Englewood, Colorado.

PURCHASE AGREEMENT: You, the purchaser, agree that American Express need not stop payment on or replace or refund a lost or stolen American Express® Money Order unless (1) you fill in the "TO THE ORDER OF" line on the front of the Money Order at the time of purchase; and (2) you report the loss or theft to American Express in writing immediately.

PURCHASER'S COPY NOT NEGOTIABLE

RETAIN THIS PURCHASER'S COPY. IT MUST BE INCLUDED WITH ALL REFUND REQUESTS. BE SURE TO READ IMPORTANT INFORMATION BELOW AND ON BACK.

7-10-75 21-335180275

Amador Tax Collector
Potts, Bonnamie
4650, Coal Mine Rd, Tule
Ca 95640

Issued by American Express Travel Related Services Company, Inc., Englewood, Colorado.

PURCHASE AGREEMENT: You, the purchaser, agree that American Express need not stop payment on or replace or refund a lost or stolen American Express® Money Order unless (1) you fill in the "TO THE ORDER OF" line on the front of the Money Order at the time of purchase; and (2) you report the loss or theft to American Express in writing immediately.

ISSUER
Travelers Express Money Order

CHASE **SEILAND**

REFERS TO THIS NUMBER FOR PROMPT SERVICE
238 6795 193

DATE: **12-10-65** PURCHASER'S RECEIPT

TO THE ORDER OF: **Chas. A. Adams**

NON-NEGOTIABLE

AMOUNT: **46.50** DOLLARS

TERMS: PLEASE PRINT NAME OF THIS MONEY ORDER ON THE REVERSE SIDE

*46.50 Cook Mine Rd
95640*



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
 East Building
 1817 Franklin Avenue, S.W.
 Washington, D.C. 20543-5000

WASHINGTON

AUG 16 1994

CONTAINER MAIL NO. 001 001
 AIRWAY RECEIPT REQUESTED

Mr. Jeffrey Alan-Wilson, Sr.
 4888 Redwood Highway South
 Petaluma, California 94952

Dear Mr. Alan-Wilson:

As a result of the request of Mr. John Santana, and his legal counsel, where he has expressed his intent, as an original distributee of the Cloverdale Rancheria, to formally organize the tribal government of the Cloverdale Rancheria, the Bureau of Indian Affairs, Central California Agency, has reassessed our position with regard to the Bureau's recognition of the tribal council elected into office on November 21, 1991. Based on the findings in our reexamination of all pertinent information pertaining to the eligibility of those individuals participating in the November 21, 1991, election and their right to formally organize the tribal government of the Cloverdale Rancheria, specifically, the stipulations outlined in the court decision of *Billie Harwick v. United States*, 579-176 SW (W.D. Cal. 1983), this is to formally advise you that the Bureau of Indian Affairs is withdrawing the official recognition of the current tribal council of the Cloverdale Rancheria and is conferring official recognition to the former Tribal Council of the Cloverdale Rancheria, elected into office on March 28, 1994, effective immediately.

For clarification purposes, we are providing a brief summary of events beginning with the reason for the Bureau's initial recognition of the tribal council and ending with the reason for the Bureau's final decision. During the latter part of 1991, you had initiated a series of communications with our office presenting yourself as tribal spokesperson and acting executive chief of the Cloverdale Rancheria, and further stating you and the group you represented were descendants of the Cloverdale Rancheria. On September 27, 1991, you submitted correspondence to the Bureau of Indian Affairs, Central California Agency, stating that you were formally declaring active status of the Cloverdale Rancheria under Public Law 101-601 (Native American Graves Protection and Repatriation Act), because you are a direct descendant of that tribe and the descendant of Native Americans interred at the Indian cemetery. Additionally, you had stated the Cloverdale Rancheria's intent to apply for appropriate grants in order to operate the tribal core administration and to engage in self-determination activities, including seeking a new land base for tribal operations.

Although you were not identified as a Tribal Representative of an original distributee or dependent member, the Bureau made the allowance that because your Indian ancestors were associated with the Cloverdale Rancheria prior to the termination period, the Bureau would be willing to provide guidance and assistance in the group's endeavor to organize the Cloverdale Rancheria provided that the original distributee or dependent members did not oppose the reorganization by your group. In addition, the Bureau made it clear that you were to inform Mr. John Santana, an original distributee of the Cloverdale Rancheria, of your group's endeavor to formally organize the tribal government of the Cloverdale Rancheria, and inquire as to whether he wished to participate in the reorganization. We have of record your letter directed to our office dated October 25, 1991, outlining your attempt to contact Mr. John Santana regarding the recognition and reorganization of the Cloverdale Rancheria as a functioning governmental body, and Mr. Santana's apparent lack of interest in tribal politics and his expressed wish not to be a part of the organized governing body. On November 22, 1991, after you wrote to inform our office of the results of the election for the tribal council of the Cloverdale Rancheria and provided us with the Report of Tribal Election certified by the election committee, the Bureau recognized it as a valid election. Thus, the relationship established between the newly elected officials and the representatives of the Bureau of Indian Affairs began with the Bureau maintaining a supportive role in the council's endeavors to adopt a constitution, establish a membership roll, and to place the land into trust status for the benefit of the Indians of the Cloverdale Rancheria. Before continuing the summarization, we would like to point out that the Bureau was administratively in error in allowing the group the right to organize the Cloverdale Rancheria.

On February 13, 1994, Mr. John Santana demonstrated his interest in the activities of the Cloverdale Rancheria by initiating proceedings to gather all information and data on the Cloverdale Rancheria. During a visit to our office on March 11, 1994, Mr. Santana provided our office with his written intent to reorganize the Cloverdale Rancheria pursuant to the Indian Reorganization Act of 1934 and the Tilling Harwich decision of 1965 by pursuing the proper governing documents in place for the reorganization of the Cloverdale Rancheria. At that time, he also filed his request with our office to return his real property from fee to trust status. Mr. Santana was quite adamant in his belief that he is the official representative of the Cloverdale Rancheria and expressed his concern that you have been claiming to be the official representative of the Cloverdale Rancheria. On March 29, 1994, Mr. Santana delivered a proposed Constitution of the Cloverdale Rancheria, Sonoma County, California, and a Tribal resolution adopted by an interim tribal council of the Cloverdale Rancheria on March 26, 1994. Mr. Santana requested the Bureau's technical review of the proposed constitution and a Secretarial election in accordance with 25 CFR 81.

It is a documented fact that Mr. Santana is an original distributee of the Cloverdale Rancheria and an owner of property on the original Cloverdale Rancheria. Since 1954, and subsequent to the Tilling Harwich judgment, Mr. Santana showed no interest in becoming involved in the reorganization of the Cloverdale Rancheria when the Bureau advised the distributee and dependent members of their right to reorganize the Cloverdale Rancheria. Currently,

however, as an elected Chairman of the Cloverdale Rancheria Indian Tribal Council, Mr. Santana has verbally and in writing expressed his objection to the BIA's recognition of you as the Chief of the Cloverdale Rancheria. Furthermore, according to information relayed in Mr. Rappert's June 8, 1974, correspondence, the Indian Tribal Council has begun accepting enrollment applications from distributees, dependent members, and their direct descendants. Mr. Santana's legal counsel, Mr. David Rappert, of the law offices of Rappert and Harlow, advised the Bureau of Mr. Santana's legal position with regard to your status and the report request in plate 755 cover in trust. Mr. Santana further stated that this information should be included in any package forwarded to Washington regarding the land acquisition or the BIA's recognition of a tribal government for the Cloverdale Rancheria.

Because of Mr. Santana's decision to reorganize the Cloverdale Rancheria in accordance with the Indian Reorganization Act of 1934 (IRA), as amended, and he has taken steps in the implementation of the reorganization, the Bureau is recognizing his right to formally organize the Cloverdale Rancheria pursuant to the authority of the IRA and the Willie Hardwick judgment. The California Rancheria Act authorized the preparation of a distribution plan which would identify the Indians of the Cloverdale Rancheria who were entitled to a share of the rancheria's assets. Mr. John Santana is listed as a distributee in the distribution plan. The Willie Hardwick judgment states that the court shall certify a class consisting of all those persons who received any of the assets of the rancheria listed and described in paragraph 1 of the Order pursuant to the California Rancheria Act (Act of August 22, 1956, P.L. 25-571, 72 Stat. 65, as amended by the Act of August 12, 1964, 78 Stat. 330) and any Indian heirs, legatees or successors in interest of such persons with respect to any real property they received as a result of the implementation of the Rancheria Act. Mr. John Santana met the criteria as a class member. The court order further states that the status of the named individual claimants and other class members of the 17 rancherias named and described in paragraph 1 of the Order as Indians under the laws of the United States shall be restored and confirmed. The Order also specified that the Secretary of the Interior shall recognize the Indian Tribes, Bands, Communities or groups of the 17 rancherias listed in paragraph 1 of the Order as Indian entities with the same status as they possessed prior to distribution of the assets of these rancherias under the California Rancheria Act. According to these stipulations, it is evident that those listed in the distribution plan and as described as the "class" are those individuals who possess the right to formally organize the governing body of the Cloverdale Rancheria.

In conclusion, the Bureau of Indian Affairs is withdrawing official recognition of the tribal council of the Cloverdale Rancheria, elected into office on November 21, 1971, based on the following information: (1) The individual participating in the reorganization of the Cloverdale Rancheria, specifically, the tribal election held on November 21, 1971, and subsequent tribal actions, do not have the right to formally organize under the applicable statutes, i.e., Indian Reorganization Act of 1934 (as amended) or the Willie Hardwick judgment. (2) The Bureau recognizes the right of the distributees, dependent members, and direct descendants to formally organize the Cloverdale Rancheria pursuant to the

-4-

IRA and Willie Herditch judgment. It shall be the responsibility of the reorganized government to establish subsequent tribal membership criteria and rolls.

This decision may be appealed to the Area Director, Sacramento Area Office, Bureau of Indian Affairs, 1800 Cottage Way, Sacramento, CA 95833 in accordance with the regulations in 25 CFR Part 3 (copy enclosed). Your notice of appeal must be filed in this office within 30 days of the date you receive this decision. The date of filing your notice of appeal is the date it is postmarked or the date it is personally delivered to this office. Your notice of appeal must include your name, address, and telephone number. It should clearly identify the decision being appealed. If possible, attach a copy of the decision. The notice and the envelope in which it is mailed should be clearly labeled "Notice of Appeal." Your notice of appeal must list the names and addresses of the interested parties known to you and certify that you have sent them copies of the notice. You must also send a copy of your notice of appeal to the Area Director, at the address given above. If you are not represented by an attorney, you may request assistance from this office in the preparation of your appeal. If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

Sincerely,


Harold M. Erefford
Superintendent

Enclosure

cc: Mr. Georgina Allen-Hagri
Ms. Marney Wilson-Thomas
Mr. Clarence Luna, Sr.
Mr. Lorence Harty
Mr. John Santans, Chairman, Indarim Tribal Council, Cloverdale Rancheria
Sacramento Area Director, Sacramento Area Office, Bureau of Indian Affairs

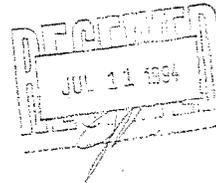


United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
 Central California Agency
 1824 Tribute Road, Suite J
 Sacramento, CA 95815-4108

DEPARTMENT OF THE INTERIOR
 BUREAU OF INDIAN AFFAIRS
 3763-01 8/94
 1088

JUL 7 1994



Mr. Nicolas Villa, Jr., Chief
 Ione Band of Miwok Indians
 P.O. Box 1182
 Ione, CA 95640

Dear Mr. Villa:

This letter is sent in response to your correspondence of June 30, 1994, whereby you requested some assistance in gaining access to a cemetery located on the Buena Vista Rancheria.

We have contacted Ms. Donna Marie Potts, spokesperson for the Buena Vista Rancheria. She informs us that the cemetery is located within a fenced off area and is itself fenced off, but that there is no lock on either access gate. She states that there hasn't been a lock on either gate at least as far back as Memorial Day, 1994, and that access to the cemetery is not restricted.

In regards to your letter to Ms. Lucille Lucero, dated June 30, 1994, where you refer to harassment of tribal members by a horse in the surrounding field. Ms. Potts tells us that if you drive to the cemetery access gate, you should not have a problem with it.

Please contact Mr. Raymond Fry, Tribal Operations Officer, at (916) 676-4346 should you have any questions in this matter.

Sincerely,

FOR: Harold M. Brafford
 Superintendent

UNITED STATES GOVERNMENT

memorandum

DATE: MAR 10 1994

TO: Shirley Lincoln, Enrollment Specialist

SUBJECT: Meeting with Buena Vista Rancheria

FILES: 57-73-20

Handwritten initials/signature

On March 4, 1994, at 11:00 a.m., I met with Donna Marie Potts, Spokesperson for the Buena Vista Rancheria, Margaret Lemley and Margaret, a niece of Donna Marie Potts.

After a short meeting with Carol Rogers-Davis, Acting Tribal Operations Officer, and Donna Marie Potts, Carol recommended to Donna to notify all agencies and the newspapers of who is legally representing the Buena Vista Rancheria. Carol also mentioned to Donna to develop a letter head with the Buena Vista Rancheria tribal name and list the names of their tribal council members.

I went over with Donna Marie the tree charts that were prepared for [redacted] and to the fact that they are listed as being [redacted] Indian Blood. In order to maintain the Nevick ancestry of the Buena Vista Rancheria, I suggested that Lucille Lucero, her mother and father, Louise Lucero and Annie (Howdy) Lucero, along with their brothers and sisters of [redacted] and Annie's sisters on the [redacted] side. Donna and the other [redacted] persons would be included under the adoption section of the [redacted] with full rights as a regular members. This way Donna Marie and the other [redacted] person would be allowed to hold office.

Donna Marie will provide names of Louise and Annie's brothers and sisters as soon as she can back with me.

Donna Marie also discussed putting only part of her property in a trust which would include the cemetery. I suggested to her to get in touch with Delpha Harris, Realty Officer, to get this process going.

Follow up Action

As soon as Donna Marie provides names of Louise and Annie's brothers and sisters, I will prepare tree charts for them.

Small printed text at bottom right



CALIFORNIA - NEVADA INDIAN GAMING ASSOCIATION

January 13, 1994

Mark and Joan Villa
P.O. Box 1152
June, Ca. 93340

Dear Mr. and Ms. Villa:

As chairperson of the California-Nevada Indian Gaming Association, I have responsibility for making sure that, as required by our bylaws, only authorized representatives of federally recognized tribes sit on our Board of Directors and take part in our meetings.

I have received written confirmation from the Bureau of Indian Affairs, Central Office and the Area Office, that the Ione Band is not recognized, that you are not recognized by the Buena Vista Rancheria as it's representative and that the address you use is not the Rancheria's office.

There is only one member of the Buena Vista Band and she has stated, in writing, that you are not authorized to act on the Board's behalf.

The Deputy Commissioner of Indian Affairs concluded in a letter to you dated February 4, 1994, that "your stated representation of the [Buena Vista] Rancheria is false and without any basis for support." That letter and other documentation from the Bureau of Indian Affairs and the Board are enclosed.

For these reasons, you will not be seated at any future California Nevada Indian Gaming Association meetings.

Regards,

Marshall McKay, Chairman
California-Nevada Indian Gaming Association
MM/gh

- Attachment:
- 1. Carol Bacon letter 12/4/94
 - 2. Executive letter 1/10/94 & 1/19/94
 - 3. Lucille Lucero letter 11/10/93



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

TAKI
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Tribal Government Services - TR
2611 MS/MJE

FEB 04 1994

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CENTRAL CALIF AGENCY
FEB 10 PM 2 03

Nicolas and Joan Villa
P.O. Box 1152
Ione, California 95640

Dear Mr. Villa:

During your visit to Washington, D.C. in October of last year, we discussed several issues regarding your involvement with the Buena Vista Rancheria (Rancheria) and the Ione Band of Miwok Indians (Band).

During our meeting you indicated that you represent both groups. In fact, you stated that both groups were now one and the same, comprising the membership of the Rancheria.

A review of the history of the Rancheria shows that it was first organized under the provisions of the Indian Reorganization Act of 1934 and subsequently terminated in the early 1960s. The Rancheria was un-terminated in 1983 pursuant to the Tillie Hardwick Court Case. One of the stipulations of the case required that only original distributees and their descendants be considered as members of possession at the time of restoration of the Federal recognition. Our records show that Ms. Lucille Lucero is the only remaining distributee who meets this criteria. In checking with the Sacramento Area Office, we were advised that Ms. Lucero has initiated discussions with the Central California Agency to express her concerns that, as the last remaining distributee and thus the official representative of the Rancheria, she will not allow any individuals other than herself or persons designated by her to represent the Rancheria in official matters. She has submitted written documentation to that effect.

It now appears that your stated representation of the Rancheria is false and without any basis for support. We have further learned that during the past several years you have actively sought recognition of the Band and the placing of 40 acres of land in trust for the Band. We

do not understand how the Band and the land associated with that group can now be under the jurisdiction of the Rancharia. The land description of the trust land under the Rancharia clearly does not include the 40 acres located at issue and the original list of distributees does not include the names of Nick or Joan Vilja.

This letter will serve as official notification that the Bureau of Indian Affairs recognizes Ms. Lucille Lucero as the official Spokesperson/Chair of the Buena Vista Rancharia.

Should you have any questions regarding this letter, please contact the Superintendent, Central California Agency.

Sincerely,

[S] Carol A. Bacon
Acting Deputy Commissioner of Indian Affairs

Enclosure

cc: Area Director, Sacramento Area Office
Superintendent, Central California Agency
Ms. Lucille Lucero, 4650 Coal Mine Road, Jones, CA 95640

JACKSON RANCHERIA
P.O. Box 130
Jackson, CA 95642
Phone: (209) 223-1935
FAX: (209) 223-5336

December 14, 1992

U.S. Environmental
Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Dear Ms. Wandres:

This letter is in response to the correspondence from Harold E. Burris, Lone Band of Indians dated 11/22/92, addressed to Ms. Wandres.

The Jackson Rancheria would like to clarify our position in this matter, our Tribal office is located at 16070 Miwuk Drive, Jackson, CA., Phone: (209)223-1935, Tribal Chairperson, Margaret Dalton.

The Jackson Rancheria is a separate Tribal Government that does not have any control over the Governing, Tribal business of the Buena Vista Rancheria or Lone Band of Indians.

The Jackson Rancheria and Buena Vista Rancheria are the only two Federally recognized Tribal Governments in Amador County. The recognized Chairperson of Buena Vista Rancheria is Ms. Lucille Lucero.

To our knowledge the Lone Band of Indians are not a Federally recognized Government. It has been our understanding that Mr. Harold Burris is the Tribal Chairperson of Lone Band of Indians.

Page 2

If there is further information needed concerning the Jackson Rancheria, please call me at our Tribal office (209) 223-1935.

Sincerely,



Margaret Dalton, Chairperson
Jackson Rancheria

C.C.	Mr. Harold E. Burris, Sr.	Ione Band of Indians
	Mr. Mitch Constant	Sr. Field Engineer, IHS Sacramento
	Mr. Nicolas Villa	Ione Community Resident
	Mr. Scott Meyer	Amador County Environmental Health
	Ms. Lucille Lucero	Buena Vista Rancheria
	Mr. Jaeger	Sacramento Area Director, BIA
	Mr. Ferris	Indian Health Service

RECEIVED

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TRIBAL OPS CCA

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TRIBAL OPS CCA

Mr. Nicolas Villa, Jr.
2915 Jackson Valley Road
Tone, California 95640

Dear Mr. Villa:

On October 16, 1982, we received your letter requesting assistance regarding the attempts of Anador County to obtain injunctive relief to enforce its local ordinances and zoning restrictions on Indian land.

In relation to the assistance mentioned in your letter, you request that, at a minimum, the Bureau of Indian Affairs state the following:

1. That the Buena Vista Rancheria for the Me-wuk Indians of California/Mokelumne-Loocolumne Tribe is a Federally recognized Tribe that is listed on the Secretary's official Federal Register directory of Tribes.

In response, the Buena Vista Rancheria of Me-wuk Indians appears in the Federal Register/Vol. 17, No. 250/ published Thursday, December 29, 1982, as an Indian tribal entity recognized and eligible to receive services from the United States Bureau of Indian Affairs. The Mokelumne-Loocolumne Tribe does not appear in the publication.

2. That the Buena Vista Rancheria for the Me-wuk Indians of California/Mokelumne-Loocolumne Tribe is that Tribal entity which has jurisdiction over all of its tribal lands of the Mokelumne-Loocolumne Tribe including the Ancient Village.

According to available records, the Buena Vista Rancheria was purchased in 1927 and consisted of 67.8 acres in Anador County. It was one of the groups terminated under the Rancheria Act and according to the Distribution Plan the land was deeded to Louis Oliver and his wife, Annie Oliver, as joint tenants. Currently, the property is in individual ownership, but in fee simple ownership. We understand that a probate of the estate of Lucille Luzero, the sole owner of the Buena Vista Rancheria, may have been initiated. There has been no request from any descendants/relatives to consider accepting the land into trust, "Indian" status, as would appear that the subject Rancheria is subject to county regulation.

3. That the undersigned is the Chief/Tappo of Buena Vista Rancheria for the Na-tuk Indians of California/Mokelumne-Occolume Tribe's governing body.

The records reveal that only one individual has been identified as being dependent of the original Indian distributees on the Buena Vista Rancheria distribution plan. Since the Taliai Hardware decision was issued in 1982, the Buena Vista Rancheria has been listed in our records as inactive.

Sincerely,

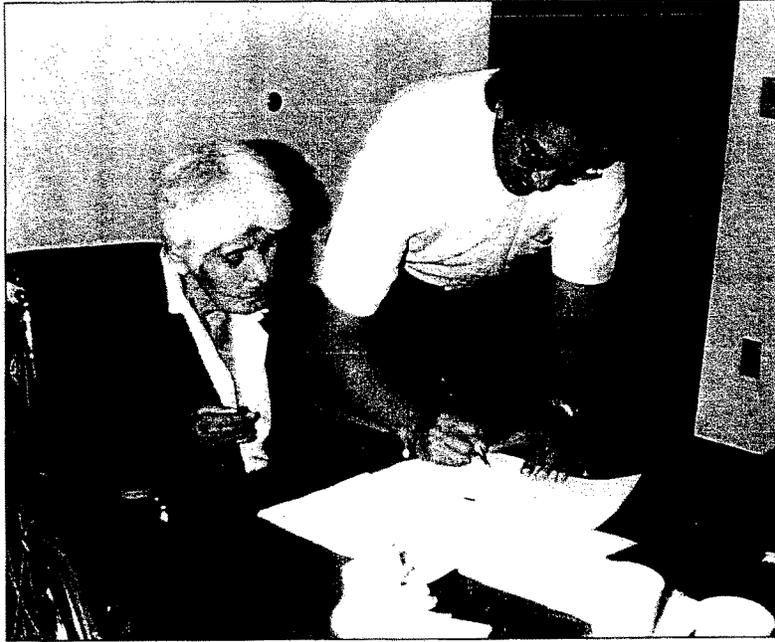
Del Carmen C. Pacio
Area Director

cc Superintendent, Central California Agency, w/copy of incoming
Deputy Regional Solicitor, w/copy of incoming



Picture taken on August 4, 1994 at the time the Constitution of the Buena Vista Rancheria Band of Me-Wuk Indians was adopted. Pictures include Lucille Lucero, Donnamarie Potts, Superintendent Harold Bradford, Ray Fry and BIA staff. Pictures taken at the Sacramento Central Agency Office. After the signing of the constitution, Lucille Lucero began questioning some of the names on the list of historical members and then removed (whited out by BIA Staff) deceased and mistakenly included historical members.









Willie Royat, Enos Oliver and Donnamarie Potts on the BVR (circa 1949)



Photograph (circa 1951) of Donnamarie Potts, Jessie Pope, Iris Pope and Jeanie Pope. The photo was taken on the BVR.



Donnamarie Potts and Iris Pope taken in early 1950's. The photo was taken on the BVR.



Donnamarie Potts and Donald Lucero taken in the 1950's,
Donald Lucero was in the military.



Photograph of Lucille Lucero and Donnamarie Potts taken in Arizona in the 1950's.



Photograph taken in Texas of Donnamarie Potts, Lucille Lucero and the neighbor's baby that Lucille Lucero baby sat. The photo was taken in 1951.



Photograph taken in Carlin Nevada of Iris Pope, Jessie Pope and Donnamarie Potts. This photo was taken circa 1954. Baby Jeanie Pope and Elinor Lucero had died in a fire in Roseville California in the early 1950's.



Photograph taken in 1970 of Donnamarie Potts and Lucille Lucero on the BVR eating acorn mush in the old house



Photograph taken in 1978 of Viola Wessel, Donnamarie Potts and George Wessel on the BVR. This was a work day to clean up the Rancheria.

1 DAVID E. RAPPORT
2 CALIFORNIA INDIAN LEGAL SERVICES
3 P.O. Box 488
4 200 W. Henry Street
5 Ukiah, California 95482
6 Telephone: (707) 462-3825
7
8 Attorneys for Plaintiffs

FILED

AUG 4 1987

WILLIAM L. WHITTAKER
Clerk, U.S. District Court
Northern District of California
SAN JOSE

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

219

11 WILLIE HARDWICK, et al.,) NO. C-79-1710 SW
12 Plaintiffs,)
13 vs.) STIPULATION TO ORDER
14 UNITED STATES OF AMERICA, et al.,) PRESCRIBING NOTICE OF
15 Defendants.) PROPOSED CLASS ACTION
) SETTLEMENT AND HEARING
) ON APPROVAL OF SETTLEMENT
) AND ORDER
) (AMADOR COUNTY)

16 Through their respective attorneys of record, plaintiffs and
17 defendant County of Amador hereby stipulate as follows:

18 1. On April 21, 1987, plaintiffs and defendants Amador
19 County, the Tax Collector for Amador County, the Assessor for
20 Amador County, and the Board of Supervisors of Amador County, en-
21 tered a Stipulation for Entry of Judgment which would certify a
22 subclass consisting of class members from the Buena Vista Ranch-
23 eria in Amador County.

24 2. Under Federal Rule of Civil Procedure 23(e), before this
25 action can be compromised as proposed in the above-referenced
26 Stipulation for Entry of Judgment notice of the proposed settle-
27 ment must be given to all members of the subclass in such manner
28 as the Court directs and the Court must determine after hearing

1 whether the proposed settlement shall be approved as fair, just
2 and equitable to the class.

3 3. Plaintiffs shall give notice to the subclass entirely at
4 their expense as provided in this paragraph. A copy of the
5 notice that plaintiffs shall give is attached hereto as Exhibit A
6 and is incorporated herein by reference as though set forth in
7 full. Within fifteen (15) days after the Court issues its Order
8 approving this Stipulation the plaintiffs shall:

9 (1) Mail a copy of Exhibit A to each subclass member
10 listed in the attached Exhibit B, postage pre-paid, using
11 California Indian Legal Services, Attention: David Rapport, P.O.
12 Box 488, Ukiah, California 95482 as the return address; and

13 (2) Publish Exhibit A as a legal notice once in the
14 Amador Dispatch, P.O. Box 907, Jackson, California 95642.

15 4. Fifteen days following mailing and publication of the
16 notice required by paragraph 3 plaintiffs shall file a return
17 showing what they have done to comply with paragraph 3.

18 5. On or about forty-five days following mailing and publi-
19 cation of the notice required by paragraph 3 plaintiffs shall
20 prepare a report of those persons who have elected to be excluded
21 from the class, those whose notices were returned as undelivered,
22 those who object to the settlement, summarizing the substance of
23 the objections, and those who have requested a hearing on the
24 settlement. If one or more timely hearing requests have been
25 received, plaintiffs shall obtain a hearing date from the Court
26 and send 15 days advance written notice of the time, date and
27 location of the hearing to the persons and in the manner as
28 specified in paragraph 3. Prior to the hearing plaintiffs shall

1 file with the Court a copy of the notice together with a proof
2 of service. If no timely hearing requests are received, plain-
3 tiffs shall submit a proposed judgment for the Court's approv-
4 e.

5 Dated: 7/24/87

CALIFORNIA INDIAN LEGAL SERVICES

6
7 By: *David J. Rappore*
8 DAVID J. RAPPORE
Attorneys for Plaintiffs

9 Dated: July 21, 1987 JOHN F. HARN, Amador County Counsel

10
11 By: *Patrick M. Keene*
12 PATRICK M. KEENE
13 Deputy County Counsel
Attorneys for Defendant
COUNTY OF AMADOR

14 O R D E R

15 Having read the foregoing stipulation and good cause ap-
16 pearing therefor,

17 IT IS SO ORDERED.

18 Dated: AUG 4 1987

19 *James Williams*
20 JUDGE OF THE DISTRICT COURT

EXHIBIT A

NOTICE OF RIGHT TO HEARING ON APPROVAL
OF PROPOSED CLASS ACTION SETTLEMENT

Hardwick v. United States, C-79-1710 SW, is a class action lawsuit brought in the United States District Court for the Northern District of California to set aside the termination of thirty-four (34) California Indian Rancherias under the California Rancheria Act. On December 22, 1983, the Court approved a settlement of the claims against the federal government and entered a judgment against the federal government.

On April 21, 1987, plaintiffs and the defendant Amador County entered a written agreement to compromise and settle the remaining claims asserted against Amador County on behalf of class members from the BUENA VISTA RANCHERIA.

YOU ARE A MEMBER OF THE CLASS REPRESENTED IN THIS LAWSUIT, AND YOUR LEGAL RIGHTS WILL BE AFFECTED BY THIS SETTLEMENT, IF YOU ARE AN INDIAN PERSON FROM THE BUENA VISTA RANCHERIA AND YOU:

1. Received a property interest in your Rancheria when deeds to rancheria property were distributed under the Rancheria Act; or

2. Have acquired title to any such Rancheria property by inheritance, gift purchase or other means after deeds to Rancheria property were distributed under the Rancheria Act.

THE GENERAL TERMS OF THE SETTLEMENT ARE AS FOLLOWS:

1. The original rancheria boundaries will be restored as "Indian Country" to clarify the respective jurisdictions of the

tribal, county, state and federal governments.

2. Liens to secure unpaid county property taxes will be cancelled.

3. Property taxes for the 1979 and any subsequent tax year on rancheria property owned by class members and which class members have paid to Amador County will be refunded to class members who return their property to federal trust status no later than December 31, 1988.

4. Property located on the rancherias that is owned by class members will not be taxable or subject to assessment.

5. All county maintained roads crossing the Buena Vista Rancheria shall continue to be owned and maintained by Amador County.

NOTICE OF RIGHT TO HEARING

PLEASE TAKE NOTICE that you can request a hearing on approval of this settlement at which the Court will review the matter to decide whether to approve the settlement and to enter judgment against Amador County as agreed.

Any class member may request a hearing before the Honorable Spencer Williams, Judge of the Federal District Court and may appear personally or through legal counsel at the hearing to oppose or otherwise question the settlement. Requests for a hearing must be addressed to the attention of David Rappert, CILS, P.O. Box 488, Ukiah, California 95462 and be post marked by no later than _____ (30 days after notice is mailed and

published]. If a hearing is requested, notice of the time and place of the hearing will be given by newspaper and/or first class mail at least fifteen (15) days prior to the hearing date. If no hearing is requested, the Court will approve the settlement without conducting a hearing in open court.

YOUR RIGHTS

To protect your legal rights you may do any of the following:

1. You may give notice that you wish to be excluded from the settlement by sending a letter containing (1) your name and address, (2) a statement that you wish to be excluded from the settlement, and (3) a reference on the outside of the envelope to Hardwick v. U.S., C-79-1710 SW, to the Attention of David Rapport, California Indian Legal Services (CILS) Post Office Box 488, Ukiah, CA 95482. The letter must be received by CILS no later than midnight, _____ [30 days after notice is mailed and published]. If you give notice under this paragraph, you will not receive the benefits provided by the settlement.

2. Any class member may submit written objections to the settlement. Objections must be addressed to the Attention of David Rapport, CILS, Post Office Box 488, Ukiah, CA 95482 and contain on the outside of the envelope a reference to Hardwick v. U.S., C-79-1710 SW. Objections must be received by CILS no later than midnight, _____ [30 days after notice is mailed and published].

3. You may seek to intervene in the action. Motions to intervene must be filed in accordance and otherwise comply with the Federal Rules of Civil Procedure and applicable Local Rules of the Federal District Court for the Northern District of California.

4. You may request a hearing as described previously.

5. If you have questions about the settlement, you may consult your own attorney or call or write plaintiffs' attorneys as follows:

David J. Rapport
California Indian Legal Services
P.O. Box 488
200 W. Henry Street
 Ukiah, CA 95482
7070-462-3825

DO NOT CALL OR WRITE THE COURT WITH QUESTIONS.

CLASS MEMBERS WHO DO NOTHING IN RESPONSE TO THIS NOTICE will be bound by the judgment and will receive the tax refunds and other benefits provided by the judgment.

IRENA VISVA RUKHRYIA

<u>Distances</u>	<u>Date of Birth</u>	<u>Last Known Address</u>
1. Louie Oliver	04-30-09	Deceased
2. Annie Oliver	12-18-97	Deceased 7-11-72
<u>Present Italian Exploiter</u>		
3. Enzo Oliver	09-08-23	Route 1, Box 237A, Ione, CA 95640
4. Lucille Iaceto	01-29-19	Route 1, Box 231, Ione, CA 95640
<u>Date of Birth</u>		
<u>Last Known Address</u>		

"OWNERHIP CHANGE RECEIVED"

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Ms. Donnamarie Potts
Post Office Box 1889
Marysville, CA 95901

OFFICIAL RECORDS
AMADOR COUNTY, CALIF.
RECORDS RECEPTION DEPT.
COMMUNICATIONS UNIT
1989 JUL 24 PM 2:38

SHELDON D. JOHNSON
COUNTY RECORDER

S.D.J.

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY.

MAIL TAX STATEMENTS TO ADDRESS SHOWN ABOVE

THE UNDERSIGNED GRANTOR(S) DECLARE:

DOCUMENTARY TRANSFER TAX is \$-0- -- No consideration.

Unincorporated area City of

Assessor's Parcel No.: 12-10-005

Computed on full value of property conveyed; or

Computed on full value less liens or encumbrances remaining at time of sale.

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, LUCILLE LUCERO, a widow, hereby grants to DONNAMARIE POTTS, a single woman, all of the grantor's right, title, and interest in the real property situated in the County of Amador, State of California, described as follows:

Commencing at the Northeast corner of Section 19, Township 5 North, Range 10 East, M.D.M. & M., and thence running West along Section line 578 feet; thence at right angles East 578 feet; thence at right angles North 5280 feet to the place of beginning, being the same property described in deed recorded in Book 86, page 198, (Official Records of Amador County, California.

EXCEPTING THEREFROM the following:

All that portion of the Northeast quarter of Section 19, Township 5 North, Range 10 East, M.D.M., described as follows:

Beginning at a 3 inch iron pipe fence and post at the Southerly end of a new road fence, from which point a 1-1/2 inch capped iron pipe stamped "U.S. 1953 17, 18, 19 & 20" found marking the Northeast corner of said Section 19, bears North 30°05'00" East 1099.08 feet distant; thence, from said point of beginning, along the southerly prolongation of said new road fence, South 00°09'00" East 45.11 feet to a 3/4 inch steel reinforcing rod tagged P.D.S. 10761; thence South 01°08'00" West 385.19 feet to a similar steel rod; thence South 10°00'00" East 186.24 feet to a 1 inch fence post; thence South 80°20'00" West 0.12 feet to a 3/4 inch steel reinforcing rod tagged P.D.S. 10761 set on the westerly line of that certain parcel of land conveyed by the United States of America, Department of the Interior to Louis Oliver and his wife, Annie Oliver, by instrument dated October 5, 1959, and recorded in the

office of the Recorder of Amador County on October 3, 1959, in Book 86 of Official Records at page 122; thence along the Western line of said Oliver parcel of land, North 01°38'50" East 451.11 feet to a similar steel rod, from which point the Northwest corner of said Oliver parcel of land, bears North 01°38'50" East 1100.00 feet distant; thence South 88°01'10" East 40.00 feet to a similar steel rod; thence North 08°26'00" East 151.30 feet to the point of beginning; containing 0.354 acres of land, more or less.

Dated: May 27, 1986.

Lucille Lucero
LUCILLE LUCERO

State of California)
County of Amador) ss

On May 27, 1986, before me, the undersigned, a Notary Public in and for the State of California, personally appeared LUCILLE LUCERO, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed it.

Patrick M. Bone
Notary Public



1 DAVID J. RAPPORT
LESTER J. MARSTON
2 California Indian Legal Services
200 West Henry Street
3 Post Office Box 488
 Ukiah, California 95482
4 Telephone: (707) 462-3825

RECEIVED

JUL 21 1983

5 Attorneys for Plaintiffs

6 JOSEPH P. RUSSONIELLO
United States Attorney
7 RODNEY H. HAMBLIN
Assistant United States Attorney
8 PAUL E. LOCKE
Assistant United States Attorney
9 450 Golden Gate Avenue, Box 36855
San Francisco, California 94102
10 Telephone: (415) 556-5124

WILLIAM L. WHITTAKER
CLERK, U. S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ORIGINAL
FILED

AUG - 2 1983

WILLIAM L. WHITTAKER
CLERK, U. S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

11 Attorneys for Federal Defendants

12
13
14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE NORTHERN DISTRICT OF CALIFORNIA

16 BILLIE HARDWICK, et al.,) No. C-79-1710-SW
17 Plaintiffs)
) STIPULATION FOR ENTRY
) OF JUDGMENT
18 v.)
)
19 UNITED STATES OF AMERICA, et al.,)
20 Defendants.)
21

22 The parties to the above-entitled action, recognizing
23 the uncertainties in law and the burden of further litigation,
24 and in order to make mutually beneficial settlement of these
25 actions, subject to approval of the Court pursuant to Federal
26 Rules of Civil Procedure, Rule 23(c), stipulate that the Court
27 may enter judgment as follows:

28 // // // // //

1 Rancheria Act 1/ and any Indian heirs, legatees or successors in
 2 interest of such persons with respect to any real property they
 3 received as a result of the implementation of the California
 4 Rancheria Act.

5 3. The status of the named individual plaintiffs and
 6 other class members of the seventeen rancherias named and
 7 described in paragraph 1 as Indians under the laws of the United
 8 States shall be restored and confirmed. In restoring and
 9 confirming their status as Indians, said class members shall be
 10 relieved from the application of Sections 2(d) and 10(b) of the
 11 California Rancheria Act and shall be deemed entitled to any of
 12 the benefits or services provided or performed by the United States
 13 for Indians because of their status as Indians, if otherwise quali-
 14 fied under applicable laws and regulations.

15 4. The Secretary of the Interior shall recognize the
 16 Indian Tribes, Bands, Communities or groups of the seventeen
 17 rancherias listed in paragraph 1 as Indian entities with the same
 18 status as they possessed prior to distribution of the assets
 19 of these Rancherias under the California Rancheria Act, and said
 20 Tribes, Bands, Communities and groups shall be included on the
 21 Bureau of Indian Affairs' Federal Register list of recognized
 22 tribal entities pursuant to 25 CFR, Section 83.5(b). Said Tribes,
 23 Bands, Communities or groups of Indians shall be relieved from
 24 the application of section 11 of the California Rancheria Act and
 25 shall be deemed entitled to any of the benefits or services
 26 provided or performed by the United States for Indian Tribes,
 27

28 Act of August 18, 1968, P.L. 85-671, 72 Stat. 69, as
amended by the Act of August 11, 1964, 78 Stat. 190.

1 Bands, Communities or groups because of their status as Indian
 2 Tribes, Bands, Communities or groups.

3 5. The Court shall not include in any judgment entered
 4 pursuant to this stipulation any determination of whether or to
 5 what extent the boundaries of the rancherias listed and described
 6 in paragraph 1 shall be restored and shall retain jurisdiction to
 7 resolve this issue in further proceedings herein.

8 6. Any named individual plaintiff or class member who
 9 received or presently owns fee title to an interest in any former
 10 trust allotment by reason of the distribution of the assets of
 11 any of the Rancherias listed in paragraph 1 shall be entitled to
 12 elect to restore any such interest to trust status, to be held by
 13 the United States for the benefit of such Indian person(s).

14 7. Within two years of date of notice of this
 15 judgment, as provided in paragraph 9, the Indian Tribes,
 16 Bands, Communities or groups of the seventeen rancherias listed
 17 in paragraph 1 that are recognized by the Secretary of the
 18 Interior pursuant to paragraph 4 herein may arrange to convey
 19 to the United States all community-owned lands within their
 20 respective rancherias to which the United States issued fee
 21 title in connection with or as the result of the distribution
 22 of the assets of said rancherias, to be held in trust by the
 23 United States for the benefit of said Tribes, Bands, Communities
 24 or groups, authority for the acceptance of said conveyances
 25 being vested in the Secretary of Interior under section 8 of
 26 the Act of June 18, 1934, "The Indian Reorganization Act," 48
 27 Stat. 885, 21 U.S.C. 645 as amended by section 201 of the

28 // // // //

Indian Land Consolidation Act, Pub. L. 97-459, Title II, 96 Stat.
 2515 and/or the equitable powers of this court.

8. Any named plaintiff or other class member herein may elect to convey to the United States any land for which the United States issued fee title in connection with or as the result of the distribution of assets of said rancherias to be held in trust for his/her individual benefit or the benefit of any other member or members of the rancheria, authority for the acceptance of said conveyances being vested in the Secretary of the Interior under section 5 of the Act of June 18, 1934, "The Indian Reorganization Act," 48 Stat. 985, 25 U.S.C. §465 as amended by section 203 of the Indian Land Consolidation Act, Pub. L. 97-459, Title II, 96 Stat. 1512 and/or the equitable powers of this court.

9. Upon entry of judgment herein the United States shall give personal mail notice to each individual plaintiff and other class members (to the extent such persons can be identified and located through the exercise of reasonable efforts) that said individuals may elect to return their lands to trust pursuant to the judgment entered pursuant to this stipulation. Said notice shall advise that the Bureau of Indian Affairs will assist those individuals desiring to convey lands to the United States, including providing for forms and instructions. In addition, the United States shall aid and assist class members in perfecting said conveyances by obtaining any necessary policies of title insurance or taking any other actions administratively required to complete such conveyances. Nothing in this Stipulation shall require the United States to provide funds for the payment of real property taxes which may have

28 //

1 accrued in the past or may accrue in the future with respect to
2 lands located on any Rancharia as described in Exhibit A; provided,
3 however, that this stipulation does not represent a concession by
4 any party hereto that any of said property is subject to real
5 property taxes.

6 The United States shall also give general notice of the
7 rights provided by this paragraph 9 by publishing notice once each
8 week for one month in newspapers of general circulation most likely
9 to be read by class members, and by posting notice in a conspicuous
10 location on or near each of the seventeen rancharias named in
11 paragraph 1.

12 10. The Secretary of the Interior, named individual
13 plaintiffs, and other class members agree that the distribution
14 plans for these Rancharias shall be of no further force and effect
15 and shall not be further implemented; however, this provision shall
16 not affect any vested rights created thereunder.

17 11. All claims whatsoever for money damages against the
18 United States resulting from the distribution of the assets of the
19 seventeen rancharias named in paragraph 1 under the Rancharia Act
20 and arising out of the implementation of said Act shall be dismissed
21 with prejudice, plaintiffs having specifically considered the poten-
22 tial value of said claims, the probability of the success thereof,
23 and the value of the relief to be obtained under this settlement
24 agreement.

25 12. For the purpose of resolving any disputes which arise
26 among the parties in the course of implementing the judgment to be
27 entered pursuant to this stipulation, or for extending the time

28 //

1 within which any act may or must be performed under this Stipulation
 2 the Court shall retain jurisdiction over this matter for a period
 3 of two(2) years from entry of judgment, or for such longer time as
 4 may be shown to be necessary on a duly-noticed motion by any party.

5 13. Entry of judgment pursuant to this stipulation shall
 6 constitute a final settlement of all claims which named plaintiffs
 7 and plaintiff class members have or may have against the United
 8 States and its officers and employees arising out of the implementa-
 9 tion of the California Rancheria Act at the seventeen Rancherias
 10 listed in paragraph 1.

11 14. Except as hereafter specifically provided in paragraphs
 12 13-19, the claims asserted in this action by or on behalf of any
 13 persons who received any of the assets of the Graton, Scotts Valley,
 14 Guideville, Strawberry Valley, Cache Creek, Paskenta, Ruffeys, Mark
 15 West, Wilton, El Dorado, Chico or Mission Creek Rancherias are
 16 dismissed without prejudice to their being refiled in another action
 17 and defendants shall not assert any laches defense to any such
 18 subsequent action they could not have asserted prior to the date
 19 this action was filed.

20 15. The claims of Ethel Whiterock, Minerva Pike, Jesse
 21 Elliott, Nora Cooper and Irene Young who received assets from the
 22 termination of the Guideville Rancheria under the California
 23 Rancheria Act shall be dismissed on grounds of res judicata based
 24 on the stipulation and judgment entered in Whiterock et al. v.
 25 Udall, Fed. Dist. Ct. N.D. Cal. No. 50584 SAW.

26 16. The claims of all the named and unnamed class members
 27 represented in Taylor et al. v. Hinkel, C-70-719 SAW (N.D. Cal.)
 28 //

1 from the Auburn Rancheria shall be dismissed on grounds of res
2 judicata.

3 17. The claims asserted in this action against the United
4 States on behalf of Frank Truvide and Gloria Truvide of Graton
5 Rancheria who were parties to Frank Truvide and Gloria Truvide
6 v. Morton, C-72-181 GBH (N.D. Cal.), shall be dismissed on grounds
7 of res judicata.

8 18. The claims asserted in this action on behalf of Teresa
9 Boggs of the Scotts Valley Rancheria who was a party to Teresa Boggs
10 and Bessie Ray v. Rogers C.E. Morton, C-71-1714 RFP (N.D. Cal.),
11 shall be dismissed on the grounds of res judicata.

12 19. The claims asserted in this action by any person who
13 received any of the assets of the Robinson or Table Bluff Rancheria
14 pursuant to the California Rancheria Act shall be dismissed from this
15 action since prior to filing of this action those persons had filed
16 independent actions in Duncan et al., v. Andrus, Fed. Dist. Ct.,
17 N.D. Cal. No's C-71-1572 WWS, C-71-1713 WWS and Duncan et al., v.
18 U.S., (Ct. Cls.) No 19-75 and Table Bluff Band et al., v. Andrus,
19 No. C-75-2525 WWS, which actions are still pending.

20 ENTERED IN CIVIL DOCKET 3 AUG 1983 19

21 Dated: July 19, 1983

CALIFORNIA INDIAN LEGAL SERVICES

22
23 By: [Signature]
24 DAVID J. RAPPORT
Attorneys for Plaintiffs

25 Dated: July 15, 1983

JOSEPH P. RUSSONIELLO
United States Attorney

26 IT IS SO ORDERED

27 SPENCER WILLIAMS

28 By: [Signature]
PAUL E. LOCKE
Assistant United States Attorney
Attorneys for Federal Defendants

250-143

U. S. DISTRICT JUDGE

FILED AUG 8 1983

CLOVERDALE

The Cloverdale Rancheria, 27.50 acres, is located adjacent to and south of the town of Cloverdale, Sonoma County, California.

All these certain lots, pieces or parcels of land, situate, lying and being in the Township of Cloverdale, County of Sonoma, State of California, and bounded and particularly described as follows; to wit: Beginning at a point in the center of the main public road leading from Cloverdale to Healdsburg and at the northwesterly corner of the land formerly owned by Louis Bee, which is an iron pipe two (2) inches in diameter, two (2) feet long, driven below the surface of the ground, from which a fir tree five (5) feet in diameter marked "R.M.", and known as station 8 on the Muscalacon Grant Line bears south 47° W., 39.38 chains distant; thence N. 47° 40' E., along the northerly line of the land formerly owned by Louis Bee, 49.23 chains; thence north 59° 15' W., 6.07 1/2 chains to the southerly line of the land of Helena M. Woolsey, thence S. 47° 28' W., along the southerly line of the land of Helena M. Woolsey, 46.68 chains to the center line of the hereinbefore mentioned public road; thence S. 34° 15' E., along the center line of said road 5.71 chains to the place of beginning, containing 27.50 acres. (Note - above area included Northwestern Pacific Railroad right of way.)

ELK VALLEY

The Elk Valley Rancheria, 100 acres, is located near the town of Crescent City, Del Norte County, California.

SE1/4SE1/4, S1/2S1/2NE1/4SE1/4 Section 22; SW1/4SW1/4, S1/2S1/2NW1/4SW1/4 Section 23, T. 16 N., R. 1 W., Humboldt Meridian, California.

GREENVILLE

The Greenville Rancheria, 275 acres, is located approximately three miles east of Greenville, Plumas County, California.

Parcel 1: N1/2 Lot 4, Section 5; N1/2 Lot 1, Section 6, T. 26 N., R. 10 E., Mount Diablo Meridian, California.

Parcel 1A: SE1/4 Section 31, T. 17 N., R. 10 E., Mount Diablo Meridian, California.

Parcel 2: Beginning at the S.E. corner of Plumas County Swamp and Overflowed Land Survey No. 37, N. 31 1/4° E., 3.72 chains from the 1/4 Section corner on the South line of Section 6, T. 26 N., R. 10 E., M.D.M., and running thence N.

72 1/2 W., 15.80 chains; thence N. 4 E., 42.00 chains, thence E. 2.06 chains; thence N. 14.03 chains; thence E. 7.97 chains to the North and South centerline of said Section 6; thence S. 23.85 chains to the center of said Section 6; thence E. 5.00 chains; thence S. 4 1/2 W., 36.88 chains to the place of beginning, containing 75 acres.

MOORETOWN

The Mooretown Rancheria, 160 acres, is comprised of two parcels, one-half mile apart. It is located in Butte County, California.

Parcel 1: N1/2NE1/4 Section 22 T. 20 N., R. 6 E., Mount Diablo Meridian, California.

Parcel 2: N1/2NE1/4 Section 23, T. 20 N., R. 6 E., Mount Diablo Meridian, California.

NORTH FORK

The North Fork Rancheria, 80 acres, is located about two miles from the town of North Fork, Madera County, California.

SE1/4NE1/4 Section 20, and SW1/4NW1/4 Section 21, T. 8 S., R. 23 E., Mount Diablo Meridian.

PICAYUNE

The Picayune Rancheria, 80 acres, is located three miles south of Coarsegold in Madera County, California.

N1/2NE1/4 Section 29, T. 8 S., R. 21 E., Mount Diablo, Meridian.

PINOLEVILLE

The Pinoleville Rancheria, 99.53 acres, is located in Mendocino County, California.

Tract 1: A portion of Lot 142 of Healey's Survey and Map of the Yokayo Rancho containing 3 acres and more particularly described in deed filed in Book 123 of Deeds, page 148, Recorder's Office, County of Mendocino.

Tract 2: A portion of Lots 141 and 142 of the Yokayo Rancho containing 96.53 acres and more particularly described in deed filed in Book 132 of Deeds, page 283, Recorder's Office, County of Mendocino.

POTTER VALLEY

The Potter Valley Rancheria, 96 acres, is located near the town of Potter Valley, Mendocino County, California.

Tract 1: A metes and bounds description in Section 19, T. 17 N., R. 11 W., Mount Diablo Meridian and more particularly described in Deed recorded in Book 116 of Deeds, Page 197, Mendocino County, containing 16 acres.

Tract 2: NW1/4SE1/4, SE1/4NW1/4 Section 35, T. 18 N., R. 12 W., Mount Diablo Meridian, containing 80 acres.

QUARTZ VALLEY

The Quartz Valley Indian Reservation, 604 acres, is located in Siskiyou County, California.

Tract 1: NW1/4, W1/2SW1/4 Section 2, T. 43 N., R. 10 W., E1/2SE1/4 Section 3 and a fractional portion of the NE1/4NE1/4 Section 3, T. 43 N., R. 10 W., Mount Diablo Meridian, containing 364 acres.

Tract 2: E1/2SE1/4 Section 34 and SW1/4 Section 35, T. 44 N., R. 10 W., Mount Diablo Meridian, containing 240 acres.

REDDING

The Redding Rancheria, 30.89 acres, is located south of Redding in Shasta County, California.

Tract No. 8 of the Anderson Valley Farms, situate, lying and being on the Rancho Buena Ventura or Reading Grant, in the County of Shasta, State of California.

REDWOOD VALLEY

The Redwood Valley Rancheria, 80 acres, is located north of the town of Redwood Valley, Mendocino County, California.

NE1/4SW1/4, fractional part of SE1/4NW1/4 Section 32, T. 17 N., R. 12 W., Mount Diablo Meridian and fractional part of Lot 131 of Healey's Survey and Map of Yokayo Rancho.

ROHNERVILLE

The Rohnerville Rancheria, 15.22 acres, is located near Fortuna, Humboldt County, California, and overlooks the village of Rohnerville.

Tract 1: A parcel of land situate in the E1/2SE1/4 Section 1, T. 2 N., R. 1 W., Humboldt Meridian containing 15 acres and more particularly described in a deed recorded in Volume 116 of Deeds, page 93 in the records of Humboldt County, California.

Tract 2: Commencing at the NW corner of the above tract and running thence N. 37° 20' W. 215.5 feet; thence S. 10.6 feet; thence W. 40 feet; thence N. 60 feet; thence E. 40 feet; thence S. 37° 20' E. 277 feet; thence S. 89° W. 37.5 feet to place of beginning, containing 0.22 acres, together with a spring.

SMITH RIVER

The Smith River Rancheria, 163.96 acres, and an unsurveyed island known as Prince Island, 14.25 acres, are located in Del Norte County, California.

Tract 1: Frac. W1/2, N1/2NW1/4NE1/4, NE1/4NE1/4 Section 17, T. 18 N., R. 1 W., Humboldt Meridian, California, containing 163.96 acres.

Tract 2: Unsurveyed island in the Pacific Ocean about 3/4 mile north of Smith River in Section 17, T. 18 N., R. 1 W., Humboldt Meridian, designated on the official plat of survey as Hunters Rock and on the U.S.C. & G. Chart No. 5900 as Prince Island, 14.25 acres.

1 CHARLES SCOTT, JR.
 2 DAVID J. RAPPORT
 3 CALIFORNIA INDIAN LEGAL SERVICES
 4 Post Office Box 488
 5 208 West Henry Street
 6 Ukiah, California 95482
 7 Telephone: (707) 462-3625
 8
 9 Attorneys for Plaintiffs

15
 CLEAR
 U.S. DISTRICT COURT
 NO. DIST. OF CAL.
 (S) (S)

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA

12 79 1710 (SW)

12 TILLIE HARDWICK, JOSEPH MYERS, SMITH WILLIAMS,) NO.
 13 MARIE POLLOCK, EVANGELINE DUNCAN, ESTHER)
 14 RAMIREZ, NANCY RAMOS, FLORENCE RODRIQUEZ,) COMPLAINT FOR
 15 ALBERFA GARCIA, CHRISTINE POSH, JOSEPHINE) DECLARATORY AND
 16 WOLFEN, on their own behalf and on behalf of) INJUNCTIVE RELIEF,
 17 all others similarly situated,) AND DAMAGES

18 Plaintiffs,)

19 v.)

20 UNITED STATES OF AMERICA: CECIL ANDRUS, as)
 21 Secretary of the Interior; FORREST GERARD,)
 22 as Assistant Secretary of the Interior for)
 23 Indian Affairs; JOSEPH CALIFANO, JR., as)
 24 Secretary of Health, Education and Welfare;)
 25 GEORGE BLUESPRUCE, Area Director, Phoenix)
 26 Area Office, U.S. Public Health Service,)
 27 Department of HEW; DON MYERS, as Chief,)
 28 Office of Environmental Health, Phoenix)
 29 Area Office, U.S. Public Health Service;)
 30 ROBERT MCSWAIN, Director of the California)
 31 Program Office, U.S. Public Health)
 32 Service; WILLIAM FINALE, Area Director,)
 Bureau of Indian Affairs, Sacramento Area)
 Office; RICHARD BURSELL, Superintendent,)
 Central California Agency, Bureau of)
 Indian Affairs, Sacramento Area Office.)
 IRENE LANG, Tax Collector for Mendocino)
 County; CORA TAYLOR, Tax Collector for)
 Lake County, and all others similarly)
 situated,)
 Defendants.)

31 // /
 32 // /

- 3 1. This Court has jurisdiction pursuant to 28 U.S.C.
4 §1331 in that the action arises under the Constitution, laws,
5 regulations, and contracts of the United States. The value of the
6 amount in controversy exceeds \$10,000 exclusive of interest or
7 costs, in that plaintiffs' right to status as Indians, the right
8 to have land held in trust, and the right to receive federal
9 services available to Indians, is worth more than that amount.
- 10 2. This Court has jurisdiction pursuant to 28 U.S.C.
11 §1346(a) in that the plaintiffs seek damages not exceeding \$10,000
12 per individual founded upon the Constitution and certain acts of
13 Congress, and not sounding in tort.
- 14 3. This Court has jurisdiction pursuant to 28 U.S.C.
15 §1346(b) in that the action contains claims against the United
16 States for money damages for injury and loss of property caused
17 by the negligent or wrongful acts or omissions of the United States
18 employees acting within the scope of their office or employment.
- 19 4. This Court has jurisdiction pursuant to 28 U.S.C.
20 §1343(3) in that the action seeks to redress the deprivation, under
21 color of state law, of plaintiffs' right to Indian status for them-
22 selves and their land, including exemption from local taxes and
23 land use controls.
- 24 5. This Court has jurisdiction pursuant to 28 U.S.C.
25 §1343(4) and 42 U.S.C. §1983 in that plaintiffs seek equitable and
26 other relief against defendants Lang and Taylor and the members of
27 the class they represent to prevent the deprivation of plaintiff's
28 civil rights under color of state law.
- 29 6. This Court has jurisdiction pursuant to 28 U.S.C.
30 §1361 in that plaintiffs seek to compel officers and employees
31 of the United States and its agencies to perform duties owed to
32 plaintiffs.

3 and actions of officers and employees of agencies of the United
4 States, having suffered legal wrong and being adversely affected
5 by such actions.

6 8. This Court has jurisdiction pursuant to 28 U.S.C.
7 §1353 because the action involves the rights of plaintiffs to
8 allotments of Indian land.

9 9. This Court has jurisdiction pursuant to 25 U.S.C.
10 §345 because plaintiffs claim to be entitled to allotments and
11 other parcels of land granted to them pursuant to Congressional
12 Acts.

13 10. This Court also has jurisdiction pursuant to 28
14 U.S.C. §1337 in that the action arises out of Acts of Congress
15 regulating commerce with Indian tribes, pursuant to Article 1,
16 §8, cl. 3 of the United States Constitution.

17 VENUE

18
19 11. Venue is proper in the Northern District of
20 California pursuant to 28 U.S.C. §1391, as some plaintiffs reside,
21 their claims arose, and some of the land affected by this action
22 is located in said District, the federal defendants are subject
23 to suit in said District, and some state defendants also reside
24 therein.

25 PARTIES

26
27 12. Plaintiffs Tillie Hardwick, Smith Williams, and
28 Marie Pollock are distributees of the Pinoleville Rancheria near
29 Ukiah, Mendocino County, California. At all times material hereto
30 they were and are residents of the parcels of land to which they
31 received fee simple title as a result of the purported termination
32 of the Pinoleville Rancheria. Plaintiff Joseph Myers is a

3 Alameda County, California.

4 13. Plaintiffs Evangeline Duncan and Esther Ramirez
5 are distributees of the Redwood Valley Rancheria, located in
6 Redwood Valley, Mendocino County, California. At all times
7 material hereto they were and are residents of the parcels of land
8 to which they received fee simple title as a result of the pur-
9 ported termination of the Redwood Valley Rancheria.

10 14. Plaintiffs Nancy Ramos, Florence Rodriguez, and
11 Alberta Garcia are distributees of the Big Valley Rancheria in
12 Lake County, California, and Christine Posh is the daughter and
13 heir of Vivian Posh, a distributee of said Rancheria. At all
14 times material hereto they were and are residents of the Big
15 Valley Rancheria as it existed prior to the purported termination.

16 15. Plaintiff Josephine Wolfen is the daughter and heir
17 of Harris Holmes, a distributee of the Big Valley Rancheria.
18 She resides in Finley, Lake County, California.

19 16. Defendant Cecil Andrus is the Secretary of the
20 Interior. Defendant William E. Finale is the Area Director,
21 Sacramento Area Office, Bureau of Indian Affairs (hereafter "BIA").
22 Defendant Richard Burcell is the Superintendent of the Central
23 California Agency, Bureau of Indian Affairs. Defendant Forrest
24 Gerard is the Assistant Secretary of the Interior for Indian
25 Affairs. Defendant Joseph Califano is the Secretary of Health
26 Education and Welfare (hereafter "HEW"). Defendant George
27 Bluespruce is the Area Director, Phoenix Area Office, U.S. Public
28 Health Service, Department of HEW. Defendant Don Myers is the
29 Chief, Office of Environmental Health, Phoenix Area Office, U.S.
30 Public Health Service, Department of HEW. Defendant Robert
31 McSwain is the Director of the California Program Office, Indian
32 Health Service, U.S. Public Health Service, HEW. All the defen-

3 sions of the Rancheria Act, Act of August 18, 1958 (72 Stat. 619),
4 as amended by the Act of August 11, 1964 (78 Stat. 390), and ful-
5 filling the trust responsibilities of the United States to Indian
6 people. They are referred to hereafter as the "federal defendants".

7
8 PLAINTIFF CLASS ALLEGATIONS

9 17 Plaintiffs bring this action on their own behalf
10 and on behalf of a class of similarly situated persons. The
11 class consists of all distributees of the Rancherias listed in
12 Exhibit "A," nay heirs or legatees of said distributees and any
13 Indian successors in interest to such lands.

14 18. Members of the class are so numerous that their
15 joinder is impracticable and individual litigation by each would
16 necessarily and substantially burden the operation of the
17 judicial system. There exist questions of law and/or fact common
18 to all members of the class, all of whom share a common right to
19 relief and a common interest in the case. This interest is
20 typified by the interests of the plaintiffs named herein and can
21 be fairly and adequately represented and protected by these named
22 plaintiffs. Defendants have acted or refused to act on grounds
23 generally applicable to the class as a whole, making appropriate
24 final injunctive and corresponding declaratory relief with respect
25 to the class as a whole. The members of the class can be readily
26 identified, since the names of most Rancheria distributees appear
27 on the Termination Notices or Proclamations contained in Exhibit
28 "A," and the names of their Indian heirs and successors can be
29 readily obtained from public records. Plaintiffs and the class
30 that they represent are therefore entitled to have this action
31 certified as a class action under Fed. R. Civ. P. 23(b)(1) and
32 (2).

3 purported distribution of the lands under the Rancheria Act.
4 22. Purportedly acting under the authority of §2 of the
5 Rancheria Act, the Secretary of the Interior gave final approval
6 to distribution plans for each of the subject Rancherias. As
7 approved, the distribution plans called for conveyance of each
8 Rancheria's lands, in severalty, to named distributees who
9 received fee simple patents to the land distributed to them. The
10 Secretary of the Interior purported to terminate the trust status
11 of the lands of the subject Rancherias and plaintiffs' rights and
12 status as Indians under the laws of the United States by publish-
13 ing in the Federal Register Termination Proclamations or Termi-
14 nation Notices pursuant to the existing administrative regulations
15 invalidly modified in 1965, at 28 C.F.R. §242.10. The dates
16 of publication and the termination Proclamations are shown in
17 in Exhibit "A."

18 PINOLEVILLE

19
20 23. Between 1911 and 1927 the Interior Department in
21 three separate transactions purchased a total of approximately
22 99 acres near Ukiah, California, for the use and benefit of the
23 Indians of Pinoleville Rancheria. Prior to its purported termi-
24 nation in 1961, approximately 120 Indian persons resided on the
25 Rancheria. Through a process first begun in 1935 as a response
26 to the passage of the Indian Reorganization Act, the residents
27 in 1947 finally formed the Pinoleville Improvement Association.
28 To do so they adopted and obtained Secretarial approval of a
29 Constitution and By-laws, as well as a Land and Property Code.

30 24. Plaintiff Tillie Myers Hardwick was born on the
31 Pinoleville Rancheria in approximately 1924. Under the distribu-
32 tion Plan for the Pinoleville Rancheria, plaintiff Hardwick

1 received conveyance of purported fee simple title to a parcel of
2 approximately 3.55 acres on the Rancharia. Plaintiff Smith
3 Williams was born in 1911 and also received conveyance of a
4 purported fee title to a parcel of Rancharia land under the
5 Pincleville Distribution Plan. Plaintiff Marie Pollock born on
6 the Pincleville Rancharia in 1923, likewise received conveyance
7 of a purported fee title to 4.55 acre parcel of Rancharia land.
8 Prior to the vote of the tribe on the distribution plan, the dis-
9 tribution of the deeds, and publication of the termination procla-
10 mations, as shown in Exhibit "A," the federal defendants, through
11 their agents, told these plaintiffs and other Rancharia residents
12 that termination was mandatory under the Act, that marketable
13 title would be provided upon termination, and that new plumbing
14 would be installed in Rancharia homes to ensure the receipt of
15 adequate water and sanitation services. In fact, the Act did not
16 make termination mandatory but rather required as a condition
17 precedent thereto approval by a majority vote of the adult
18 Rancharia residents. But for the failure of the federal defendants
19 to accurately inform plaintiffs of the true nature and consequences
20 of termination, the termination plan would not have been approved.
21 Plaintiff Hardwick was unable to obtain a loan on her property
22 because no title insurance company would insure title, despite the
23 requirements of the Act that marketable title be conveyed. New
24 plumbing was never installed in plaintiffs' homes, and plaintiffs
25 Hardwick, Williams and Pollock are still using the inadequate and
26 deteriorated plumbing that existed prior to the purported termina-
27 tion. Moreover, the federal defendants, acting through their
28 agents, never adequately explained the significance of the fact
29 that plaintiffs would become liable for local property taxes and
30 would no longer be recognized by the defendants as Indians.
31 Plaintiff Hardwick has been unable to pay taxes on her property
32 for several years and is currently in danger of losing title to

1 her land through an auction sale for delinquent taxes.

2 25. Plaintiff Joseph Myers was listed on the distribu-
3 tion plan of the Pinoleville Rancheria despite the fact that he
4 was a minor who had no guardian, in violation of the terms of the
5 Act which required distributees to be adult heads of households.
6 During 1978, plaintiff Myers applied for and was appointed to
7 the position of Judge of the Hoopa Reservation Court of Indian
8 Offenses. Although he was the most qualified Indian applicant
9 for the position, defendant Finale revoked plaintiff's appoint-
10 ment on the ground that plaintiff Myers status as an Indian had
11 been terminated, and, because defendant's statutory "Indian
12 preference" policy precluded employment of a non-Indian in said
13 position unless a qualified Indian could be found. Thus, said
14 defendant was required to seek out an unterminated Indian for the
15 position. Plaintiff Joseph Myers suffered substantial damages
16 as a result of this denial, including but not limited to lost
17 income.

18 REDWOOD VALLEY

19
20 26. The Redwood Valley Rancheria was acquired by the
21 United States in 1909 and consisted of approximately eighty acres
22 prior to its purported termination in 1961. Approximately six
23 families lived on the Rancheria at that time. Due to its small
24 size, it did not have a formal tribal structure. Rather, the
25 group made decisions at community meetings by majority vote or
26 consensus.

27 27. Plaintiff Evangeline Duncan was born in Ukiah in 1928
28 She and her husband were joint distributees of parcel #10 consist-
29 ing of approximately 5.2 acres on the Redwood Valley Rancheria.
30 Prior to the approval of the Redwood Valley distribution plan by
31 the Indians of the Rancheria, federal defendants represented
32 to said Indians that the Act made termination mandatory

1 and that a scheduled referendum on the question was merely a
2 formality to make termination "more democratic." He promised
3 that she would receive a paved driveway to her house and an
4 adequate water system. Plaintiff reasonably and in good faith
5 relied upon said representations in assenting to termination. The
6 agent failed to disclose that plaintiff's home would be subject
7 upon termination to local building and health codes. Defendants'
8 statements were untrue in that the Act was not mandatory, plain-
9 tiff's driveway was not and has not been paved, and the "water
10 system" installed consisting of a shallow well without a pump, was
11 inadequate to meet her reasonable needs. After only a few years
12 this well became useless and had to be replaced at plaintiff's
13 expense. Moreover, in 1962, the County Health Department required
14 plaintiff to install an adequate waste disposal system at a total
15 cost to her of approximately \$6,200, including \$2500 for the
16 plumbing and fixtures and \$3700 for sewage facilities, including
17 a septic tank. To pay for taxes and improvements required by
18 county health and building codes plaintiff and her husband had to
19 sell 2.7 acres of their original 5.2 acre parcel; because this
20 sale was made by necessity, plaintiff was not able to realize
21 the full market value of the property.

22 28. Plaintiff Esther Ramirez was born in Ukiah in 1926
23 and had lived there all her life. As a result of the purported
24 termination of the Redwood Valley Rancheria, she received title
25 to parcel #7, consisting of approximately 4.9 acres. Prior to
26 the approval of the distribution plan by the Indians of the
27 Rancheria, agents of the federal defendants made representations
28 to her substantially similar to those made to plaintiff Duncan
29 in an attempt to procure her assent to the Redwood Valley
30 Rancheria termination. As a result of the purported termination,
31 she received only a shallow well. Plaintiff Ramirez at her own
32 expense had to install pumps, indoor plumbing, and a septic system.

1 Moreover, several years later she had to replace the well because
2 it did not supply sufficient water to meet her domestic water and
3 irrigation needs. In order to finance these and other improve-
4 ments she was forced to sell approximately 2.9 acres of the
5 original 4.9 acre parcel at a price below the fair market value
6 of the property. To avoid sale of the property for unpaid prop-
7 erty taxes, she secured an \$1800 loan at usurious rates. She
8 is currently behind in her payments on that loan and is in danger
9 of foreclosure.

10 29. Referring to the existing water system on the
11 Redwood Valley Rancheria, the Redwood Valley Distribution Plan in
12 its one relevant reference states: "Individual water wells,
13 affording an ample supply of good water, have been drilled for
14 each of the existing homes." However, the Plan fails to state the
15 basis for such an assertion, nor does it contain assurances that
16 such water system was adequate to meet the year-round domestic
17 needs of the Rancheria's residents, or even that the "system"
18 served all distributees; in fact, as previously alleged, the
19 system was wholly inadequate for the reasonable and foreseeable
20 needs of the distributees.

21 BIG VALLEY

22
23 30. The Big Valley Rancheria was acquired by the United
24 States in 1911 for the landless Indians in the area, and consisted
25 of approximately 162 acres in Lake County prior to its purported
26 termination in 1965. Approximately 120 persons lived on the
27 Rancheria at that time. The residents had an organized tribal
28 government known as the Big Valley Band of Pomo Indians.

29 31. Plaintiff Nancy Ramos, who was born in 1932,
30 received title to parcel 73 as shown on the Big Valley Distribu-
31 tion Plan as a result of the Rancheria's purported termination.

1 Indians of the Rancheria, agents of the federal defendants had
2 falsely represented to her that termination would not disadvantage
3 her since she was already ineligible for BIA services because her
4 husband was non-Indian. They further represented that the Act
5 made termination mandatory, and that the government would improve
6 the houses of Rancheria residents as part of the termination
7 process. Plaintiff Ramos reasonably relied upon these represen-
8 tations in assenting to termination.

9 32. Plaintiff Josephine Wolfin is the daughter and heir
10 of Harris Holmes, who received title to parcel 30 under the Big
11 Valley distribution plan. She and her Indian co-heirs have been
12 unable to pay the county property taxes levied against said land,
13 and thus have been forced to borrow approximately \$1000 in order
14 to do so.

15 33. Plaintiff Florence Rodriguez, whose name at the
16 time of the distribution of deeds was Florence Ponce, was the
17 distributee of parcel 62 on the Big Valley Rancheria under the
18 Big Valley distribution plan. Plaintiff Alberta Garcia, whose
19 name at the time of distribution of deeds was Alberta Guzman, was
20 the distributee of Parcel No. 68 on said Rancheria under said
21 distribution plan. Prior to the approval of the plan by the
22 Indians of the Rancheria, agents of the federal defendants
23 promised said plaintiffs that if they agreed to termination, they
24 would be provided with a better water system and housing assis-
25 tance, including rehabilitation of existing substandard housing.
26 Relying on said representations, said plaintiffs agreed to
27 termination. Said agents failed to inform plaintiffs that liens
28 could be placed on their land as a condition of receiving public
29 assistance. A lien was in fact placed on plaintiff Rodriguez'
30 land as a condition of receiving public assistance for her
31 crippled son.

32 34. Plaintiff Christine Posh is the daughter and heir

1 of Vivian Posh, who received title to parcel 16 and 18 on the Big
2 Valley Rancheria as a result of forced tax sales due to delinquent
3 property taxes. Plaintiff is informed and believes and thereupon
4 alleges that agents of the federal defendants failed to disclose
5 to Vivian Posh, inter alia, that taxes would have to be paid
6 subsequent to the purported termination and that the land could
7 be sold by the county for failure to pay said taxes.

8 35. Referring to the existing water system on the Big
9 Valley Rancheria, the Big Valley Distribution Plan in its one
10 relevant reference states that the water system "furnishes all of
11 the existing homes with an ample supply of domestic water from
12 Clear Lake." However, the Plan fails to state the basis for such
13 an assertion, nor does it contain assurances that such water
14 system was adequate to meet the year-round domestic needs of the
15 Rancheria's residents, that the system served all distributees,
16 or that the water was fit for human consumption, none of which in
17 fact were or are true.

18 ALL RANCHERIAS

19
20 36. The Secretary of the Interior, acting through a
21 delegate, gave final approval to the Distribution Plan for each
22 of the subject rancherias on the date shown in Exhibit "A."
23 Termination notices were published for each of the subject
24 Rancherias on the date shown in Exhibit "A," and thereafter
25 defendants denied plaintiffs' eligibility for federal benefits
26 and services exclusively available to members of federally
27 recognized Indian tribes.

28 37. At all time pertinent hereto, the majority of the
29 residents of each subject Rancheria had received minimum formal
30 education and were unsophisticated and inexperienced in handling
31 even simple business or legal affairs. At the time of the
32 Secretary's approval of the Distribution Plans they were not

1 represented by counsel, and were given no advice by impartial
2 even partial experts as to either the adequacy of, *inter alia*,
3 existing water systems or their right to insist upon the provision
4 of such services and facilities under 03 of the Act.

5 38. As a direct and proximate result of the wrongful
6 termination of the subject Rancherias, and the resulting treatment
7 of plaintiffs as "terminated Indians," plaintiffs have been
8 greatly damaged, including but not limited to the following
9 losses:

- 10 (a) Plaintiffs were forced to pay property
11 taxes they would not have incurred but
12 for the wrongful termination;
- 13 (b) Many plaintiffs, unable to pay such
14 taxes, lost their land through tax
15 sales, or were forced to sell their
16 land at a fraction of its value to
17 avoid tax foreclosure sales;
- 18 (c) Others were forced to take out loans
19 at high interest rates to pay back
20 taxes;
- 21 (d) Plaintiffs' land became a resource
22 considered by public assistance
23 programs and an available asset
24 subject to creditor process. Many
25 lost eligibility for such programs
26 or were forced to sell or encumber
27 their lands in order to retain such
28 eligibility. Many lost their land
29 to satisfy creditor's claims;
- 30 (e) Plaintiffs, denied access to BIA
31 programs and grants, had to either do
32 without or seek other loans to secure

training or higher education;

(f) Plaintiffs residing on the subject Rancherias were, because of their status, ineligible for housing grants and loans provided to Indians because of their status as Indians, and were forced to do without or borrow funds at high rates for housing construction and repair;

(g) Plaintiffs were forced to comply with local building and sanitary codes due to their land being removed from trust status, resulting in expensive alterations, license fees, inspection, condemnation, etc.;

(h) Plaintiffs have not had the benefit of adequate water, sanitation or irrigation systems, or housing, and have lived on the subject Rancherias under unhealthful and unsanitary conditions, suffering damage to their physical and mental health;

(i) Plaintiffs have paid state income tax on income earned on the reservations which should have been non-taxable.

FIRST CLAIM FOR RELIEF

[Individual Violations of Rancheria Act]

39. Plaintiffs recite and incorporate herein by reference the allegations contained in paragraphs 1 to 38.

40. Section 3 of the Rancheria Act as originally enacted directed the Secretary of Interior to take certain actions

1 to prepare the Rancharias for termination before making the
 2 conveyances of individual deeds authorized by the Act. Specific-
 3 cally, the Secretary was to, inter alia:

4 a. Survey Rancharia boundaries to ensure market-
 5 able title to individual parcels (§3);

6 b. Bring Indian bureau roads serving the
 7 Rancharias up to comparable standards for similar county main-
 8 tained roads (§3b); and

9 c. Install or rehabilitate irrigation and
 10 domestic water systems as the Secretary and Rancharia residents
 11 agreed upon (§3c).

12 41. As alleged in paragraphs 24, 25, 27 - 29 and 31 -
 13 34 the federal defendants conveyed deeds to plaintiffs Hardwick,
 14 Williams, Pollock, Myers, Duncan, Ramirez, Ramcs, Rodriguez,
 15 Garcia, Posh and Wolfen before and/or without negotiating for or
 16 providing irrigation and domestic water systems adequate to meet
 17 the needs of said plaintiffs for such domestic water and irriga-
 18 tion.

19 42. Accordingly, the distribution plans were void,
 20 except to the extent that they created vested beneficial interes-
 21 in the distributees. The resulting conveyances were beyond the
 22 authority conferred upon the Secretary by the Rancharia Act and
 23 were thus ultra vires and voidable. Because of the invalidity
 24 of the termination plans, the resulting loss of Indian status wa
 25 void and without legal effect.

26 43. As a direct and proximate result of such wrongfu
 27 termination plaintiffs and each of them have suffered damages a
 28 alleged in paragraphs 24, 25, 27 - 29, 31 - 34, and 38.

29 WHEREFORE, plaintiffs pray for relief as set forth
 30 below.

31 / / /

32 / / /

1 SECOND CLAIM FOR RELIEF

2
3 [Individual claims for breach of trust,
4 misrepresentation and nondisclosure of
5 material facts]

6 44. Plaintiffs reallege and incorporate herein by
7 reference the allegations contained in paragraphs 1 to 32.

8 45. At all times material hereto the federal defendants
9 owed a trust duty to plaintiffs which include the obligation to
10 make full, complete and accurate disclosure of all material facts
11 relating to termination. They owed a further fiduciary duty to
12 plaintiffs to approve distribution plans only if they adequately
13 provided for water and sanitation needs of the Rancherias.

14 46. The statements and omissions of fact described in
15 paragraphs 24, 25, 27 - 29 and 31 - 34, and the actions of the
16 federal defendants in approving distribution plans that failed
17 to adequately provide for the water and sanitation needs of the
18 Rancherias, constitute willful and/or negligent breaches of the
19 fiduciary duty of loyalty and due care that defendants owed
20 plaintiffs Hardwick, Williams, Pollock, Myers, Duncan, Ramirez,
21 Ramos, Rodriguez, Garcia, Posh and Wolfen. Plaintiffs and each
22 of them reasonably relied to their detriment on these representa-
23 tions and omissions of fact.

24 47. As a direct and proximate result of the federal
25 defendants' breach of their trust obligations as described
26 herein plaintiffs and each of them suffered damages as described
27 in paragraphs 24, 25, 27 - 29, 31 - 34 and 38.

28 WHEREFORE, plaintiffs pray for relief as set forth
29 below.

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THIRD CLAIM FOR RELIEF

[Class claim for breach of trust]

48. Plaintiffs reallege and incorporate herein by reference the allegations contained in paragraphs 1 to 38.

49. The federal defendants owed plaintiffs the trust obligations described in paragraph 45.

50. Despite the duty of loyalty and due care and despite the clear language of the Act, the federal defendants breached said duty to Plaintiffs as a whole in the following respects:

a. Acting through their agents and employees, the federal defendants interpreted the Act to require the termination of the federal relationship with the Rancherias named in the Act. Through various means, including regulations promulgated by the Secretary of Interior to implement the Act, see, for instance, fn. 1 to 25 C.F.R. 242.4, the federal defendants conveyed this interpretation of the Act to plaintiffs.

b. Defendants failed to disclose that in order to secure passage of the Act Interior Department officials had agreed that they would never seek the appropriation of funds authorized under section 13 of the Act to provide the various services described in section 3 of the Act and that as a result said department did not have sufficient funds to completely fulfill the defendants' trust obligations when implementing section 3.

c. In working to secure the plaintiffs' approval of termination, the federal defendants and their duly authorized agents and employees engaged in a pattern and practice designed to advocate termination rather than to provide plaintiff with a full, complete, and accurate understanding of the negative as well as the positive consequences of termination, and, in

1 particular, they purposefully did not disclose the high risk that
2 plaintiffs would lose title to land once it was conveyed to them
3 in fee, which risk was or should have been known by said defen-
4 dants.

5 51. Plaintiffs reasonably and detrimentally relied
6 upon these false representations and omissions of material fact,
7 and as a direct and proximate result thereof suffered damages
8 as alleged in paragraph 38.

9 WHEREFORE, plaintiffs pray for relief as set forth below.

10 FOURTH CLAIM FOR RELIEF

11 [Class claim for breach of
12 the Rancheria Act]

13
14 52. Plaintiffs reallege and incorporate herein by
15 reference the allegations contained in paragraphs 1 to 38.

16 53. The Rancheria Act imposed the obligations upon the
17 federal defendants described in paragraph 40.

18 54. At all times pertinent to this action, the Secretary
19 of the Interior and the other federal defendants, or their
20 respective predecessors in office, knew or should have known that
21 each subject Rancheria's existing water system was inadequate
22 because of its inability to serve all of the distributees and
23 their lands and because of the sanitary inadequacies of existing
24 wells. At the time of the approval of the Distribution Plans,
25 it was the policy of the Department of the Interior that all
26 California Indians should be terminated as rapidly as possible,
27 thereby curtailing the operations of the BIA in California.
28 Approval of these Distribution Plans in their existing form was
29 motivated primarily by this desire of the federal defendants to
30 relieve themselves of any and all obligations to plaintiff
31 Indians at the earliest possible time, and thereby to
32 facilitate the winding up of the BIA operations in California.

1 Accordingly, approval of the Distribution Plans was sought in
2 great haste, and without prudent, careful assessment of the clear
3 needs of the plaintiff Indians for operable water systems and
4 adequate water sources.

5 55. In furtherance of the policy described in paragraph
6 54 the defendants:

7 a. Failed to inform said Indians that each
8 distributee was entitled under the Act to insist upon adequate
9 water services prior to distribution of Rancheria assets;

10 b. Failed to investigate fully the adequacy of the
11 water sources of the subject Rancherias prior to approval of the
12 Plans;

13 c. Failed to seek or obtain Congressional appro-
14 priations, or funding from other sources, for the installation
15 of adequate water systems and supply sources, and in fact agreed
16 not to seek such funding from Congress;

17 d. Approved the Distribution Plans without express-
18 ly providing therein for installation of water systems and sources
19 fully adequate to meet the needs of all distributees and all
20 resident Indians;

21 e. Limited water service under the Distribution
22 Plans, as approved, to those distributees who were fortunate
23 enough to have residents already built or under construction;

24 f. Failed actually to install or secure for the
25 subject Rancherias water systems and sources fully adequate to
26 meet the needs of all Indian residents and distributees for the
27 foreseeable future, prior to conveyance of the Rancherias' assets
28 in fee to the distributees.

29 56. The federal defendants conveyed fees to plaintiff
30 distributees and published Termination Proclamations before
31 adequately satisfying the requirements of section 3 of the Act.
32 Said conveyances and the termination of Indian status were thus

1 unauthorized by the Act and were invalid and void.

2 57. As a direct and proximate result of such invalid
3 and void termination plaintiffs and each of them were damaged as
4 alleged in paragraph 38.

5 WHEREFORE, plaintiffs pray for relief as set forth below

6 FIFTH CLAIM FOR RELIEF

7 [Class claim for breach of
8 Rancheria Act as amended]

9
10 58. Plaintiffs reallege and incorporate herein by
11 reference the allegations contained in paragraphs 1 to 38.

12 59. In 1964 Congress amended section 3(c) of the
13 Rancheria Act as follows:

14 "To construct, improve, install,
15 extend, or otherwise provide, by
16 contract or otherwise, sanitation
17 facilities (including domestic and
18 community water supplies and
19 facilities, drainage facilities
20 and sewage - and waste-disposal
21 facilities, together with
22 necessary appurtenances
23 (fixtures) and irrigation
24 facilities for Indian homes, com-
25 munities, and lands) as he and the
26 Indians agree, within a reasonable
27 time, should be completed by the
28 United States Provided, That with
29 respect to sanitation facilities,
30 as hereinbefore described, the
31 function specified in this para-
32 graph, including agreements with
Indians with respect to such
facilities shall be performed by
the Secretary of Health, Education
and Welfare in accordance with the
provisions of section 7 of the Act
of August 4, 1954 (58 Stat. 674),
as amended (42 U.S.C. 2004a)."

33 Prior to its amendment section 3(c) read as follows:

34 To install or rehabilitate such
35 irrigation or domestic water
36 systems as he and Indians affected
37 agree, within a reasonable time,
38 should be completed by the United
39 States.

1 60. The effect of the 1964 amendments was to substitute
2 the phrase "sanitation facilities" for the phrase "irrigation
3 or domestic water systems," thereby expanding the services
4 required by the section to include, inter alia, . . . drainage
5 facilities and sewage - and waste-disposal facilities . . ." and
6 shifting the authority for negotiations and implementation to the
7 Secretary of Health, Education and Welfare.

8 61. Following enactment of the 1964 amendments to the
9 Rancheria Act, the federal defendants or their predecessors in
10 office breached their statutory and fiduciary duties by not
11 informing plaintiff Indians of their rights under the amended
12 law, and failed to take steps to renegotiate the provisions of
13 the Distribution Plans pertaining to water sources and systems.
14 At the effective date of the 1964 amendments, the subject
15 Rancherias' terminations were invalid since the mandates of §3(c)
16 as it read prior to the 1964 amendments had not been met, and a
17 trust relationship continued to exist between the United States
18 and plaintiffs, as alleged above. Following enactment of the
19 1964 amendments, HEW had funding available which would have been
20 adequate to secure adequate sanitation facilities as defined
21 therein for all of the subject Rancherias' residents.

22 62. Notwithstanding their obligations as alleged in
23 paragraph 45 the defendants did not renegotiate with plaintiffs
24 to provide the services mandated by the 1964 amendments to
25 section 3(c) of the Act. Consequently, the conveyances of deeds
26 and the publication of Termination Proclamations were unauthorized
27 by the Act and were voidable at the option of said distributees.

28 63. As a direct and proximate result of the invalid
29 terminations plaintiffs have been damaged as alleged in paragraph
30 20.

31 WHEREFORE, plaintiffs pray for relief as set forth
32 below.

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SIXTH CLAIM FOR RELIEF
(Class claim for deprivation
of constitutional rights)

64. Plaintiffs reallege and incorporate herein by reference as though fully set forth the allegations contained in paragraphs 1 to 38.

65. Plaintiffs, as federally recognized Indians residing on federal trust land, had vested rights, privileges, and immunities with respect to the federal and local governments, including the right to Indian health, education, and welfare benefits and freedom from local taxes and land-use controls. Plaintiffs' status as Indians was protected from arbitrary extinguishment by the United States Constitution.

66. The actions and course of conduct of the federal defendants, and their failure to follow the express requirements of the Rancheria Act in the termination process, as alleged above, constitute arbitrary and capricious actions that are not rationally related to a legitimate governmental interest and which go beyond the authority vested by the Act in said defendants. Plaintiffs were thus deprived of their Fifth amendment Constitutional rights of equal protection and due process, and as a direct result suffered damages as alleged in paragraphs 38.

WHEREFORE, plaintiffs pray for relief as set forth below.

SEVENTH CLAIM FOR RELIEF
(County tax collector defendants)

67. Plaintiffs reallege and incorporate herein by reference as though fully set forth the allegations contained in paragraphs 1 to 38.

68. At all times pertinent hereto, defendant tax

1 collectors have collected, and continue to collect, real property
2 taxes levied upon Rancheria lands which are now held by Indian
3 distributees or their successors. Certain Rancheria lands owned
4 by plaintiffs individually or in common with others are imperiled
5 by the prospect of tax auctions to satisfy delinquent real
6 property taxes.

7 69. As a direct and proximate result of the actions of
8 the defendant tax collectors plaintiffs have either lost their
9 land through tax sales to collect delinquent taxes, sold their
10 land to avoid threatened involuntary tax sales or, under threat
11 of foreclosure for nonpayment, have paid property taxes claimed to
12 be due on the lands.

13 70. Due to the acts and omissions of the federal
14 defendants as alleged herein, the parcels of land distributed to
15 plaintiffs, including interest in trust allotments, never lost
16 the status of tax immune federal land, and were and are immune to
17 state property taxation. Therefore, the defendant tax collectors
18 do not have and never had the legal right to levy taxes upon said
19 lands, to impose liens, or to sell said lands to collect delinquent
20 taxes.

21 71. Plaintiffs have been greatly and irreparably
22 injured as a result of the defendant tax collectors' actions as
23 alleged herein and lack an adequate remedy at law in that they
24 have lost or are threatened with the loss of their land.

25 WHEREFORE, plaintiffs pray for relief against the
26 defendant tax collectors as set forth below.

27 ACTUAL CONTROVERSY

28
29 72. An actual controversy exists between plaintiffs
30 and the defendants in that plaintiffs contend, as is more particu-
31 larly alleged in the seven claims for relief set forth above,
32 that the federal defendants breached statutory and fiduciary

1 obligations owed by said defendants to plaintiffs which renders
 2 the purported termination of the subject Rancherias and the
 3 distributees of said Rancherias invalid and void, giving plain-
 4 tiffs the right to the relief prayed for below. Defendants dispute
 5 these contentions and plaintiffs' right to relief. Unless and
 6 until the Court declares the rights and obligations of the
 7 parties, the illegal actions of the federal defendants in refusing
 8 to recognize plaintiffs as eligible for the benefits and services
 9 available to Indian people and in refusing to restore federal
 10 trust status to their lands, will continue, and the defendant
 11 tax collectors will continue to tax said lands.

12 INADEQUATE REMEDY AT LAW

13
 14 73. Plaintiffs lack an adequate remedy at law in that
 15 this action concerns real property that has been lost or which
 16 may in the future be lost, as well as eligibility for B.I.A.
 17 services which profoundly affect the quality of plaintiffs' lives.

18 PRAYER FOR RELIEF

19
 20 WHEREFORE, plaintiffs pray for judgment against defen-
 21 dants and each of them as follows:

22 1. This Court certify the Third through Seventh Claims
 23 for Relief as a class action. The class consists of all
 24 distributees of the Rancherias listed on Exhibit "A," and any
 25 heirs or legatees of said distributees, or other Indians who have
 26 succeeded them in interest to Rancheria lands.

27 2. As to the First and Second Claims for Relief that
 28 this Court declare null and void the purported termination of the
 29 Pincleville, Redwood Valley and Big Valley Rancherias and declare
 30 null and void the Termination Proclamations published with
 31 respect to the distributees of said Rancherias.

32 3. As to the Third Claim for Relief this Court declare

1 that the federal defendants breached the fiduciary duty owed to
2 plaintiffs and their class by misrepresenting that termination
3 was mandatory and by failing to disclose their secret agreement
4 with Congress not to seek appropriations authorized by section 13
5 of the Act and to adequately explain the significance and con-
6 sequences of termination in such a way that plaintiffs and the
7 class they represent could make a knowing and intelligent
8 decision to retain or terminate their relationship with the
9 federal government.

10 4. As to the Second and Fourth Claims for Relief this
11 Court declares that:

12 a. All of the subject Rancherias were unlawfully
13 terminated and their assets were unlawfully distributed, in
14 violation of §3(c) of the Rancheria Act;

15 b. Prior to such distribution of assets, the
16 federal defendants failed to enter into agreements for the
17 provision of adequate water sources and distribution systems;

18 c. Prior to such distributions of assets the
19 federal defendants unlawfully, in breach of trust in abuse of
20 discretion, approved Distribution Plans without first assuring
21 that said Plans would require the development of water sources
22 and distribution systems fully adequate to meet the needs of the
23 plaintiffs for the foreseeable future;

24 d. The deeds conveyed to the individual Indian
25 distributees to lands on the subject Rancherias and other trust
26 allotments are voidable, and the Secretary of the Interior is
27 under a duty to notify each distributee of this fact and offer
28 to take said lands back into federal trust status at the option of
29 each distributee;

30 e. The Termination Proclamation of each of the
31 subject Rancherias was unlawfully published, and the Secretary
32 of the Interior is under an obligation to so declare the notices

1 unlawful and to rescind the same;

2 f. The Secretary of the Interior is under a duty
3 to "unterminate" each of the subject Rancherias, and to offer to
4 repurchase at fair market value the lands originally conveyed to
5 Indian distributees which have passed into non-Indian ownership,
6 and to hold the same in trust for the benefit of the Indians of
7 the original Rancheria;

8 g. The Secretary of the Interior is under a duty
9 to treat all of the subject Rancherias as Indian reservations
10 in all respects, and to afford to the Indians thereof all rights,
11 privileges and immunities ordinarily accorded to Indian tribes,
12 bands, and communities;

13 h. The Secretaries of the Interior and HEW are
14 under a continuing duty to obtain adequate sources of water, and
15 adequate distribution systems, for all Indians of the subject
16 Rancherias; and

17 i. The Secretary of the Interior and the other
18 federal defendants are under a duty: (1) to rescind the water
19 provisions of the Distribution Plans; (2) to renegotiate with the
20 plaintiffs and the other distributees of the subject Rancherias
21 at their option water agreements fully adequate to meet the needs
22 of the Indians of each Rancheria for the foreseeable future; (3)
23 to rescind the Termination Proclamations for each of the subject
24 rancherias; and (4) to treat the Rancherias and their Indians as
25 unterminated in all respects.

26 5. As to the Fifth Claim for Relief this Court declare
27 that the federal defendants breached the requirements of the 1964
28 amendments to the Act that required them to install irrigation
29 systems and "satisfactory waste disposal facilities" for the
30 Indians of each of the subject Rancherias; that said defendants
31 are under a continuing duty to provide such systems and facilities
32 prior to termination pursuant to §3(c) of the Rancheria Act, as

1 e. to treat the subject Rancherias as Indian
2 Reservations in all respects and to afford to the Indians thereof
3 all rights, privileges and immunities ordinarily accorded to
4 Indians and Indian tribes, bands, and communities;

5 f. to obtain adequate water and irrigation sources
6 and distribution systems for all of the subject Rancherias and
7 their Indian residents;

8 g. to obtain satisfactory waste disposal systems
9 and facilities for each of the subject rancherias and their
10 Indian residents;

11 h. to notify each class member that they have a
12 right to submit to the federal defendants all claims for damages
13 resulting from the Acts and omissions of said defendants as
14 alleged herein including, but not limited to:

15 (1) back taxes assessed against land or
16 interests in allotments distributed as a result of the termina-
17 tion of the subject Rancherias;

18 (2) the value of land lost through forced tax
19 sales, other nonconsensual sales or sales to avoid the involuntary
20 loss of title; and

21 (3) damages resulting from lost eligibility
22 for federal benefits and services available to members of
23 federally recognized Indian tribes;

24 i. to establish a procedure for processing
25 damages claims, including a time limitation for acting on claims
26 and an efficient appeal procedure for resolving disputed claims,
27 which procedure must be approved by this Court; and

28 j. to submit a return to this Court within 9
29 months after entry of judgment herein showing what the federal
30 defendants have done to comply with the terms of the judgment,
31 the number of damage claims processed, the disposition of each
32 and the amount of money paid to claimants, which return shall be

1 reviewed by this Court at a hearing for the purpose of determin-
2 ing what if any supplemental relief shall be ordered to fully
3 implement the Court's judgment.

4 8. As to the Seventh Claim for Relief that this Court:

5 a. Declare that the tax collector defendants
6 lack the authority to impose real property taxes on Indian
7 lands held in trust by the United States, or upon Rancheria lands
8 undergoing termination, until such time as: (a) said lands have
9 been lawfully conveyed in fee to individual distributees and
10 removed from trust; (b) the Rancheria has been completely and law-
11 fully terminated; and (c) a valid termination proclamation has
12 been lawfully published in the Federal Register and declaring
13 that because none of said preconditions to taxation have been met
14 for lands of the subject Rancherias, and such lands were pre-
15 maturely and unlawfully deeded to the distributees, and the
16 Termination Proclamations prematurely and unlawfully published in
17 the Federal Register, such lands were and are immune from local
18 property taxation; and

19 b. Issue preliminary and permanent injunctive
20 relief restraining defendant tax collectors and their successors,
21 and all persons acting in concert with them or under their
22 direction or control, from collecting taxes on, attempting to
23 collect taxes on, selling at tax auction or attempting to sell at
24 tax auctions, any lands of the subject Rancherias which now
25 stand in the ownership of Indians until one year after all Indians
26 have been notified of their option to return their lands to trust
27 status.

28 9. For reasonable attorneys fees and the costs of
29 maintaining this action; and

30 10. For such other and further relief as this Court
31 deems just and proper.

32 / / /

1 DATED: July 10, 1979

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CALIFORNIA INDIAN LEGAL SERVICES

BY: *David R. ...*
Attorney for Plaintiffs

SUMMARY SHEET
TERMINATED RANCHERIAS

RANCHERIA	COUNTY	ACREAGE	NUMBER OF DISTRIBUTEDS	DATE TERMINATION NOTICE PUBLISHED
Potter Valley	Mendocino	16	9	8/1/61
Redwood Valley	Mendocino	80	16	8/1/61
North Fork	Madera	80	1	2/18/66
Picayune	Madera	80	3	2/18/66
Graton	Sonoma	15.45	3	2/18/66
Pinoleville	Mendocino	99.53	17	2/18/66
Scotts Valley	Lake	56.68	12	9/3/65
Robinson	Lake	168	19	9/3/65
Guidiville	Mendocino	244.12	12	9/3/65
Strawberry Valley	Yuba	0.32	1	4/11/61
Cache Creek	Lake	160	2	4/11/61
Buena Vista	Amador	67.5	2	4/11/61
Paskenta	Tehama	260	2	4/11/61
Ruffeys	Siskiyou	441	3	4/11/61
Mark West	Sonoma	35.13	1	4/11/61
Table Bluff	Humboldt	20	19	4/11/61
Alexander Valley	Sonoma	54	2	8/1/61
Chicken Ranch	Tuolumne	40	4	8/1/61
Lytton	Sonoma	50	5	8/1/61
Mooretown	Butte	80	3	8/1/61
Redding (Clear Creek)	Shasta	30.89	17	6/20/62
Indian Ranch	Inyo	560	3	9/22/64
Nevada City	Nevada	75.43	1	9/22/64
Wilton	Sacramento	38 81/100	12	9/22/64
Big Valley	Lake	129	69	11/11/65

SUMMARY SHEET
TERMINATED RANCHERIAS

RANCHERIA	COUNTY	ACREAGE	NUMBER OF DISTRIBUTEEs	DATE TERMINATION NOTICE PUBLISHED
Cloverdale	Sonoma	27.50	5	12/30/65
Elk Valley	Del Norte	100 less more/	25	7/16/66
Rohnerville	Humboldt	15 less more/	11	7/16/66
El Dorado	El Dorado	80	2	7/16/66
Greenville	Plumas	275	10	12/8/66
Quartz Valley	Siskiyou	640	26	1/20/67
Chico	Butte	26	45	6/2/67
Smith River	Del Norte	163.96	44	7/29/67
Auburn	Placer	40	25	8/18/67
Mission Creek	Riverside	2,555.98	5	7/14/70
Blue Lake	Humboldt	26	5	9/22/66

Realty - Acq. & Disp. S.
306 Buena Vista Rancho

Sacramento Area Office
P. O. Box 749
Sacramento 4, California

Mr. and Mrs. Louis Oliver
Iona, California

907 1 9 1959

Dear Mr. and Mrs. Oliver:

Pursuant to the Act of August 18, 1958 (72 Stat. 619), there is enclosed a deed which conveys title from the United States of America to you, as Grantees and Distributees, the Buena Vista Rancheria, described as

Commencing at the N. E. corner of Section 19, Township 5 North, Range 10 East, N.B.E. &M., and thence running west along section line 578 feet; thence at right angles south 5280 feet; thence at right angles east 578 feet; thence at right angles north 5280 feet to place of beginning;

The requirements in disposal of the rancheria in accordance with the Act of August 18, 1958, have been complied with and the enclosed deed transfers title to this property to you in an unrestricted status (fee). It was recorded on October 8, 1959, in the Recorder's Office of Amador County, Jackson, California, and is now subject to the same taxes, state and Federal, assessed on property owned by non-Indians.

There are indications that the mineral rights to this property were not purchased by the United States of America, but there is a possibility that due to a breach of mining contract may have reverted to the land and became the property of the United States. Should this be the case, you would now own any right that the United States may have acquired. The water system installed on the property by the Government was conveyed to you and your wife by the enclosed deed.

In accordance with Section 2 (d) of the Act of August 18, 1958, your property has been appraised by the Bureau of Indian Affairs. The total appraised value as of August 27, 1959 was \$7,500.

156

You now own unrestricted title to this property and are at liberty to lease, mortgage or dispose of it as you desire. We hope, however, you will keep and use it as a home for yourself and for your family for a long time. We wish you the best of success and trust you will take the maximum benefit from your property which has been conveyed to you in accordance with the enclosed deed.

Sincerely yours,

(SGD) Leonard M. Hill
Area Director

Enclosure

Copy to: Tribal Programs, for information

GRCardipe:lgs

D E E D

This indenture made this 6th day of October 19 50, between the United States of America, Department of the Interior, acting by and through the Area Director of the Sacramento Area Office, Bureau of Indian Affairs, pursuant to the authority vested in him by the Act of August 18, 1958 (72 Stat. 619); Secretarial Order No. 2508, Amendment No. 27th (24 F. R. 272); Order 551, Amendment No. 47, of the Commissioner of Indian Affairs (24 F. R. 1429) as grantor and Louie Oliver and his wife, Annie Oliver, as joint tenants, Lone, California, the grantees:

WITNESSETH: That the said grantor, for good and sufficient consideration, the receipt of which is hereby acknowledged, and in accordance with the authority of the Act of August 18, 1958, supra, by these presents DOES GIVE AND GRANT unto the said grantees and to their heirs and assigns, all that certain lot or parcel of land situated in the County of AMADOR, State of California, and more particularly described as follows, to wit:

Commencing at the N. E. corner of Section 19,
Township 5 North, Range 10 East, M.D.B. & M., and
thence running west along section line 578 feet;
thence at right angles south 5230 feet; thence at
right angles east 578 feet; thence at right
angles north 5230 feet to place of beginning.

Title to the above described property is conveyed subject to any valid reservation or exception; existing easements for public roads and highways; public utilities, and for railroads and pipelines and any other easements or rights of way;

TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereto belonging, unto the said grantees and to their heirs, and assigns of the said grantees forever:

IN WITNESS WHEREOF, the United States of America, Department of the Interior, acting by and through the Area Director of the Sacramento Area Office of the Bureau of Indian Affairs has caused these presents to be executed by said Area Director, the day and year first above written.

BY: (Signed) Leonard M. Hill
AREA DIRECTOR, Sacramento Area Office

State of California)
) ss.
County of Sacramento)

I, Regina H. Ellston, a Notary Public in and for the State of California, do hereby certify that before me personally appeared Leonard E. Hill, known to me to be the Area Director of the Sacramento Area Office of the Bureau of Indian Affairs, Department of the Interior, and the person who subscribed the foregoing instrument, and acknowledged to me that he executed the same in behalf of the United States of America, acting in his official capacity as the Area Director of the Sacramento Area Office of the Bureau of Indian Affairs.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 6th day of October, 1959.



(Sgd.) Regina H. Ellston
Notary Public, in and for the County of Sacramento, State of California

RECORDED
From
United States of America
acting by and through the Area
Director, Sacramento Area Office
Bureau of Indian Affairs
To
Leola and Amdo Oliver
Yuba, California
County of Yuba
State of California
Instrument was filed for record this
8th day of October, 1959
at 1:01 o'clock P. M. and
duly recorded in Book No. 84,
at page 228
Registrar of Deeds

09/05/2001 11:01 9164412889

PAGE 08

Tribal Programs
103.3 Buena Vista

Sacramento Area Office
P. O. Box 749
Sacramento 4, California

Mr. Enos Oliver
Buena Vista Indian Rancheria
Yona, California

APR 24 1959

W. M. Hill
Area Director

Dear Mr. Oliver:

Inasmuch as you were consulted when Public Law 85-671 was read and discussed with Mr. and Mrs. Louie Oliver, a copy of the conditionally approved plan and a copy of the general notice are enclosed for your information.

This plan is in accordance with the wishes of Mr. and Mrs. Louie Oliver who are the proposed distributees and in compliance with the provisions of Public Law 85-671.

Sincerely yours,

(SGD) Leonard M. Hill

Area Director

Enclosures

WMBabby/ec

CERTIFICATE OF POSTING

I, Maurice H. Pazy hereby certify
(Name)

that on April 24 1959 I posted a General
(Date)

Notice of the plan for the distribution of the assets of
 the Buena Vista Rancharia pursuant to
 Section 2(b) of Public Law 65-671 together with a copy of
 such plan on the west wall of the
(Where on the Rancharia)
Home of Louis Olivier
 and on the bulletin board of the United States Post Office
 at Gene, California.
(City)

Maurice H. Pazy
(Signature)

April 24 1959
(Date)

I also delivered copies to
 Mrs & Mrs. Louis Olivier
 Mrs. Erna Olivier
 Mrs. Lucille Olivier

M.H.P.

A PLAN FOR THE DISTRIBUTION OF THE ASSETS OF THE BUENA VISTA
RANCHERIA ACCORDING TO THE PROVISIONS OF PUBLIC LAW 85-671

AUGUST 18, 1958

The Buena Vista Rancheria is located in Amador County, California, and consists of approximately 67.5 acres of good grazing land which is also suitable for homesite purposes. The outer boundaries of the rancheria have been surveyed and 1 1/2 inch iron pipe markers set at all four corners.

Mineral rights to the land, the title to which is in the name of the United States of America, were sold prior to the acquisition of the property by the United States and cannot be conveyed with the property.

The rancheria is served by a county road adequate for the needs of the residents. There is a domestic water system serving all the family dwellings which is owned by the United States. All buildings on the rancheria belong to the Louie Oliver family. Mr. Oliver is the only assignee and he and his family are the only Indians who have lived on the rancheria since 1935. Mr. Oliver's children are all adults and earn their own living.

The rancheria is not organized under the Indian Reorganization Act and does not have a constitution or charter. There are no funds belonging to the rancheria in the custody of the United States.

Public Law 85-671 has been read and discussed by Louie Oliver, his wife Annie and their adult children, and it is their desire that the Buena Vista Rancheria and all property on the rancheria now owned by the United States of America be conveyed to:

Louie Oliver and his wife, Annie Oliver

Route 1, Box 59

Ione, California

subject to any existing right-of way, easements or valid leases

and subject to the following conditions:

1. Any lien against the rancheria for construction, operation and maintenance of the water system owing to the United States shall be cancelled.
2. All existing water rights, riparian or other, that pertain to the property shall be conveyed with the property and ownership of the present domestic water system as it is presently operating shall be transferred to Louie Oliver and his wife, Annie Oliver.
3. An appraisal showing the approximate value of the rancheria at the time of conveyance shall be furnished the individuals to whom title is conveyed.

4. Louie Oliver and his wife, Annie Oliver, do not need assistance in conducting their affairs and are not interested in any of the educational provisions of Public Law 85-671.

Upon approval of this plan, or a revision thereof, by the Secretary of the Interior, as provided in Section 2(b) of Public Law 85-671, distributees shall be the final list of Indians entitled to participate in the distribution of the assets of the Buena Vista Rancheria and the rights and beneficial interest in the property of each person whose name appears on this list shall constitute personal property which may be inherited or bequeathed but shall not otherwise be subject to alienation or encumbrance before the transfer of title to such property.

General notice of the contents of this plan shall be given by posting a copy in the Post Office at Ione, Amador County, California, by posting a copy in a prominent place on the Buena Vista Rancheria, by mailing a copy to each family head participating in the plan and by mailing a copy to any person who advises the Sacramento Area Office that he feels that he may have a material interest in the plan.

After the assets of the Buena Vista Rancheria have been distributed pursuant to Public Law 85-671, and the provisions of this plan, any Indian who receives any part of such assets and the dependent

members of his immediate family shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians. All statutes of the United States which affect Indians because of their status as Indians shall not apply to them and the laws of the several states shall apply to them in the same manner as they apply to other citizens or persons within their jurisdiction. Nothing in the act, however, shall affect the status of such persons as citizens of the United States.

All provisions of Public Law 85-671 shall be applicable in the execution of this plan.

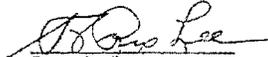
There are no dependent members of the immediate family of Louie Oliver and Annie Oliver.

This plan was prepared by the Area Director, Bureau of Indian Affairs, Sacramento Area Office pursuant to authority delegated on February 26, 1959, after consultation with the Indians named herein.

Approved, with authority retained to revise or change if appeals are received within 30 days after general notice to this plan is given.

Final Approval given by Acting Commissioner H. Rex Lee in letter dated June 22, 1959.

Referendum was held July 15, 1959, results were 2 accept, 0 reject, plan is effective as of July 15, 1959.


Commissioner

Date: _____

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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
WASHINGTON 25, D. C.

PAGE TWO

Mr. Leonard M. Hill

Area Director, Sacramento

Dear Mr. Hill:

The enclosed plan for the distribution of the assets of the Buena Vista Rancheria under the terms of Public Law 85-671 is hereby conditionally approved. Final approval to this plan or to a revision of it will be given after the 30-day period during which appeals may be filed. Will you please give general notice with a dated copy to this office. Since Lucille E. Lucero and Enos Oliver also signed the request along with the distributees named in the plan for a distribution of the assets, we think it would be well to send them a copy of the plan.

In order to establish a criterion for participation, please insert a date in the blank space in paragraph three of the plan. We have added a concluding paragraph designating who prepared the plan.

Sincerely yours,

ASUC... Commissioner

Enclosure

89/96/2801 11:13 9164412889
 List of assignees, members of their families and others who reside on
 the MIRAGE VISTA Rancheria or Reservation

ARADOC County, State of California. Date January 5, 1956

Lot or Assignee No	Name of Assignee, Members of Family and others	Relationship to Assignee	Age	Remarks
	Louis Oliver	Head	66	
	Annie Oliver	wife	58	
	Rosa Oliver	son	32	
	Eydia Oliver	daughter-in-law	24	
	John Louis Fielder	grandson	17	
	Lucille E. Lamero	daughter	24	

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Ste 1, Box 59
 Iona, California
 January 5, 1966

Mr. Leonard M. Hill, Area Director
 Sacramento Area Office
 Bureau of Indian Affairs
 P. O. Box 749
 Sacramento, California

Dear Mr. Hill:

The termination of the California Indians and the Government will soon take place.

We Indians living on the Buzza Vista Rancheria in Amador County feel we should be given a fee patent to this place, as we have built our homes, and put in all improvements ourselves.

The Mineral Rights on this place are a problem, as they belong to some one else. On one occasion a coal mine was allowed to come in and dig for coal. Your office is familiar with this case. We feel the Mineral Rights should be given us along with the place.

Sincerely yours,

Louis Oliver
Frank Oliver
Lucille E. Lucas
Emm Oliver

FEDERAL GOVERNMENT SUPERVISION

Date October 10, 1955

Reservation Buena Vista County Amador

Acreage 67.5 Date Acquired 1926 Title Held Deed to U.S.

Assigned Acreage 67.5 Unassigned Acreage None

No. of Assignees 2 No. of People on Reservation 5

Liens Against Reservation \$ None

Government Buildings on Reservations: No. - Type

Community Property on Reservation:

(a) Community Buildings - (b) Cemetery Yes

(c) Playgrounds (d) Domestic Water System No

(e) Mountain or Unassigned Lands

(f) Irrigation System No

Improvements Completed:

Roads - Improvements made since 1950	Costs \$	0
Irrigation	Costs \$	-
Domestic Water System	Costs \$	0

Work Required to Complete B.I.A. Responsibilities and Estimated Cost:

1. Roads	Est. Costs \$	0
2. Land Surveys	Est. Costs \$	1,000.00
3. Water Systems (Domestic)	Est. Costs \$	1,500.00
4. Irrigation System	Est. Costs \$	0
5. Establish Water Rights	Est. Costs \$	0
6. Other Legal Assistance	Est. Costs \$	0
7. Appraisal of Properties	Est. Costs \$	200.00
8. Programming & Planning	Est. Costs \$	200.00
9. Soil and Moisture Conservation		1,500.
Total Estimated Cost to Complete		\$4,700.00

Disposition Requested by Group:

T. B. Williamson visited the Buena Vista Reservation on October 10, 1955, and spoke with Mrs. Enos Oliver who was the only resident at home. There are four other residents who are Mr. Oliver, his father and mother, and his son who attends high school.

The purpose of the visit was to discuss the proposed terminal legislation and the disposition of the trust status of the Buena Vista Reservation. Mrs. Oliver expressed the opinion, as supported later by a letter sent to the Sacramento Area Office and signed by reservation adult residents that the fee patents should be issued to the two families who live on the Reservation.

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PAGE 13
LEW 2/9/ 1951

LOCATION: Arador County

MAILING ADDRESS: R. F. D. Ione

POPULATION AS OF 1945: 5

LAND: 70 acres

ACQUISITION: Purchase Price: \$3000
I.O. File No. 19751-26
15250-27
70 acres

OWNERSHIP: No. acres per capita - 14
Tribal Trust Patent - 70

LAND USE: Agricultural - Dry 15 acres
Grazing - 55 acres
Crops - Veg. gardens - .5
Forage crops - 19.5
Indian Operated - 70 acres

EST. TAX REVENUE WHEN

PROPERTY BECOMES TAXABLE: 70 acres @ \$10.00 - \$700
2 houses @ \$100 - 200
\$500 @ 1.00 - \$50

BUENA VISTA RANCHERIA. Hill and Brodhead visited the reservation on 4-25-51.
L.M.H. 4-25-51.

OCUPANCY: The reservation is occupied by two families, father and son. The father's name is Louis Oliver and the son's name is Enck Oliver. The old man is 63 years of age and has a wife. The son is married and has one small child. The son is also taking care of a young nephew temporarily. The Olivers also have a daughter married to a soldier and now living in Texas.

RESOURCES: The reservation is a narrow strip one mile long located south of Ione, a mile or two distant. A road runs along the west side of the place for about 1/4 mile to the houses. Across the lane from the houses is an operating coal mine. The northern 3/4 of the tract is suitable for grazing and perhaps about 1/4 is suitable for cultivation. None is now cultivated but has a good cover of grass and a few trees. The Olivers have two head of cattle, a few chickens and a few rabbits, but no other livestock. It was reported that a part of the ranch was leased for grazing. A few head of cattle were inside the reservation. There are two houses on the place. One where the son lives is a shack and the other is in poor condition but is in a somewhat better state of repair. There is also a shed which at present houses a house trailer belonging to the son.

There is a flowing spring to the south of the house located on a fairly high hill which is brush covered and rocky. The water from the spring runs through an open ditch to a small settling basin from which it is piped to an overhead tank near the houses. Hydrants are located beside the houses for domestic water supply. The supply is adequate for a garden.

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Suntz Vista Reservation
Page -2-

In the past Mr. Oliver had milk cows, raised chickens and turkeys and had hogs at various times. He has obtained loans in the past and has repaid them. Mr. Brodhead knows him well and indicates that he is competent and has a good reputation. He works at seasonal farm labor. The son is driving a tractor for a neighboring rancher.

COMMUNITY SERVICES: Community services are adequate and no problems were encountered.

INTERVIEW: Neither Mr. Oliver was at home, but we talked to the younger Mrs. Oliver. She stated that the Oliver family wanted to retain the land.

RECOMMENDATION: 1. That the land be fee patented to the Oliver family and divided as they wish (because of Mr. Brodhead's previous acquaintance there's little question of competency)
2. That no improvements be undertaken on the reservation.

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A PLAN FOR THE DISTRIBUTION OF THE ASSETS OF THE
CLOVERDALE RANCHERIA, ACCORDING TO THE PROVISIONS
OF PUBLIC LAW 85-671, ENACTED BY THE 85th CONGRESS,
AUGUST 18, 1958

The Cloverdale Rancheria is comprised of 27.50 acres, located adjacent to the town of Cloverdale in Sonoma County, California. (A legal description of the rancheria is attached.) The land varies from gently rolling to level and except for a small area east of the Northern Pacific Railroad right-of-way, all of the rancheria is used for homesites and vineyards. Each homesite has been provided with an ample water supply from a central plant and no further improvement for water is necessary. An easement is needed for a short section of the water line which crosses privately-owned land. U. S. Highway 101 adjoins the west edge of the rancheria and additional access is afforded by the use of a private road on the south side. The culvert adjacent to the cemetery is not adequate to provide a free flow of water at all times. The exterior boundaries have been surveyed and corners established. Interior surveys will be required. The cost of the development of the present water system has been placed as a lien against the rancheria. There are no funds on deposit to the credit of the rancheria, either in an Individual Indian Money Account in the Area Office or in the U. S. Treasury.

EX 3

The Indians listed herein are recognized as the only people of the rancharia who hold formal or informal assignments and are entitled to share in the distribution of the property. No minors will receive deeds in the distribution of the real estate and all adults participating are capable of handling their own affairs. All distributees are fully advised of the opportunity to participate in the vocational training program afforded by the Bureau of Indian Affairs and none has indicated any interest. The Indians of the Cloverdale Rancharia desire termination under the provisions of Public Law 85-671 and request that the Bureau of Indian Affairs undertake the following actions.

1. Provide assistance for the establishment of a legal entity, as might be necessary, to accept the conveyance of properties that are to be retained in common ownership.
2. Convey ownership of the water system, the cemetery and Lot No. 6 to the distributees as owners-in-common or to a legal entity organized to accept them.
3. Secure an easement for that portion of the water line crossing a narrow strip of privately-owned land.
4. Enlarge the culvert adjacent to the cemetery.
5. Make such surveys as are necessary to convey a merchantable and recordable title to each lot.
6. Cancel all reimbursable indebtedness owing to the United States of America on account of unpaid construction and/or operation and maintenance charges for water facilities.
7. Furnish each distributee the approximate value of each lot at the time of conveyance.

12/18/84 10:41

2004

8. Convey to individual Indians according to this plan unrestricted title to lands now belonging to the United States, subject to existing rights-of-way, easements or leases. Title will also include such mineral and water rights as are now vested in the United States.

The distributees who will receive title to particular lots and the dependant members of their immediate families are:

NAME	LOT NO.	RELATIONSHIP	BIRTHDATE	ADDRESS
George Buck	1	Distributee	5-26-1909	28640 Redwood Highway, 101 S., Cloverdale, Calif.
Virginia Buck		Wife	7-06-1909	Same
Carl Buck		Son	9-19-1944	Same
Stephanie Stanley		Granddaughter	4-10-1949	Same
Blanche Hermosillo	2	Distributee	6-27-1915	General Delivery, Cloverdale, California
Karen Hermosillo		Daughter	6-21-1953	Same
Carmelita Hermosillo		Daughter	8-30-1954	Same
Ricardo Hermosillo		Son	3-05-1958	Same
Elaine Williams		Daughter	9-04-1945	Same
John Santana	3	Distributee	4-27-1916	Box No. D, Cloverdale, California
Carmon Santana		Wife	2-28-1923	Same
Cerald Santana		Son	10-11-1944	Same
Linda Santana		Daughter	11-27-1945	Same
Antoinette Santana		Daughter	10-31-1948	Same
Patty Santana		Daughter	4-09-1957	Same
Agnes Santana	4	Distributee	1927	General Delivery, Cloverdale, California
Patrick Dellar		Grandson	3-17-1940	Same
Eugene Jack	5	Distributee	5-10-1909	Box D, Cloverdale, California
Eugene Jack		Son	2-11-1942	Same
Alvin Jack		Son	6-26-1949	Same

Upon approval of this plan or a revision thereof by the Secretary of the Interior and acceptance by a majority of the adult Indian distributees, as provided in Section 2(b) of Public Law 85-671, the distributees shall be the final list of Indians entitled to participate in the distribution of the assets of the Cloverdale Rancheria and the rights or beneficial interests in the property of each person whose name appears on this list shall constitute personal property which may be inherited or bequeathed but shall not otherwise be subject to alienation or encumbrance before the transfer of title to such property.

When the assets of the Cloverdale Rancheria have been distributed pursuant to this plan and Public Law 85-671, the persons who receive any part of such assets and the dependent members of their families shall thereafter not be entitled to any of the services performed by the United States for these persons because of their status as Indians. All statutes of the United States which affect Indians because of their status as Indians shall not apply to them and the laws of the several states shall apply to them in the same manner as they apply to other citizens or persons within their jurisdiction. Nothing in this plan, however, shall affect the status of such persons as citizens of the United States.

All provisions of Public Law 85-671 shall be applicable in the execution of this plan and general notice of the contents shall be given by posting a copy of this plan in the Post Office in Cloverdale, Sonoma County, California, by posting a copy in a prominent place on the Cloverdale Rancheria, by mailing a copy to the head of each individual family participating in this plan and by mailing a copy to any person who advises

the Sacramento Area Office that he feels that he may have a material interest in the plan.

This plan was prepared by the Area Director, Bureau of Indian Affairs, Sacramento Area Office, pursuant to the authority delegated on February 26, 1958, and after consultation with the Indians of the Cloverdale Rancheria.

Approved, with authority retained to revise or change if appeals are received within 30 days after general notice to this plan is given.

/signed/ H. Roy Lee
Acting Commissioner

Date: June 19, 1959

Final approval of Commissioner of Indian Affairs given August 13, 1959.

Accepted by Distributees in a referendum.

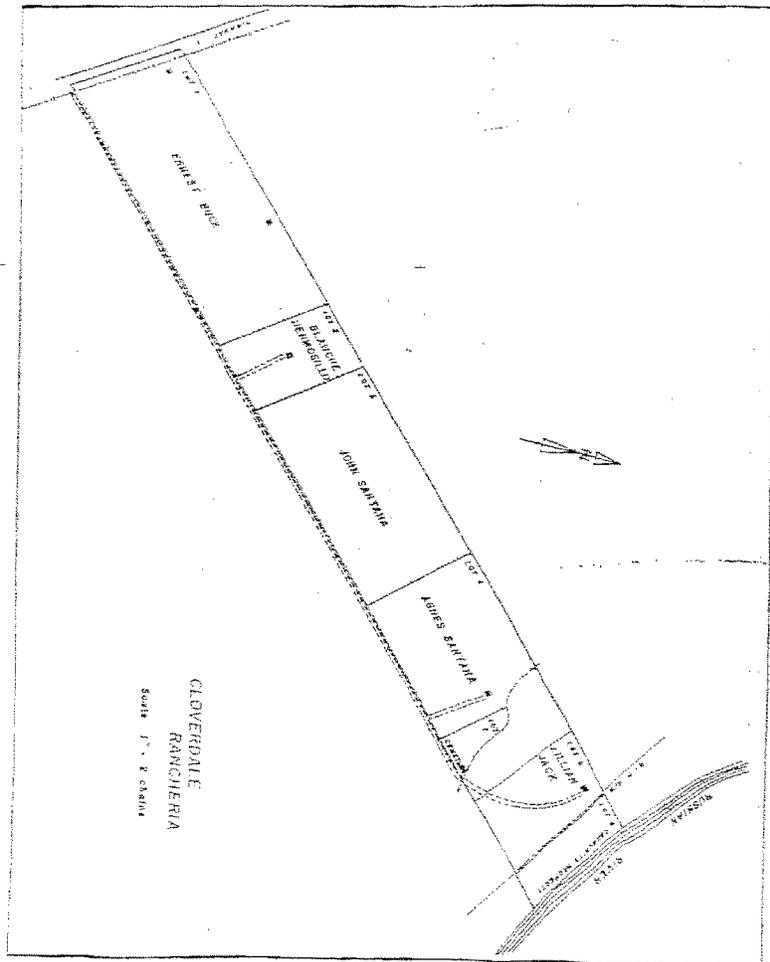
Effective date of plan is September 3, 1959.

CLOVERDALE RANGEBRIA
LEGAL DESCRIPTION

All these certain lots, pieces or parcels of land, situate, lying and being in the Township of Cloverdale, County of Sonoma, State of California, and bounded and particularly described as follows; to wit: Beginning at a point in the center of the main public road leading from Cloverdale to Healdsburg and at the northwesterly corner of the land formerly owned by Louis Bee, which is an iron pipe two (2) inches in diameter, two (2) feet long, driven below the surface of the ground, from which a fir tree five (5) feet in diameter marked "R.M.," and known as station 8 on the Musalason Grant Line bears south 47 degrees W., 39.38 chains distant; thence N. 47 deg. 40' E., along the northerly line of the land formerly owned by Louis Bee, 49.25 chains; thence north 59 deg. 15' W., 6.07-1/2 chains to the southerly line of the land of Helena M. Woolsey, thence S. 47° 25' W., along the southerly line of the land of Helena M. Woolsey, 46.66 chains to the center line of the hereinbefore mentioned public road; Thence S. 34 deg. 15' E., along the center line of said road 5.71 chains to the place of beginning, containing 27.50 acres.

Above area includes NWPRR right-of-way.

Deed dated March 11, 1921



CONSTITUTION

OF THE BUENA VISTA RANCHERIA BAND OF MEWUK INDIANS

PREAMBLE

We, the members of the Buena Vista Rancheria Band of Mewuk Indians ("Tribe") do hereby establish and adopt this Constitution to govern under our own laws and customs for the common good and well-being of the Tribe and its members, to maintain and foster our tribal culture, language and identity, to protect and conserve our land and natural resources, to promote the social, economic and general welfare of our people, to insure our political integrity, to protect the individual rights of our members, to maintain peace and order through the establishment and administration of a justice system, and to preserve, secure and exercise all of the rights and powers inherent in our sovereign status, or guaranteed to us by the laws of the United States. This document shall govern the Tribe from the date of its ratification.

This Constitution shall supersede the existing Constitution of the Tribe, and shall govern the Tribe from its effective date.

ARTICLE I

Name

The name of this Tribe shall be the Buena Vista Rancheria Band of Mewuk Indians. Throughout this Constitution, where the words "Tribal Council" are used, they refer to the Tribe's governing legislative body. The

term "Tribe" as used in the Constitution denotes the Buena Vista Rancheria Band of Mewuk Indians.

ARTICLE II

Territory and Jurisdiction

The jurisdiction of the Tribe shall extend to any and all lands, water and resources held by the Tribe, and to such other additional lands, water and resources acquired by the Tribe or by the United States for the benefit of the Tribe.

Except as expressly prohibited by federal law, the Tribe shall have jurisdiction over all persons, property, lands, water, air space, resources and all activities occurring within the boundaries of the Reservation or on other lands within the jurisdiction of the Tribe, notwithstanding the issuance of any right-of-way. Nothing in this Article shall be construed to limit the ability of the Tribe to exercise its jurisdiction based upon its inherent sovereignty.

ARTICLE III

Membership

Membership in the Tribe shall consist of the following classes of members:

Section 1. Historical Members

Historical members consist of the following individuals:

<u>NAME:</u>	<u>Dates of Births:</u>
Louis Oliver	04/30/1889
John Oliver	08/26/1888

*Revised - Corrected
Verbally
by Lucille
at
Lawrence
which
should be
closed
soon*

Eleanor Oliver	01/23/1931
Encs Oliver	09/06/1933
Marie Oliver	08/07/1935
Lucille Oliver (Lucero)	01/29/1919
Annie Howdy (Oliver)	12/18/1897
Lula Howdy (Clifford)	05/19/1891
Richard Howdy	09/10/1921
James Howdy	05/13/1911

Donald David Lucero	09/04/1915
Donna Marie Potts	10/30/1948

Date: 2/21/04

Lucille
Lucille S. Lucero
Lucille Oliver (Lucero)

ATTEST:
Date: 8/4/94

[Signature]
Witness

Date: 8/4/94

[Signature]
Witness

Lester Oliver	02/12/1914
Lovelyn Oliver	Circa 01/01/1888
Eleanor Oliver	01/28/1921
Ence Oliver	09/06/1929
Marie Oliver	08/07/1925
Lucille Oliver (Lucero)	01/29/1919
Annie Howdy (Oliver)	12/19/1897
Lulu Howdy (Clifford)	05/19/1891
Minerva Howdy	06/22/1909
Richard Howdy	09/10/1921
James Howdy	05/13/1911
Rachel Lucero	04/15/1896
Margaret Lucero	01/10/1922
Donald David Lucero	09/04/1915
Donna Marie Potts	10/20/1948

Date: 8/4/94

Lucille E. Lucero
Lucille Oliver (Lucero)

ATTEST:
Date: 8/4/94

[Signature]
Witness

Date: 8/4/94

[Signature]
Witness

Section 2. Lineal Members

Lineal members consist of all persons who are lineal descendants of any person designated in Section 1. above, and who make an application and are approved for membership under the enrollment ordinance adopted by a two-thirds (2/3) majority vote of the Tribal Council. Lineal members cannot be a member of another Indian tribe.

Section 3. Membership and Enrollment Ordinance

Enrollment of members after ratification of this Constitution shall be prepared under the purview of the enrollment ordinance. This ordinance may include, but shall not be limited to, provisions for enrollment procedures, an enrollment committee, application forms, approval and disapproval of applications, rejection notices, appeals, corrections, adoptions, disenrollment procedures and provisions for keeping the roll current.

ARTICLE IV

Governing Body

Section 1. Division of Power

The powers of the government of the Tribe shall be divided into three distinct branches: the General Council, the Tribal Council and the Tribal Judiciary. No branch, group or person charged with the exercise of powers properly belonging to one of these branches shall exercise any powers belonging to one of the other branches, except as otherwise specified in this Constitution.

Section 2. Tribal Council

a. The governing body of the Tribe shall be the Tribal Council, except for

the powers specifically retained by the General Council. The Tribal Council shall consist of five (5) tribal members eighteen (18) years of age or older each of whom has received at minimum a two (2) year Associate of Arts degree or seventy-five (75) college units from an accredited educational institution. The five (5) member Tribal Council shall be composed of four (4) officers: the Chairperson, Vice-Chairperson, Secretary and Treasurer, plus one (1) At-Large Council member. The five (5) Tribal Council members shall be elected by the General Council on an at-large basis to serve staggered terms of two (2) years, or until such time as their successors are duly elected and installed.

b. All members of the Tribal Council shall be able to vote at all Tribal Council meetings, at all tribal elections, and on all referenda, initiatives, recalls and repeals.

c. Compensation of Tribal Council members for services rendered while conducting tribal business may be established by ordinance or resolution. Unless so established, there shall be no compensation or reimbursement for costs sustained while conducting tribal business.

d. In the event that there are not enough persons eligible to fill all positions on the Tribal Council, the existing Tribal Council members shall retain present authority, rights and duties of the full Tribal Council until new Tribal Council members can be elected or appointed at a future time.

Section 3. General Council

a. The General Council shall consist of all duly enrolled members eighteen (18) years of age or older who are enrolled under the terms and

conditions of this Constitution.

b. All members of the General Council shall be able to vote at all General Council meetings, at all tribal elections, and on all referenda, initiatives, recalls and repeals.

ARTICLE V

Powers

Section 1. General Council

a. All powers of the Tribe shall be vested in the General Council.

b. The General Council shall exercise its powers of self-government through the initiative, referendum, repeal and recall powers as set forth in this Constitution.

c. The following powers shall be exclusively reserved to the General Council. No exercise of these powers by the Tribal Council or by any other agency or officer of the Tribe shall be effective unless the General Council has given its consent to such action under this Article:

1. The power to sell or dispose of tribal interests in land or other Tribal assets.
2. The power to regulate any Tribal hunting or fishing rights.
3. The power to revoke, terminate or diminish any right reserved or delegated to the Tribe by federal law.
4. The power to grant or relinquish any Tribal jurisdiction over government, political subdivision of a government agency, organization, association or person, excluding decisions under 25

U.S.C. §1911.

5. The power to waive the Tribe's immunity from suit except the waiver of sovereign immunity in the context of a specific business venture or joint government venture when the waiver relates specifically and exclusively to contract liability under the venture.
6. The power to set salaries for Tribal Council members, officers and committee members.
7. The power to assert jurisdiction over juvenile matters under 25 U.S.C. §1913.

d. All powers that are not expressly mentioned in this Constitution or which are not expressly delegated in this Constitution by the General Council to the Tribal Council or any other officer or agency of the Tribe, shall not be abridged but shall be reserved to the General Council.

Section 2. Tribal Council

a. The Tribal Council shall possess the following enumerated powers subject only to those limitations imposed by this Constitution and the laws of the United States:

1. To consult, negotiate, contract or conclude agreements with federal, state, local and tribal governments and with private persons and organizations.
2. To intervene in juvenile dependency proceedings under 25 U.S.C. §1911 on behalf of the Tribe.
3. To employ legal counsel of its choice on behalf of the Tribe or for the benefit of Tribal members and to fix the fees for such counsel in accordance

with federal law;

4. To make recommendations with regard to all appropriations or appropriation estimates for all projects which are for the benefit of the members of the tribe, as part of the tribe's government-to-government relationship with the United States of America;

5. To borrow money from public and private sources and to pledge, mortgage or assign Tribal assets;

6. To set aside and to spend Tribal funds for Tribal purposes;

7. To enact ordinances upon a two thirds (2/3) majority vote of the Tribal Council, which will impose taxes on all persons, property and business activities located or conducted within tribal jurisdiction, or on real property held in trust by the United States of America for the Tribe;

8. To enact ordinances upon a two-thirds (2/3) majority vote of the Tribal Council regulating the use and development of all Tribal lands, whether assigned or unassigned, and to manage, lease or otherwise use all unassigned Tribal lands;

9. To enact ordinances upon a two-thirds (2/3) majority vote of the Tribal Council for the chartering and regulation of corporations, cooperatives, associations, special districts, housing authorities, educational and charitable institutions, political subdivisions and other entities;

10. To enact ordinances upon a two-thirds (2/3) majority vote of the Tribal Council licensing and regulating the conduct of all business activities within Tribal jurisdiction;

11. To establish business enterprises as branches or agencies of the Tribal government and otherwise to engage in business activities and projects which promote the economic well-being of the Tribe and its members;

12. To purchase, acquire, encumber, or exchange land in any manner subject to prior approval by a two-thirds (2/3) majority vote of the Tribal Council and the limiting provisions of this Article;

13. To purchase and acquire other property in any manner, subject to prior approval by a two-thirds (2/3) majority vote of the Tribal Council;

14. To condemn for Tribal purposes real property or interest in real property within Tribal jurisdiction by a two-third's (2/3) majority vote of the Tribal Council subject to approval by a majority vote of the General Council, provided that:

a) the owners of assignments or property condemned by the Tribal Council shall be paid reasonable fair market value as compensation for the improvements made thereon by the assignee or owner;

b) an assignee of condemned Tribal lands shall be assigned alternative Tribal lands of comparable condition and value;

15. To enact ordinances upon a two-thirds (2/3) majority vote of the Tribal Council providing for the management, development, protection and regulation of the use of water, minerals and all other natural resources within Tribal jurisdiction;

16. To enact ordinances, or law and order codes, upon a two-thirds (2/3) majority vote of the Tribal Council governing the conduct of individuals, and

prescribe offenses against the Tribe relating to the maintenance of order, the protection of the health, safety and welfare of all persons within Tribal jurisdiction, and to provide for the enforcement of the ordinance or law and order code of the Tribe;

17. To enact ordinances upon a two-thirds (2/3) majority vote of the Tribal Council providing for the establishment of Tribal courts or courts of Indian offenses or dispute resolution processes, and to establish procedures and methods for the selection of judges;

18. To enact ordinances upon a two-thirds (2/3) majority vote of the Tribal Council prescribing conditions under which non-Tribal members may enter and remain on Tribal land, and to establish procedures for the exclusion or removal of non-members from any land within the Tribe's jurisdiction;

19. To assert as a defense to lawsuits against the Tribe, the sovereign immunity of the Tribe. No waiver of sovereign immunity can be made by the Tribal Council without prior approval by majority vote of the General Council provided thirty percent (30%) of eligible voters are present at the General Council meeting. However, the Tribal Council can waive sovereign immunity from suit in the context of a specific business venture or joint government venture when the waiver relates specifically and exclusively to contract liability under the venture, provided that a two-thirds (2/3) majority of the five (5) Tribal Council members votes in support of the waiver;

20. To enact ordinances upon a two-thirds (2/3) majority vote of the Tribal Council regulating the domestic relations of members of the Tribe,

including paternity and child support matters, and to provide for the guardianship of minors and incompetent persons within Tribal jurisdiction, which shall include a plan of services to ensure the peace, safety, health, education and general welfare of the members of the Tribe;

21. To enact ordinances upon a two-thirds (2/3) majority vote of the Tribal Council regulating the inheritance of all lands and all property owned by persons within Tribal jurisdiction and to provide for escheat of property to the Tribe subject to approval by a majority vote of the General Council;

22. To enact ordinances upon a two-thirds (2/3) majority vote of the Tribal Council establishing procedures for the nomination, election, removal and recall of members and officers of the Tribal Council;

23. To establish Tribal employee positions, including appointment, supervision, and compensation, and to establish policies and procedures for the employment and management of all Tribal personnel;

24. To enact ordinances for the assignment of Tribal land upon approval by a two-thirds (2/3) majority vote of the Tribal Council;

25. Until such time as the General Council establishes a dispute resolution mechanism, the dispute resolution authority of the Tribe shall be vested in the Tribal Council;

26. To delegate any powers vested in the Tribal Council to subordinate Tribal officers, Tribal employees or other appropriate persons;

27. To take all actions which are necessary and proper for the exercise of the powers enumerated in this Constitution; and

23. To establish its own rules of procedure except as otherwise provided in this Constitution.

Section 3. Reserved Powers of General Council

The Tribal Council shall have all the appropriate powers necessary to implement specific provisions of this Constitution and to effectively govern Tribal affairs. All powers vested in the Tribe, but not specifically referred to in this Constitution, shall not be abridged, but shall be reserved to the General Council.

Section 4. Limited Power of the Tribal Council to Transfer Tribal Land Held In Trust By the United States of America Out of Tribal Ownership

The Tribal Council shall not exchange or transfer out of Tribal ownership any land or interests therein that is held in trust for the Tribe by the United States, unless prior to any such exchange or transfer taking effect, the proposed exchange or transfer is first approved by a majority vote of the General Council.

ARTICLE VI

Elections

Section 1. Election Ordinance

All Tribal elections shall be conducted under an election ordinance enacted by the Tribal Council. The election ordinance shall provide for voter registration, validation of election petitions, vote counting, secret balloting, absentee voting, nomination of candidates before the election date, an impartial election board selected from outside the Tribal Council that shall be responsible for conducting all Tribal elections, a procedure for resolving election disputes

and challenges to the election process, and the seating of Tribal Council members immediately after the certification of the election results. The election ordinance shall also include provisions for the conduct of recalls, referenda, amendments, repeals and vacancy elections.

Section 2. Election Committee

An Election Committee, consisting of three (3) Tribal members eighteen (18) years of age or older appointed by the General Council shall supervise and administer all elections in accordance with the election ordinance enacted by the Tribal Council. No member of the Tribal Council or candidate for a position on the Tribal Council may sit on the Election Committee.

Section 3. Tribal Council Balloting

Members of the Tribal Council shall be chosen on an at-large basis by secret ballot, the form of which shall be established by the election ordinance enacted by the Tribal Council and administered by the Election Committee.

Section 4. Voter Eligibility

Any member of the Tribe who is at least eighteen (18) years of age on the date of the election shall be eligible to vote, provided that the Tribal member is duly registered and qualified to vote.

Section 5. Qualification of Candidates

Any Tribal member qualified to vote who has completed at minimum a two (2) year Associate of Arts degree or seventy-five (75) college units from an accredited educational institution can stand for election to the Tribal Council if he or she complies with established election procedures. Tribal Council officers

shall be elected by a full majority of the Tribal Council.

Section 6. Term of Office: Present Tribal Council Members And First Election Procedures

a. All present Tribal Council officials shall continue to hold office until the first general election date following the adoption and ratification of this Constitution. The first election of Tribal Council members and officers of the Tribe under this Constitution shall be held on the first general election date following the effective date of this Constitution. Procedures for the first election shall be consistent with the provisions of this Article and the election ordinance, which shall be enacted by the Tribal Council within six (6) months after the effective date of this Constitution.

b. At the first at-large election held under this Article, the five (5) Tribal members receiving the highest number of votes shall be elected to the Tribal Council for staggered terms. Two (2) members elected by the Tribal Council as Chairperson and Secretary shall be elected for a term of two (2) years; two (2) members elected by the Tribal Council as Vice-Chairperson and Treasurer shall be elected for a term of one (1) year; and the one (1) at-large Council member shall serve a term of one (1) year. Thereafter, all members of the Tribal Council shall serve two (2) year terms of office.

Section 7. Election of Officers

The Tribal Council shall elect four (4) officers designated as:

1. Chairperson;
2. Vice-Chairperson;
3. Secretary;

4. Treasurer;

The officers shall be elected by a full majority vote from among those individuals elected to the Tribal Council.

ARTICLE VII

Duties of Officers

Section 1. Chairperson

The Chairperson shall:

- a. Preside at all meetings of the Tribal Council and the General Council;
- b. Vote at Tribal and General Council meetings only when it is necessary to break a tie vote;
- c. Subject to the approval of the Tribal Council, establish such boards, committees, or sub-committees as the business of the Tribal Council may require and serve as a non-voting member on all such committees and boards;
- d. Subject to the approval of all contracts by the Tribal Council, serve as a contracting officer or agent for the Tribe including the authority to retain legal counsel;
- e. Subject to such regulations and procedures as may be prescribed by ordinance enacted by the Tribal Council, appoint Tribal judges and Tribal law enforcement officials as are from time to time required to assure the administration and enforcement of Tribal laws;
- f. Hold no other Tribal office or engage in private remunerative employment which may pose a conflict of interest with the Tribe's enterprises or business activities during the Chairperson's term of office;

c. Perform such other duties as the Chairperson may direct.

Section 3. Secretary

The Secretary shall:

a. Call the roll, handle all official correspondence of the Tribal Council, keep the minutes of all regular and special meetings of the Tribal and General Councils, and certify the amendments to this Constitution and the enactment of ordinances and resolutions;

b. Be present at all meetings of the Tribal and General Councils unless prevented from doing so by illness or circumstances beyond his/her control;

c. In the absence of the Chairperson and Vice-Chairperson, perform, all duties and assume the responsibilities vested in the Chairperson and vote only under the circumstances the Tribal Council Chairperson can vote;

d. Ensure that copies of all ordinances, resolutions, laws, Council minutes, amendments to such documents, and proposed amendments to such are kept on file in the tribal office and in at least one safe and secure backup location.

Section 4. Treasurer

The Treasurer shall:

a. Accept, keep and safeguard all funds under the exclusive control of the Tribe by depositing them in a bank insured by an agency of the federal government or in an individual account or Tribal trust account with the Bureau of Indian Affairs, as directed by the Tribal Council. The Treasurer shall not pay or otherwise disburse any funds in the custody of the Tribal Council, or

allow such funds to be disbursed, except under procedures for such actions that are properly authorized by the Tribal Council;

b. Keep or cause to be kept an accurate record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his/her custody to the Tribal and General Councils at regular meetings and at such other times as requested by either Council;

c. Have the books and records of the Tribe audited annually by a competent independent auditor employed by the Tribal Council;

d. Be present at all meetings of the Tribal Council and General Council unless prevented from doing so by illness or circumstances beyond his/her control;

e. Provide a surety bond in an amount satisfactory to the Tribal Council. The cost of the surety bond shall be paid by the Tribe;

f. Ensure that all checks, vouchers, and purchases drawn on Tribal funds and all vouchers are signed and approved by at least two officers or designated check-signers of the Tribe under a written procedure approved and adopted by the Tribal Council.

ARTICLE VIII

Meetings

Section 1. General Council

All meetings of the General Council shall be held under the following provisions:

a. The General Council shall hold a minimum of one meeting per year

on a regular and periodic basis.

b. The annual General Council meeting shall be held on a date to be determined by the General Council. The Tribal Council may set more frequent meetings of the General Council as necessary, provided it shall publish a schedule of all such meetings.

c. Special meetings of the General Council may be called by the Tribal Chairperson, or by any member of the General Council who submits a petition containing signatures from ten (10) General Council Members or twenty-five percent (25%) of all General Council members, whichever is greater, to the Tribal Council requesting a special meeting. The petition shall be given to the Tribal Council and the meeting shall be called within thirty (30) days of delivery of a valid petition at a Tribal Council meeting. Notice of the meeting shall be mailed, or personally delivered to every member of the General Council at least five (5) working days prior to the meeting and the notice will specify the purpose of the meeting as described in the petition. The Election Committee shall certify the validity of the signatures of the General Council.

d. No business shall be transacted in the absence of a quorum. Fifteen percent (15%) of the General Council shall constitute a quorum at all General Council meetings.

a. All meetings of the General Council shall be open to all enrolled Tribal members.

Section 2. Tribal Council

All meetings of the Tribal Council shall be held under the following

provisions:

a. The Tribal Council shall meet at least once per calendar quarter. The Tribal Council may schedule additional regular meetings as necessary, provided that it publishes the schedule before each such meeting.

b. A majority of the existing members of the Tribal Council shall constitute a quorum at all its meetings. No business shall be conducted in the absence of a quorum.

c. Special meetings of the Tribal Council may be called by the Chairperson or by any three (3) members of the Tribal Council. Notice of a special meeting shall be given to each Tribal Council Member at least forty-eight (48) hours prior to the meeting and shall specify the purpose of the meeting. Additionally, the notice and purpose shall be posted in the Tribal Office in full public view.

d. Each member of the Tribal Council shall have one vote on all matters, and all matters to be acted on at a Tribal Council meeting shall be approved by a majority vote of those present and voting, unless otherwise specified in this Constitution.

e. All meetings of the Tribal Council shall be governed by written rules and procedures established by the Tribal Council provided that such rules and procedures are consistent with this Constitution. These rules and procedures shall be called Tribal Council Bylaws.

f. All meetings of the Tribal Council shall be open to all Tribal members, except that access to meetings dealing with contract negotiations, personnel, or

issues of confidentiality are limited to the Tribal Council members and specifically interested parties to be determined by the Tribal Council.

ARTICLE IX

Enactment of Laws

Section 1. Ordinances

All final decisions on matters of general and permanent interest to members of the Tribe shall be embodied in ordinances. All ordinances shall be available for inspection by members of the General Council during normal office hours. Ordinances require a two-thirds (2/3) majority vote of the Tribal Council for enactment.

Section 2. Resolutions and Motions

All final decisions on matters of a short-term or one-time interest where a formal and official expression is needed shall be embodied in a written resolution and adopted by formal motion. Other official decisions of a temporary nature or relating to particular individuals, officials or committees shall be put in the form of motions and noted in the minutes and shall be available for inspection by members of the General Council during normal business hours.

Section 3. Record Keeping

All ordinances and resolutions shall be dated and numbered and shall include a certification showing the presence of a quorum and the number of members voting for and against the proposed enactment. All motions, seconds to motions, and votes for and against motions shall be noted in the minutes of

the meeting. Such minutes shall be reviewed, amended if necessary, and approved at the next regular Council meeting.

ARTICLE X

Tribal Council Vacancies

Section 1. Vacancy Criteria.

The Tribal Council shall declare a Tribal Council position vacant for any of the following reasons within fourteen (14) days after the vacancy occurs:

- a. When a Tribal Council member dies;
- b. When a Tribal Council member resigns;
- c. When a Tribal Council member is convicted of a crime that is classified as a felony by either state or federal law;
- d. When a Tribal Council member is removed from office; or
- e. When a Tribal Council member is recalled from office.

The Tribal Council shall fill a vacancy by appointment of a General Council member who qualifies for candidacy for the vacant position.

ARTICLE XI

Tribal Council

Removal and Recall

Section 1. Removal

Any member of the Tribal Council may be removed from office for any of the following reasons:

- a. Three (3) successive absences from regularly scheduled Tribal Council meetings;

b. Two (2) successive absences from regularly scheduled General Council meetings;

c. Conviction of a crime involving moral character, which includes dishonesty, misrepresentation, intentional acts arising to felonies or gross misdemeanors;

d. Omission of an act or failure to act or perform a duty of the office involving official misconduct; or

e. Misconduct in office involving a willful and unlawful act related to the performance of the duties of the office.

1. Any member of the Tribe can request removal of any Tribal Council member by submitting a written statement of charges to the Chairperson of the Tribal Council, or in the case of a request for removal of the Chairperson, to the Vice-Chairperson of the Tribal Council. The written statement must be received by the challenged Tribal Council member no later than ten (10) days before the next regular Tribal Council meeting at which he/she is to appear.

2. At the next regular Tribal Council meeting held at least ten (10) days after the submission of such written statement, the charging party shall present his/her allegations and proof against the accused member of the Tribal Council, and the accused member shall be given an opportunity to reply to all charges by presenting his/her allegations and proof to the Tribal Council.

3. After hearing all the charges and proof presented by both sides, the Tribal Council shall take a vote on whether the challenged member shall be

removed from office. The challenged Tribal Council member shall not vote nor serve in his/her capacity as a Tribal Council member in the removal proceedings. If a two-thirds (2/3) majority of the Tribal Council members who are eligible to vote, vote to remove the challenged Tribal Council member, his/her seat shall be declared vacant.

Section 3. Recall

Every person elected to the Tribal Council shall be subject to recall from such office by the General Council as follows:

a. Any member of the Tribe may circulate a petition among the eligible voters of the Tribe requesting a special recall election, which shall contain the name of the Tribal Council member whose recall is sought and shall state the claims against the member in one hundred (100) words or less. If at least one-third (1/3) of the eligible voters sign the petition, it shall be presented to the Tribal Council Chairperson, or if claims are made against the Tribal Council Chairperson, to the Vice-Chairperson of the Tribal Council.

b. The Tribal Council Chairperson, or if claims are made against the Tribal Chairperson, the Tribal Council Vice-Chairperson, shall then request the Election Committee to certify the validity of such signatures of eligible voters maintained by the Tribe. If the required number of valid signatures appears on the recall petition, the Tribal Council, shall establish a date for a recall election, within thirty (30) days from receipt of the petition, by notifying General Council members of the election.

c. At least 21 days before the recall election is held, election notices

must be sent by first class mail to all eligible voters. Notices must be sent to the last known address of each eligible voter according to the most recent voter registration list available and shall include a reprint or photocopy of the claims against the Tribal Council member challenged in the recall petition.

d. Within thirty (30) days after the recall election date has been established, a General Council meeting shall be held. The party seeking the recall shall present his or her allegations and proof against the member of the Tribal Council whose recall is sought, and that Tribal Council member shall be given an opportunity to reply to all charges by presenting his/her allegations and proof to the General Council at that time.

e. The ballot used for a recall election shall contain the question: "Shall [name of member] be recalled from their office on behalf of the Tribe?". The ballot shall contain a space opposite such question in which the words "Yes-No" shall be printed so that the voter may indicate with a mark whether he/she wishes to vote for or against the recall of the member so named. In the case of a recall of two (2) or more Tribal Council members, there shall be a separate ballot for each member.

f. If a majority of the General Council members voting in a recall election vote to recall the Tribal Council member, and if at least one third (1/3) of the General Council vote in the recall election, the General Council shall immediately declare the challenged Tribal Council member recalled from office and his/her seat shall be declared vacant.

g. Persons removed or recalled from Tribal Council positions shall be

permanently barred from standing for Tribal Council elections.

ARTICLE XII

Referendum and Repeal

Section 1. Procedure

Upon receipt by the Secretary of the Tribal Council of a petition signed by three (3) Tribal Council members or at least one-third (1/3) of the General Council members demanding a referendum or a repeal of any proposed or enacted Tribal ordinance, law, or any action undertaken by the Tribal Council, the action(s) of the Tribal Council shall be either modified, repealed or sustained by the General Council in a general or special election to be held within twenty (20) days after receipt of the petition by the Tribal Council Secretary.

The election shall be called by the Tribal Council Chairperson and the vote of a majority of the members of the General Council voting in such referendum or repeal shall be conclusive and binding on the Tribal Council provided that at least one third (1/3) of the members of the General Council are present and cast their ballots. No absentee voting shall be allowed.

Section 2. Limitation on Referendum and Repeal

No referendum or repeal conducted under this Article shall serve to abrogate, modify or amend any properly executed contract or agreement approved by the Tribal Council and entered into with third parties.

ARTICLE XV

Amendments By Election

Section 1. Procedure

This Constitution may be amended by a majority vote of the eligible voters of the Tribe in a special election, provided that at least fifty-one percent (51%) of those entitled to vote shall vote in such election. The Secretary of the Tribe shall direct the Election Committee to conduct an election on a proposed amendment to this Constitution upon receipt of a petition signed by at least one-third (1/3) of the eligible voters of the Tribe or upon receipt of a resolution of the Tribal Council requesting an amendment adopted by at least seventy-five percent (75%) of the quorum present at a duly scheduled Tribal Council meeting. No elections to amend this Constitution may be called except as provided in this Article.

Section 2. Effective Date

Amendments shall become effective when they have been adopted by a majority of the eligible voters of the Tribe consistent with this Article, and after the Tribal Election Committee certifies the results of the election.

ARTICLE XVI

Severability

If any provision of this Constitution is declared invalid by a court of competent jurisdiction, the invalid provision shall be severed and the remaining provisions shall continue in full force and effect.

Certification

I hereby certify that this Constitution was ratified on August 4, 1994
consistent with the terms of Article XIV of this Constitution and that thirty-
five percent (35%) of the eligible voters entitled to vote actually in the election
adopting this Constitution, and that of those so qualified 100 % voted in
favor of its ratification.

Dated: 8/4/94

Tribal Distributee

Lucille E. Lucero 8/4/94

ctipubvsta\cmart2.suf
(Revised 8-1-94)

1 DAVID J. RAPFORD
2 CALIFORNIA INDIAN LEGAL SERVICES
3 P.O. Box 488
4 200 W. Henry Street
5 Ukiah, California 95402
6 Telephone: (707) 462-3825

7 Attorneys for Plaintiffs

FILED

AUG 4 1987

WILLIAM L. WHITTAKER
Clerk, U.S. District Court
Northern District of California
SAN JOSE

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

219
CB

10	TILLIE HARDWICK, et al.,	)	NO. C-79-1710 SW
11	Plaintiffs,)	
12	vs.	)	STIPULATION TO ORDER
13	UNITED STATES OF AMERICA, et al.,	)	PRESCRIBING NOTICE OF
14	Defendants.	)	PROPOSED CLASS ACTION
15		)	SETTLEMENT AND HEARING
		)	ON APPROVAL OF SETTLEMENT
		)	AND ORDER
		)	(AMADOR COUNTY)

16 Through their respective attorneys of record, plaintiffs and
17 defendant County of Amador hereby stipulate as follows:

18 1. On April 21, 1987, plaintiffs and defendants Amador
19 County, the Tax Collector for Amador County, the Assessor for
20 Amador County, and the Board of Supervisors of Amador County, en-
21 tered a Stipulation for Entry of Judgment which would certify a
22 subclass consisting of class members from the Buena Vista Ranch-
23 eria in Amador County.

24 2. Under Federal Rule of Civil Procedure 23(e), before this
25 action can be compromised as proposed in the above-referenced
26 Stipulation for Entry of Judgment notice of the proposed settle-
27 ment must be given to all members of the subclass in such manner
28 as the Court directs and the Court must determine after hearing

1 whether the proposed settlement shall be approved as fair, just
2 and equitable to the class.

3 3. Plaintiffs shall give notice to the subclass entirely at
4 their expense as provided in this paragraph. A copy of the
5 notice that plaintiffs shall give is attached hereto as Exhibit A
6 and is incorporated herein by reference as though set forth in
7 full. Within fifteen (15) days after the Court issues its Order
8 approving this Stipulation the plaintiffs shall:

9 (1) Mail a copy of Exhibit A to each subclass member
10 listed in the attached Exhibit B, postage pre-paid, using
11 California Indian Legal Services, Attention: David Rapport, P.O.
12 Box 488, Ukiah, California 95482 as the return address; and

13 (2) Publish Exhibit A as a legal notice once in the
14 Amador Dispatch, P.O. Box 907, Jackson, California 95642.

15 4. Fifteen days following mailing and publication of the
16 notice required by paragraph 3 plaintiffs shall file a return
17 showing what they have done to comply with paragraph 3.

18 5. On or about forty-five days following mailing and publi-
19 cation of the notice required by paragraph 3 plaintiffs shall
20 prepare a report of those persons who have elected to be excluded
21 from the class, those whose notices were returned as undelivered,
22 those who object to the settlement, summarizing the substance of
23 the objections, and those who have requested a hearing on the
24 settlement. If one or more timely hearing requests have been
25 received, plaintiffs shall obtain a hearing date from the Court
26 and send 15 days advance written notice of the time, date and
27 location of the hearing to the persons and in the manner as
28 specified in paragraph 3. Prior to the hearing plaintiffs shall

1 file with the Court a copy of the notice together with a proof
2 of service. If no timely hearing requests are received, plain-
3 tiffs shall submit a proposed judgment for the Court's approv-
4 al.

5 Dated: 7/24/87

CALIFORNIA INDIAN LEGAL SERVICES

6
7 By: David J. Rappone
8 DAVID J. RAPPORE
Attorneys for Plaintiffs

9 Dated: July 21, 1987

JOHN F. HAHN, Amador County Counsel

10
11 By: Patrick M. Keene
12 PATRICK M. KEENE
13 Deputy County Counsel
Attorneys for Defendant
COUNTY OF AMADOR

14 O R D E R

15 Having read the foregoing stipulation and good cause ap-
16 pearing therefor,

17 IT IS SO ORDERED.

18 Dated: AUG 4 1987

19 Deanna Williams
20 JUDGE OF THE DISTRICT COURT

EXHIBIT A

NOTICE OF RIGHT TO HEARING ON APPROVAL
OF PROPOSED CLASS ACTION SETTLEMENT

Hardwick v. United States, C-79-1710 SW, is a class action lawsuit brought in the United States District Court for the Northern District of California to set aside the termination of thirty-four (34) California Indian Rancherias under the California Rancheria Act. On December 22, 1983, the Court approved a settlement of the claims against the federal government and entered a judgment against the federal government.

On April 21, 1987, plaintiffs and the defendant Amador County entered a written agreement to compromise and settle the remaining claims asserted against Amador County on behalf of class members from the BUENA VISTA RANCHERIA.

YOU ARE A MEMBER OF THE CLASS REPRESENTED IN THIS LAWSUIT, AND YOUR LEGAL RIGHTS WILL BE AFFECTED BY THIS SETTLEMENT, IF YOU ARE AN INDIAN PERSON FROM THE BUENA VISTA RANCHERIA AND YOU:

1. Received a property interest in your Rancheria when deeds to rancheria property were distributed under the Rancheria Act; OR
2. Have acquired title to any such Rancheria property by inheritance, gift purchase or other means after deeds to Rancheria property were distributed under the Rancheria Act.

THE GENERAL TERMS OF THE SETTLEMENT ARE AS FOLLOWS:

1. The original rancheria boundaries will be restored as "Indian Country" to clarify the respective jurisdictions of the

tribal, county, state and federal governments.

2. Liens to secure unpaid county property taxes will be cancelled.

3. Property taxes for the 1979 and any subsequent tax year on rancheria property owned by class members and which class members have paid to Amador County will be refunded to class members who return their property to federal trust status no later than December 31, 1988.

4. Property located on the rancherias that is owned by class members will not be taxable or subject to assessment.

5. All county maintained roads crossing the Buena Vista Rancheria shall continue to be owned and maintained by Amador County.

NOTICE OF RIGHT TO HEARING

PLEASE TAKE NOTICE that you can request a hearing on approval of this settlement at which the Court will review the matter to decide whether to approve the settlement and to enter judgment against Amador County as agreed.

Any class member may request a hearing before the Honorable Spencer Williams, Judge of the Federal District Court and may appear personally or through legal counsel at the hearing to oppose or otherwise question the settlement. Requests for a hearing must be addressed to the attention of David Rapport, CILS, P.O. Box 488, Ukiah, California 95482 and be post marked by no later than _____ [30 days after notice is mailed and

published]. If a hearing is requested, notice of the time and place of the hearing will be given by newspaper and/or first class mail at least fifteen (15) days prior to the hearing date. If no hearing is requested, the Court will approve the settlement without conducting a hearing in open court.

YOUR RIGHTS

To protect your legal rights you may do any of the following:

1. You may give notice that you wish to be excluded from the settlement by sending a letter containing (1) your name and address, (2) a statement that you wish to be excluded from the settlement, and (3) a reference on the outside of the envelope to Hardwick v. U.S., C-79-1710 SW, to the Attention of David Rapport, California Indian Legal Services (CILS) Post Office Box 488, Ukiah, CA 95482. The letter must be received by CILS no later than midnight, _____ [30 days after notice is mailed and published]. If you give notice under this paragraph, you will not receive the benefits provided by the settlement.

2. Any class member may submit written objections to the settlement. Objections must be addressed to the Attention of David Rapport, CILS, Post Office Box 488, Ukiah, CA 95482 and contain on the outside of the envelope a reference to Hardwick v. U.S., C-79-1710 SW. Objections must be received by CILS no later than midnight, _____ [30 days after notice is mailed and published].

3. You may seek to intervene in the action. Motions to intervene must be filed in accordance and otherwise comply with the Federal Rules of Civil Procedure and applicable Local Rules of the Federal District Court for the Northern District of California.

4. You may request a hearing as described previously.

5. If you have questions about the settlement, you may consult your own attorney or call or write plaintiffs' attorneys as follows:

David J. Rapport
California Indian Legal Services
P.O. Box 488
200 W. Henry Street
Ukiah, CA 95482
7070-462-3825

DO NOT CALL OR WRITE THE COURT WITH QUESTIONS.

CLASS MEMBERS WHO DO NOTHING IN RESPONSE TO THIS NOTICE will be bound by the judgment and will receive the tax refunds and other benefits provided by the judgment.

BUENA VISTA FARMERIA

<u>Distributee</u>	<u>Date of Birth</u>	<u>Last Known Address</u>
1. Louie Oliver	04-30-89	Deceased
2. Amie Oliver	12-16-97	Deceased 7-11-72

<u>Present Indian Landowner</u>	<u>Date of Birth</u>	<u>Last Known Address</u>
3. Eros Oliver	09-08-23	Route 1, Box 237A, Ione, CA 95640
4. Lucille Lucero	01-29-19	Route 1, Box 231, Ione, CA 95640

COMMUNICATION REFERENCE

INSTRUCTIONS: Prepare original only as a confirmation, referral or temporary record of a telephone or verbal conversation. Print or write legibly.

TO	1. Files	2.
	3.	4.

ACTION Your Information Your Comment Return

FROM Silas G. Ortleby, Tribal Enrollment Specialist DATE 5/2/86

SUBJECT 04/24/86 Picayune Meeting

FILE DESCRIPTION AND REFERENCE, IF ANY

063-Picayune
NAME AND TITLE OF PERSON CALLING CALLED VISITING VISITED
Recognized members of the Picayune Rancheria

OFFICE

SUMMARY OF CONVERSATION

Informed the members that a preliminary membership list should be developed to include distributees, dependent members and direct descendants at this point in order to determine who is eligible to participate until a governing document is finalized.

Silas G. Ortleby



UNITED STATES
DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS
Central California Agency
1200 Tribute Road
Post Office Box 15740
Sacramento, California 95832-0740

MAY 11 1984

To Plaintiffs and Class Members:

By letter of May 2, 1984, a copy of the Order and Stipulation for Entry of Judgment was provided to you by the Sacramento Area Director in the matter of Billie Hardwick, et. al. v. United States, Civil No. C-79-1910-5W. In addition to the reinstatement of Indian status to those plaintiffs or class members who were named in the 17 rancherias' distribution plans as Distributees, the plan also states: "within two years of date of this notice, any plaintiff or class member owning lands (or interests therein) at any of the 17 rancherias 'unterminated' may elect to convey his/her interest(s) to the United States to be held in trust".

If you own land, or interest(s) therein, and desire to make a request for trust restoration, please complete and return the enclosed notification to this office in the pre-addressed envelope provided for your convenience.

For any lands being restored to trust for individuals, the property will have a status similar to that of an allotment with restrictions against alienation or encumbrance. This means that any transaction such as lease, mortgage, sale, grant of right of way, or any other transaction that would subject the land to a contract must receive the review and approval of the Secretary of the Interior, or his authorized representative, to be valid. In instances where rancheria lands are held in community ownership (cemeteries, community water system lands, etc.) the members may elect to have the lands placed in trust for the tribal band, group or community of the rancheria.

Because it is anticipated that there will be varied circumstances which would make a standard instrument of conveyance inappropriate, a standard deed form may not suffice, and requests for restoration will be handled on an individual basis. The following procedures for restoration to trust will be followed to the extent possible:

1. Request for trust restoration should be in writing and directed to the Superintendent of the Central California Agency, Bureau of Indian Affairs, P.O. Box 15740, Sacramento, CA 95832-0740. (See form attached)
2. The person or persons should provide legal description of the property which person desires to have placed in trust. Example: tax assessor's parcel number, rancheria parcel number, or a photocopy of a deed.

EXHIBIT 1

3. Once a request is received by BIA, an additional check of BIA land records will be made and a preliminary title report will be ordered by and at the expense of the BIA. The purpose of the preliminary title report is:

- (a) to assure that the requester does in fact own the subject property;
- (b) assures that a correct description of the land and any rights of way of record are included on the deed, and
- (c) reflects any recorded liens or encumbrances.

Note: When possible, liens or encumbrances shall be eliminated prior to acceptance of title by the U.S. In accordance with Paragraph 9 of the Stipulation which states that the U.S. shall not be held responsible for payment of taxes, it will be the responsibility of the landowner(s) to bring current all taxes due, including redemption if the property has been tax delinquent to the State of California, and the landowner(s) shall be responsible for all taxes due up to the date a grant deed to the U.S. in trust is recorded of county record.

The U.S. may accept title to real property which is subject to a monetary lien/encumbrance, if it is determined that the landowner has maintained the loan (debt of trust) in good standing. All such requests will be evaluated on an individual basis. In instances wherein the Secretary of the Interior accepts title subject to any monetary lien or encumbrance, the lender will be advised that foreclosure proceedings may be carried out in accordance with the terms of the agreement or in accordance with California law in the event the Indian owner(s) should default in payment under the terms of the agreement.

4. When a title report is received, a deed will be drawn by the BIA or title company and forwarded to the proposed grantor(s) for his/her signature(s). All grantors must sign the deed in the presence of a Notary Public. (California Notaries may charge a fee of \$5.00 for each signature.)

5. When a deed has been executed by the grantor(s) and returned to BIA, a statement of acceptance by the U.S. will be added to and made part of the deed.

6. The deed will be recorded in the records of the appropriate county and, thereafter, in the official records of the BIA.

7. In some instances, a title insurance policy may be requested by and at the expense of BIA.

8. Notification will be mailed to the grantor that subject property is in a trust status.

9. All original deeds become the property of the U.S. and will be forwarded to and maintained by this agency.

Anyone desiring further information may write to the Superintendent at the address at the top of this notice or may call Central California Agency, Policy Officer, Mr. Terry E. Beckwith at (916) 484-2607.

Any other inquiries or questions regarding other BIA services should be submitted in writing to Mr. Ronald M. Jaeger, Superintendent of the Central California Agency.

The Bureau of Indian Affairs, Central California Agency is presently scheduling on-site visitations to all the rancheria sites for preliminary discussions and dissemination of information, as well as, the gathering of information from you. A meeting notice will be forthcoming in the near future.

The Central California Agency staff and myself are looking forward to meeting and working with you in the immediate future. Hopefully, your desires and wishes will be accomplished in accordance with the court order.

Sincerely,


Superintendent

Enclosure



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
Sacramento Area Office
2800 Cottage Way
Sacramento, California 95825

MAY 2 1984

Dear Plaintiffs and Class Members:

Pursuant to the Order issued on December 22, 1983, in Thilla Hardwick, et al. v. United States, et al., Civil No. C-79-1910-SW, United States District Court for the Northern District of California, you are hereby notified that all plaintiffs and class members from the below listed 17 rancherias are now deemed entitled to any of the benefits or services provided or performed by the United States for Indians because of their status as Indians, if you are otherwise qualified under applicable laws and regulations.

- Big Valley Rancheria, Laka County
- Blue Lake Rancheria, Humboldt County
- Buena Vista Rancheria, Amador County
- Chicken Ranch Rancheria, Colusa County
- Cloverdale Rancheria, Sonoma County
- Elk Valley Rancheria, Del Norte County
- Greenville Rancheria, Plumas County
- Mooretown Rancheria, Butte County
- North Fork Rancheria, Madera County
- Picayune Rancheria, Madera County
- Pineville Rancheria, Mendocino County
- Potter Valley Rancheria, Mendocino County
- Quartz Valley Rancheria, Siskiyou County
- Redding Rancheria, Shasta County
- Redwood Valley Rancheria, Mendocino County
- Rohnerville Rancheria, Humboldt County
- Smith River Rancheria, Del Norte County

5/14/84

ROUTING FOR INIT

Exec.	_____
Asst. Dir.	_____
Exec. Adm.	_____
For. Aff.	_____
Health	_____
Ident.	_____
Recs. Mgmt.	_____
Spec. Inv.	_____
Training	_____
Public Aff.	_____
Off. of Cong. & Public Affairs	_____
Telephone Rm.	_____
Director's Sec'y	_____
Miss Gandy	_____

1 into 1 Action

In addition to reinstatement of "Indian" status to those individuals previously named on the Distribution Plans prepared under the California Rancheria Act for the above-named 17 rancherias, the Indian tribes, bands, communities or groups from the above 17 rancherias are declared as Indian entities with the same status as they possessed prior to distribution of the assets of the 17 rancherias and are deemed entitled to any of the benefits or services performed by the United States for Indian tribes, bands, communities, or groups because of their status as such.

09/05/2001 11:45 9164412089

PAGE 20
C-4

California Indian Agency
 Box 310 Sacramento 2, California
 October 19, 1948

Mr. Louis Oliver,
 Ione, California

Dear Mr. Oliver:

I am in receipt of a letter from Mr. Henry Miller of Ione, California, who is extremely anxious to have the Buena Vista rancharia allotted and perhaps deeded to you, as this has been your home for many years, and you and your family are the only Indians living on the rancharia.

As explained to you when you were in the office of the agency on October 7, 1948, it is not possible at this time to either make allotments or deed such lands to any individuals. This may be done only after suitable legislation has been passed by Congress.

Our records show that title to the land in question passed from the United States to private ownership in the 1860's. From that date until May 3, 1927, the Indian inhabitants lived on the land only by permission of the white owners. In 1925, the Indians were requested to vacate the land. Directly after that an agreement was entered into whereby the United States again procured title to the land for homeless Indians.

While our records show that at one time other Indians lived on the property, you and your family have been the only residents for a number of years. In 1942 you were loaned a sum of \$750.00 by the United States of America, as evidenced by loan agreement no. 29, contract I-64-Ind-2574. This loan was based upon the assumption that the land had been assigned to you, as you were the sole occupant. However a search of our records fail to disclose any information concerning such an assignment.

You may consider this letter as an assignment to the land in section 19, T. 5 N., R. 10 E., N.D.M. known as the Buena Vista rancharia, containing 70 acres more or less, to be used as your home and for agriculture purposes. Mineral rights are not included as they were not procured when the land was purchased by the United States in 1927.

It is understood that this assignment may be revoked at any time you move, or if the land is not beneficially used by you or your family.

09/06/2001 11:40 9189412005

PAGE 20

C64

California Indian Agency
 Box 310 Sacramento 2, California
 October 19, 1948

Mr. Louis Oliver,
 Loma, California

Dear Mr. Oliver:

I am in receipt of a letter from Mr. Henry Miller of Loma, California, who is extremely anxious to have the Buena Vista rancharia allotted and perhaps deeded to you, as this has been your home for many years, and you and your family are the only Indians living on the rancharia.

As explained to you when you were in the office of the agency on October 7, 1948, it is not possible at this time to either make allotments or deed such lands to any individuals. This may be done only after suitable legislation has been passed by Congress.

Our records show that title to the land in question passed from the United States to private ownership in the 1860's. From that date until May 5, 1927, the Indian inhabitants lived on the land only by permission of the white owners. In 1926, the Indians were requested to vacate the land. Directly after that an agreement was entered into whereby the United States again procured title to the land for homeless Indians.

While our records show that at one time other Indians lived on the property, you and your family have been the only residents for a number of years. In 1942 you were loaned a sum of \$750.00 by the United States of America, as evidenced by loan agreement no. 25, contract I-34-Ind-2774. This loan was based upon the assumption that the land had been assigned to you, as you were the sole occupant. However a search of our records fail to disclose any information concerning such an assignment.

You may consider this letter as an assignment to the land in section 19, T. 5 N., R. 10 E., N.D.M. known as the Buena Vista rancharia, containing 70 acres more or less, to be used as your home and for agriculture purposes. Mineral rights are not included as they were not procured when the land was purchased by the United States in 1927.

It is understood that this assignment may be revoked at any time you move, or if the land is not beneficially used by you or your family.

Sacramento Indian Agency
Sacramento, California

July 19, 1935

Mrs. Esther B. Keeler
Ione, California

Dear Mrs. Keeler:

This will acknowledge receipt of your letter regarding Mr. Oliver refusing to give you permission to reside on the Donna Vista Rancheria. Kindly be advised the matter has been taken up with Mr. Oliver, and when a reply is received from him, you will be further advised.

Very truly yours,

C. E. Lipps
Superintendent

EE:GG

107. 2 1/2 Acres

Sacramento Indian Agency
Sacramento, California

July 19, 1935

Mr. Louis Oliver
Buena Vista Rancheria
Ione, California

Dear Mr. Oliver:

We are in receipt of a letter from a Mrs. Kesler, in which she says she made inquiry of you relative to moving on the Buena Vista Rancheria, that you advised her that the place was purchased only for your family, that it was your own property, and that you did not want anyone except your family.

Kindly be advised that this property was purchased several years ago by former Superintendent Dorrington for the Indian Service, and the title rests in the U. S. Indian Service. The land was purchased for homeless Indians, and the Indian Service has the right to settle any homeless family on the tract. However, it is not our desire to have families settle on the same tract, who could not be neighborly, and if you have any objections to Mrs. Kesler, you are requested to advise me what the objection may be.

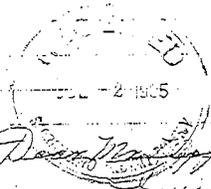
Very truly yours,

O. E. Lipps
Superintendent

EHR:GG

09/06/2001 11:57 9164412889

PAGE 10



June 24th
July 1, 1935.

Dear Mr. [unclear]

I will write to you again today and tell you I was over to Eva's sister Pantheria, and Mr. Oliver, ^{has} refused to sign, and I am asking what can be done about it. He also said the place was only for his family, he said it is his own property, and he said he doesn't want anybody out that place except his own family. He didn't believe the letter and from you he said he won't believe it until he see you with his own eyes.

Yell, my husband is an Cherokee Indian

I would like for you to come out and explain the matter with him because I can't make him understand. And please let me know when you can come out and if you don't come out please answer.

I will be awaiting your reply,

09/06/2001 11:57 9134412089

PAGE 10

SACRAMENTO INDIAN AGENCY
Sacramento, Calif.
June 26, 1935.

Mrs. Esther Kessler
Yuba, California

Dear Mrs. Kessler:

This will acknowledge the receipt of your letter of June 22 with reference to establishing yourself on the Buena Vista Rancharia.

If your husband is Indian also, and the other adult bona fide residents of the Buena Vista Rancharia are willing that you should establish yourself and build a home thereon, we would have no objection to your doing so.

If you still desire to move on the Buena Vista Rancharia, it is suggested you have the adult residents there sign the enclosed form and return same to this office. We will then send you formal authorization to move on the rancharia.

Your friend,

C. H. Lipps,
Superintendent.

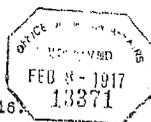
r
Encl

REPRODUCED AT THE NATIONAL ARCHIVES.

5-1100

(Ione-Indians) (Amador Co., Calif.)
DEPARTMENT OF THE INTERIORCopies of
letters from UNITED STATES INDIAN SERVICE
Ione Indians;

(COPIES)

"Ione City;
December 28, 1916.Mr. J.J. Terrell,
Dear Sir.

I am writing you a few lines to ask you if our land was purchased at Ione. We are all getting anxious to know the real circumstances:

We heard once that we got the land and that we had to go ahead and measure it off. This was told to a few of the people and lots of us wasn't sure whether it could be so or not because we only heard a part of it and it seemed as though it wasn't explained as it should have been.

There have been a number of the people ask me to write you and find out the real facts. Especially those which doesn't understand English or writing. So being that we are entitled to some of the land providing we are to have it.

We thought it would be a good policy to write and find out for ourselves:

Well as I have spoke of all that is necessary I must close my letter hoping to receive an early reply from you I remain as your truly,

Mr. Albert Clifford,
Box 25. Ione City, Amador Co.
California."

"Indians Johnny Oliver, Ione Calif.
1/31/17.

Mr. John J. Terrell,
Dear Sir:

this
AMI writing you letter for a information for we have home here at Buna Vista raised here and worked out all out life and we see that we can not make money by working out, make good living its all. for we want to know if we could bare money from government to ranche with, to rent place here at Jackson Valley for government wants to help out Indians here at Ione.

So we want help from government this way.

I hope you write me a letter rightaway for I want to know ho to write to, to get this money from governmant

ho do I have to ask if you are write me letter right away then I will tell you how much I want we want it for five year if he want intrest to be pay on we will pay it an we can give report ever month if you want us to, we to ranche and do right we know how to do it but know money to do with.

Very respectfully

Indian

Johnny Oliver Louie Oliver

R.F.D.1 (Box 59) Amador Co. California.

76

SIXTIETH CONGRESS. Sess. I. Ch. 158. 1908.

reservations in Arizona and New Mexico, three hundred thousand dollars: *Provided*, That the unexpended balance for the fiscal year nineteen hundred and eight is hereby appropriated and made available for nineteen hundred and nine.

Pinas Agency, support, etc., of Indians. For support and civilization of the Indians of Pinas Agency, Arizona, forty thousand dollars, to be expended for their benefit in such manner as the Secretary of the Interior, in his discretion, may deem best.

FOET MOJAVE SCHOOL.

Fort Mojave school. For support and education of two hundred Indian pupils at the Indian school at Fort Mojave, Arizona, and for pay of superintendent of said school, thirty-five thousand dollars;
For general repairs and improvements, three thousand dollars;
For repair of water system, three thousand dollars;
For purchase of steam boiler, two thousand dollars;
In all, forty-three thousand dollars.

PHOENIX SCHOOL.

Phoenix school. For support and education of seven hundred Indian pupils at the Indian school at Phoenix, Arizona, and for pay of superintendent, one hundred and nineteen thousand four hundred dollars;
For improvement of power and heating plant, to be immediately available, nine thousand dollars;
For general repairs and improvements, eight thousand dollars;
In all, one hundred and thirty-six thousand four hundred dollars.

TRUXTON CANYON SCHOOL.

Truxton Canyon school. For support and education of one hundred pupils at the Indian school at Truxton Canyon, Arizona, and for pay of superintendent, eighteen thousand two hundred dollars;
General repairs and improvements, one thousand dollars;
In all, nineteen thousand two hundred dollars.

Incidentals. For general incidental expenses of the Indian Service in Arizona, including traveling expenses of agents, one thousand five hundred dollars.

CALIFORNIA.

Mission Indians. Support, etc. For support and civilization of the Mission Indians in California, including pay of employees, fifteen thousand dollars, part of which may be used for making improvements on lands in the use and occupation of Indians in southern California.

Northern Indians. Support, etc. For support and civilization of the northern Indians, California, twenty thousand dollars, part of which may be used for making improvements on lands in the use and occupation of Indians in northern California.

Purchase of tillable land for certain Indians. That the Secretary of the Interior be, and he is hereby, authorized to expend not to exceed fifty thousand dollars to purchase for the use of the Indians in California now residing on reservations which do not contain land suitable for cultivation and for Indians who are not now upon reservations in said State suitable tracts or parcels of land, water, and water rights in said State of California, and have constructed the necessary ditches, flumes, and reservoirs for the purpose of irrigating said lands and the irrigation of any lands now occupied by Indians in said State, and to construct suitable buildings upon said lands and to fence the tracts so purchased, and to deems, survey, and mark the boundaries of such Indian reservations in the State of California as

SIXTIETH CONGRESS. Sess. I. Ch. 163. 1908.

77

the Secretary of the Interior may deem proper. And there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of fifty thousand dollars, or so much thereof as may be necessary, for the purpose of carrying out the provisions of this Act: *Provided*, That this appropriation shall be so expended as to make further appropriation for this purpose unnecessary.

Account.
Provision.
Allocation.

SHERMAN INSTITUTE.

Sherman Institute.

For support and education of five hundred Indian pupils at the Sherman Institute, Riverside, California, and for pay of superintendent, eighty-six thousand dollars;

For general repairs and improvements, ten thousand dollars;
For additional water and sewer system, three thousand dollars;
For addition to storehouse, four thousand dollars;
In all, one hundred and three thousand dollars.

Incidentals.

For general incidental expenses of the Indian Service in California, including traveling expenses of agents, and support and civilization of Indians at the Round Valley, Hoopa Valley, and Tule River agencies, four thousand dollars;

And pay of employees at same agencies, seven thousand dollars;
In all, eleven thousand dollars.

Round Valley
Reservation.
Removal of obstructions.
Balance available.

That one thousand dollars of the unexpended balance of eight thousand dollars appropriated by the Acts of June twenty-first, nineteen hundred and six (Thirty-fourth Statutes, page three hundred and thirty-three), and March first, nineteen hundred and seven (Thirty-fourth Statutes, page one thousand and twenty-two), for the purpose of removing obstructions both within and without the reservation from the bed of the stream which flows through the Round Valley Reservation, Mendocino County, California, and drains into Bol River, be, and the same is hereby, reappropriated and made available for use during the fiscal year ending June thirtieth, nineteen hundred and nine.

Vol. 84, pp. 833-1022.

That the sum of ten thousand dollars, or so much thereof as may be necessary, be, and the same hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, for the construction of a wagon road on the Hoopa Valley Indian Reservation, in the State of California, including necessary surveys, transportation, purchase of materials and tools, and for the subsistence of Indians furnishing labor, including forage for their animals, the labor for said construction to be performed as far as practicable by the Indians for the reservation: *Provided*, That no part of this appropriation shall be available until the proper officer of the Indian Bureau shall investigate and report that the work contemplated can be completed for the amount herein appropriated.

Hoopa Valley
Indian Reservation,
Cal.
Wagon road to be
constructed on.

Process.
Investigation, and
report.

There is hereby appropriated the sum of ten thousand dollars for the Indians of the Yuma Reservation, to be expended for their benefit in such manner and for such purposes as the Secretary of the Interior may prescribe, said sum to be reimbursable out of the proceeds derived from the sale of their lands; there is also appropriated out of any money in the Treasury not otherwise appropriated, the further sum of five thousand dollars, or so much thereof as may be necessary, to enable the Secretary of the Interior to reserve and set apart lands for town-site purposes in the Yuma Indian Reservation, California, and the Colorado River Indian Reservation in California and Arizona, and to survey, plat, and sell the tracts so set apart in such manner as he may prescribe, the net proceeds to be deposited in the Treasury of the United States to the credit of the Indians of the reservations, respectively, to be reimbursed out of the funds arising from the sale of the lands.

Yuma Reservation
Indians.

Town sites,
Yuma and Colorado
River Reservations.

FIFTY-NINTH CONGRESS. Sess. I. Ch. 3504. 1906

333

For the construction of an irrigation system necessary for developing and furnishing a water supply for the irrigation of the lands of the Pima Indians in the vicinity of Tucson, on the Gila River Indian Reservation, two hundred and fifty thousand dollars, to be expended under the direction of the Secretary of the Interior: *Provided further*, That when said irrigation system is in successful operation, and the Indians have become self-supporting, the cost of operating the said system shall be equitably apportioned upon the lands irrigated, and so the annual charge shall be added an amount sufficient to pay back into the Treasury the cost of the work within thirty years, suitable deduction being made for the amounts received from disposal of lands which now form a part of said reservation.

Gila River Reservation,
Irrigation,
Page 1, 1022.
Provision
Annual charge.

CALIFORNIA.

California.

For support and civilization of the Mission Indians in California, including pay of employees, five thousand dollars.
For support and civilization of the Northern Indians, California, ten thousand dollars.

Mission Indians,
Support, etc.
Northern Indians,
Support, etc.

SHERMAN INSTITUTE.

For support and education of five hundred Indian pupils at the Sherman Institute, Riverside, California, eighty-three thousand five hundred dollars:

Sherman Institute,
Riverside.

For pay of superintendent, two thousand two hundred and fifty dollars;

For additional water and sewer system, three thousand dollars;

For addition to dining hall and kitchen, twelve thousand dollars;

For stable, four thousand dollars;

For coal house, two thousand dollars;

For ice and cold storage, six thousand dollars;

For general repairs and improvements, five thousand dollars;

In all, one hundred and seventeen thousand seven hundred and fifty dollars.

For general incidental expenses of the Indian service in California, including traveling expenses of agents, and support and civilization of Indians at the Round Valley, Hoopa Valley, and Tillamook River agencies, four thousand dollars:

Incidentals.

And pay of employees at same agencies, seven thousand dollars;

In all, eleven thousand dollars.

For the purpose of removing obstructions from the bed of the stream which drains into the Eel River in the Round Valley Reservation, Mendocino County, California, eight thousand dollars.

Round Valley Res-
ervation,
Improving
Page, p. 1122.
Lands, etc., for In-
dians.

That the Secretary of the Interior do, and he is hereby authorized to expend not to exceed one hundred thousand dollars to purchase for the use of the Indians in California now residing on reservations which do not contain land suitable for cultivation, and for Indians who are not now upon reservations in said State, suitable tracts or parcels of land, water, and water rights in said State of California, and have constructed the necessary ditches, flumes, and reservoirs for the purpose of irrigating said lands, and the irrigation of any lands now occupied by Indians in said State, and to construct suitable buildings upon said lands, and to fence the tracts of land so purchased, and fence, survey, and mark the boundaries of such Indian reservations in the State of California as the Secretary of the Interior may deem proper. One hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, for the purpose of carrying out the provisions of this Act.

09/05/2001 11:57 9164412009

Love Calif
 June 23, 1935

Dear Mr. Lippin

I am going to ask you
 if I can build a house at the
 Reservation at Buena Vista. I have
 no home because my house burned
 down, and I have been camping
 nearly all winter. As you know
 I am an Indian girl. I am one
 of the Alek girls but I am married.
 My father is Ted Alek, which is staying
 at the Johnson Indian Reservation.

This will be all, I will be
 waiting your answer.

Sincerely,

Mrs. Esther Kish

June

California

APPROVED LIST OF VOTERS FOR INDIAN REORGANIZATION ACT
BUREAU VINTA RANCHERIA:
(Asador County)

Name:

1. Oliver, Louis
2. Oliver, Annie
3. Oliver, Jemmie
4. Ray, Josis.

A p p r o v e d:

C. H. Lips,
Superintendent,
Sacramento Indian Agency.

June 4, 1885.

AUG-09-2000 WED 10:19 AM CASCADE GROUP

FAX NO. 1 415 786958

P. 17

REFER IN REPLY TO THE FOLLOWING:

ADDRESS ONLY THE
COMMISSIONER OF INDIAN AFFAIRS

MAC. UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
WASHINGTON

MAY -4 1935

Mr. Roy Nash,
23 Appraisers Bldg.,
San Francisco, Calif.

Dear Mr. Nash:

In accordance with your night telegram of May 2, we are recommending to the Secretary of the Interior that elections be called for Indians under the jurisdiction of the Sacramento Agency to vote on the Indian Reorganization Act of June 18, 1934, as follows:

	<u>1935</u>
Strathmore	June 8
Santa Rosa	" 8
Big Sandy	" 8
Table Mountain	" 8
Cold Springs	" 8
Upper Lake	" 8
East Lake	" 8
Middletown	" 8
Scotts Valley	" 8
Big Valley	" 8
Sulphur Bank	" 8
Cache Creek	" 8
Cedarville	" 8
Alturas	" 8
Likely	" 8
Lookout	" 8
Fort Bidwell	" 8
Millerton	June 10
Pleayune	" 10
Northfork	" 10
Hopland	" 10
Laytonville	" 10
Guideville	" 10
Coyote Valley	" 10
Potter Valley	" 10
Redwood Valley	" 10
Sherwood	" 10

AUG-09-2000 WED 10:18 AM CASCADE GROUP

FAX NO. 1 415 7595958

P. 18

Pitt River	June 10
Montgomery Creek	" 10
Big Bend	" 10
Trillium	June 11
Jonestown	" 11
Manchester	" 11
Stewart Point	" 11
Alexander Valley	" 11
Cloverdale	" 11
Dry Creek	" 11
Redding	" 11
Paskenta	" 11
Lytton	" 11
Sebastopol	" 11
Buena Vista	June 12
Sheep Ranch	" 12
Jackson	" 12
Rumsey	" 12
Cortina	" 12
Collusa	" 12
Susanville	" 12
Taylorville	" 12
Shingle Springs	June 13
McCreton	" 13
Enterprise	" 13
Berry Creek	" 13
Auburn	June 14
Colfax	" 14
Nevada City	" 14
Grindstone	" 14
Strawberry Valley	" 14
Wilton	June 15

We will advise you when the recommendation has been approved.

As you are aware, Section 1B requires 30 days' notice of such election. You and Superintendent Lipps should therefore make immediate preparations for the elections, and see that notices are posted at least thirty days in advance of the date of election. Additional notices can, of course, be posted subsequently so as to assist in getting information to all entitled to vote. Other details can also

AUG 09-2000 WED 10:29 AM CASCADE GROUP

FAX NO. 1 415 795

P. 19

be worked out between the original posting of the notices and the holding of the election. It will not be necessary to wait until after you receive notice of the Secretary's approval of the election before posting notices.

There is enclosed, herewith, a copy of the February 18, 1955 edition of Instructions and Regulations to govern elections under said Section 18 of said Act. There is also enclosed a copy of Indian Office letter of October 25, 1954 referred to therein.

There have been sent you heretofore supplies of the Act, a bulletin of Facts about the Act, and a bulletin of Questions and Answers about the Act. If you need more, please advise the number of copies of each wanted.

Please acknowledge receipt of this letter.

Sincerely yours,

John Collier
Commissioner

Enclosure 641110.

Carbon and copy of Regulations and letter of October 25, 1954 to Supt., Sacramento Agency.

SACRAMENTO INDIAN AGENCY
 Sacramento, California
 May 4, 1938.

Pursuant to the Act of June 15, 1934 (Public No. 782), hereafter to be known as the INDIAN REORGANIZATION ACT, a special election will be held on the Indian Rancherias or Reservations listed hereon, as between the hours of 8:00 A.M. and 4:00 P.M., on Wednesday, June 16, 1938, to determine whether the duly enrolled Indians of the hereinafter listed rancherias or reservations desire the said Indian Reorganization Act to apply to them:

BYENA VEDCA
 SHEEP RANCH
 JACKSON
 HEMSEY
 OKETINA
 OCLITA
 SPOKANVILLE
 TANKANVILLE

Information will be posted later as to qualifications of voters, place and method of voting.

By order of the COMMISSIONER OF INDIAN AFFAIRS,

C. H. LIPPES,
 Superintendent.

MH

AUG-09-2000 WED 10:23 AM CASCADE GROUP

FAR NO. 1 415 7895958

P. 25

OEO Rancherias

COPY

SACRAMENTO INDIAN AGENCY
Sacramento, Calif.
June 17, 1935.

RECEIVED

JUN 18 1935

The Honorable
Commissioner of Indian Affairs,
Washington, D. C.

Via Air Mail:

Sir:

There is transmitted herewith tabulated statement of the election returns received at this office showing the results of the referendum under the Reorganization Act held under this jurisdiction between the dates June 8 to 15, inclusive.

It will be noted that had all these rancherias been grouped on a single large reservation, the total vote would be almost two to one in favor of the Act. Segregated in 48 different groups the election resulted in 17 groups opposing the Act and 32 favoring it. No returns have been received from 11 of the groups, on most of which no election was held, the Indians either refusing to vote or the rancheria not being occupied.

It is interesting to note that on the Rancherias where we have been able to conduct worthwhile work and improvement projects the Indians have largely voted in favor of the Act. On such rancherias we have been able to demonstrate to the Indians what our intentions toward them are and thus get them to see that the whole program is designed for their betterment. On most of the rancherias voting strongly against acceptance, we have had very little in the way of a program for the reason that on these rancherias conditions were such as to make it practically impossible to devise road construction and IECW projects, and therefore the Indians in these groups have not been convinced that our intentions toward them are really to help them.

This is only one of the reasons they rejected the Act, the main reason being the influence of the organization

AUG-03-2000 WED 10:24 AM CASCADE GROUP

FAX NO. 1 415 7985262

P. 28

Commissioner.

2.

5/17/55

known as the "Indians of California, Incorporated". This was particularly in evidence on the ranches in Fresno, Madera and Butte Counties as well as on some of the others.

On the whole, considering the limited time available for contacting the Indians immediately prior to the elections, it is believed the results are quite satisfactory.

Very respectfully,

(Signed) O. H. LIPPS

OEL:MR

O. H. Lipps,
Superintendent.

Encl

CC: Mr. Nash

TABULATION OF ELECTION RETURNS ON THE INDIAN
REORGANIZATION ACT, FROM THE RANCHERIAS
UNDER THE JURISDICTION OF THE SACRAMENTO INDIAN
AGENCY, CALIFORNIA, LISTED IN THE ORDER IN
WHICH SUCH RETURNS WERE RECEIVED AT THE
SACRAMENTO OFFICE:

No.	Rancheria	Date	Number		
			Eligible Voters	In Favor	Against
✓ 1.	Lockout	June 8	12	8 ✓	2
✓ 2.	Fort Bidwell	" 8	41	27 ✓	2
✓ 3.	Alturas	" 8	13	8 ✓	5
✓ 4.	Likely	" 8	20	12 ✓	1
✓ 5.	Sable Mountain	" 8	16	2	10 ✓
✓ 6.	Big Valley	" 8	45	21 ✓	4
✓ 7.	Cold Springs	" 8	47	0	28 ✓
8.	Lower Lake <i>(Sullivan)</i>	" 8	20	11 ✓	7
✓ 9.	Scotts Valley	" 8	27	0	10 ✓
✓ 10.	Cache Creek	" 8	15	7 ✓	3
✓ 11.	Hardisty	" 8	38	10.8 ✓	4
✓ 12.	Middletown	" 8	13	10 ✓	0
✓ 13.	Robinson	" 8	46	23 ✓	13
✓ 14.	Coyote Valley	" 10	8	(2/4) 0	1 ✓
✓ 15.	Pineville	" 10	51	29 ✓	1
✓ 16.	Potter Valley	" 10	28	10 ✓	3
✓ 17.	Redwood Valley	" 10	13	15 ✓	0

2 - Tabulation Reorganization Election Returns (Cont'd):

No.	Rancheria:	Date:	Number of Eligible Voters:	<i>3 of 7</i>	In Favor:	Against:
- ✓ 18.	North Fork	June 10	8	✓	0	4 ✓
- ✓ 19.	Picoyama	" 10	11	✓	3	7 ✓
- ✓ 20.	Guidiville	" 10	25	✓	14 ✓	1
- ✓ 21.	Shorwood	" 10	35	✓	10	12 ✓
- ✓ 22.	Hopland	" 10	55	✓	28 ✓	5
- ✓ 23.	Cloverdale	" 11	20	✓	10 ✓	0
- ✓ 24.	Laytonville	" 10	29	✓	7	11 ✓
- ✓ 25.	Alexander Valley	" 11	14	✓	14 ✓	0
- ✓ 26.	Jackson	" 12	3	✓	3 ✓	0
- ✓ 27.	Fuolunac	" 11	40	✓	37 ✓	0
- ✓ 28.	Jamestown	" 11	5	✓	0	5 ✓
- ✓ 29.	Geyserville <i>South</i>	" 11	49	✓	8	17 ✓
- ✓ 30.	Colusa	" 12	36	✓	25 ✓	1
- ✓ 31.	Big Sandy	" 8	33	✓	1	25 ✓
- ✓ 32.	Manchester	" 11	46	✓	30 ✓	0
- ✓ 33.	Sheep Ranch	" 12	1	✓	1 ✓	0
- ✓ 34.	Stewarts Point	" 11	70	✓	51 ✓	10
- ✓ 35.	Suona Vista	" 12	4	✓	2 ✓	0
- ✓ 36.	Ramsay	" 12	11	✓	10 ✓	0
- ✓ 37.	Taylorville	" 12	4	✓	2 ✓	0
- ✓ 38.	Susanville	" 12	9	✓	6 ✓	0

3 - Tabulation Reorganization Election Returns (Cont'd):

No.	Rancheria:	Date:	Number of Eligible Voters:	In Favor:	Against:
✓ 39.	Berry Creek	June 13	49	0	28 ✓
✓ 40.	Auburn	" 14	56	5	18 ✓
✓ 41.	Nevada City	" 14	18	6	2
✓ 42.	Grindstone	" 14	27	11 ✓	0
✓ 43.	Wilton	" 15	14	13 ✓	0
✓ 44.	Redding	" 12	12	24 ✓	4 ✓
✓ 45.	Montgomery Creek	" 10	7	5 ✓	2
✓ 46.	Pit River	" 10	2	0	2 ✓
✓ 47.	Packana	" 11	26	17 ✓	0
✓ 48.	Macrotown	" 13	43	0	34 ✓
✓ 49.	Enterprise	" 15	39	7	17 ✓

Number of Rancherias in Favor of Act - 32
 " " " Opposed to " - 17
 Total voters in favor of Act - 517
 " " opposed to Act - 232

No Returns from:	Reason:
- Cedarville-	No Indians living there.
✓ Big Bend - Rec'd	No returns received
- Lytton-	No Indians living there.
- Sebastopol-	" " "
- Cortina -	No returns received.
✓ Strawberry Valley - Rec'd	" " "
- Stratmore-	No Indians Living There.
✓ Santa Rosa -	Election probably not held.
- Millerton-	No Indians living there.
✓ Shinghe Springs-	No returns received
- Colfax -	No Indians Living There.

of Ranch

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
FIELD SERVICE

RECEIVED
JUN 15 1935
7/16

SACRAMENTO INDIAN AGENCY
Sacramento, Calif.
June 14, 1935.

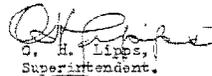
Mr. Roy Nash,
U. S. Indian Field Service
25 Appraisers Building
San Francisco, California.

Dear Mr. Nash:

Following is the summary of election returns
this day received in the mail:

Rancheria:	Eligible Voters:	For:	Against:
Sheep Ranch	1	1 /	0
Stewarts Point	70	51 /	19
Summa Vista	4	2 /	0
Rumsey	11	10 /	0
Taylorville	4	2 /	0
Susanville	9	6 /	0

Sincerely,


G. H. Lipps,
Superintendent.

REPRODUCED AT THE NATIONAL ARCHIVES

File No. Sacramento

1926

3457

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15250-27

Department of the Interior,
Office of Indian Affairs,
Washington.

April 20, 1927.

Mr. LaFayette A. Dorrington,
Supt., Sacramento Agency.

My dear Mr. Dorrington:

Referring to your letter of March 22, this is to inform you that on April 13, last, the Department approved the proposal of Louis Alpers to sell to the United States approximately 70 acres of his land located in Section 19, Township 5 North, Range 10 East of the M. D. M., California, for \$3,000. This land is to be purchased as a home for the present Indian occupants.

You may proceed to obtain from the grantor deed and abstract of title or title insurance policy. The deed must be of a date not later than June 30, 1927. The instrument of conveyance and title insurance policy must run to the United States of America.

Enclosed is a copy of the form of policy accepted by the Department in the Gobbi purchase which has just been completed. If this form is followed it is believed that such policy would be accepted in this case.

Please give this matter your prompt attention and submit the necessary papers at an early date for examination.

Mr. Alpers' policy of title insurance is returned herewith.

Very truly yours,

(Signed) E.B. MERITT.

Assistant Commissioner.

22710. 5-1100 (Ione-Indians.) (Amador Co., Calif.).

Land-Allot. DEPARTMENT OF THE INTERIOR
108405-14
Part 8 UNITED STATES INDIAN SERVICE
P. B. M.

Los Angeles, Calif., Feb. 8, 1917.

Mr. John Oliver, (Indian)
Ione, Amador Co., Calif.

Dear Sir: Answering your letter of January 30, 1917, telling

me that you and some of your people desire help from the Govern-
ment in way of a loan for a number of years, this is to suggest
that you take the matter up with your Superintendent.

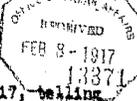
The Congress of the United States has made a limited approp-
riation of money, called a Reimbursable Fund, to be loaned to
such Indians as have proven themselves to be good, sober and
industrious, for a period of four years without interest, payable
back to the Government annually and semi-annually.

Will suggest that you take this matter up with your local
Indian Superintendent who will, I am sure, look into your cases
and for all who are every way worthy take same up with the Indian
Office at Washington and likely secure you good, hard-working and
sober Indians some little assistance.

I am very glad indeed to learn from your letter that you and
your people are growing ambitious and desire to better your con-
dition in life. It is likely that I will reach your place as
early in the spring as roads will permit of me reaching there by
auto, among other things, having in view the allotment of the 40
acres of land at your Rina Vista ancient village home among your
people, the purchase of which now seem almost an assured fact.
I shall be glad to meet you when I reach there, as well as all
your people.

(For Information Commissioner Indian Affairs.)

SPECIAL AGENT



REPRODUCED AT THE NATIONAL ARCHIVES

**STATEMENT OF DERRIL B. JORDAN
PARTNER, STETSON LAW OFFICES, P. C.,
ON BEHALF OF RHONDA L. MORNINGSTAR POPE
BUENA VISTA RANCHERIA
BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS**

September 26, 2002

Mr. Chairman, Mr. Vice Chairman, and Members of the Committee, thank you for the opportunity to testify today on the issue of leadership and intra-tribal disputes and the role of the Department of Interior ("Department") in resolving such disputes.

At the onset, we must remind the Committee that an appeal of this case is currently pending before the Interior Board of Indian Appeals (IBIA) at the Department. The IBIA decision will be appealable to a federal district court in accordance with the Administrative Procedures Act (APA). The IBIA, and a federal court if either party further pursues its right to appeal, should be able to hear and decide this case on its merits without external pressures. While we want to be helpful to the Committee, we do not believe that this hearing is an appropriate forum for a full airing of the merits of this case. Accordingly, we will attempt to limit our comments to procedural and process matters surrounding the resolution of such disputes in general, and the Buena Vista dispute in particular.

As an initial matter, we point out that the Buena Vista dispute is distinguishable from the many varieties of intra-tribal and leadership disputes that confound the Department, the courts, and Congress. Usually, there is fairly well-defined tribal membership, or at least a core group of persons who are undisputably members. The dispute usually involves competing claims between two or more groups or persons as to which/whom is the legitimate governing body or president or chairperson of the tribe. In some situations there may also be a dispute as to whether certain persons are entitled to be enrolled as members and exercise the rights of membership, such as voting or holding elective tribal office, but, again, usually a core group of persons are undisputably members. In these "typical" situations, generally tribal lawmaking and law-applying bodies, such as a tribal council or general council, tribal courts, and election boards or committees, can hear and decide disputes based on tribal statutory and case law or tribal custom.

The dispute at Buena Vista is different from these more typical disputes in that at issue here is not only leadership of the Tribe, but more fundamentally, the membership of the Tribe. The Buena Vista Rancheria was terminated under the California Rancheria Act. The Tribe's status as a federally recognized tribe was restored by a stipulated judgment in Hardwick v. United States, Northern District of California No. C-79-1720-SW. The status of sixteen other California rancherias was restored by that same stipulation.

The Bureau of Indian Affairs ("BIA") was responsible for assisting each and every one of the restored rancherias in reorganizing their governments. In each case, the BIA has held that the right to reorganize these tribes belongs to the individuals to whom the tribes' assets were distributed in the 1950s (the "distributees"), their dependents, and their direct lineal descendants. The first task faced by the BIA was to identify such persons and afford them an opportunity to participate in the

reorganization process. The dispute at Buena Vista centers around whether the BIA included the right people in that process, and raises the ultimate question of whether the Tribe has, in fact, been reorganized and whether a valid tribal government exists. The BIA has decided, based on its precedent in reorganizing the other sixteen Hardwick tribes, that Ms. Pope was wrongfully excluded from the process and that Ms. Potts and her adult children had no right whatsoever to participate in the reorganization process and have no right to membership in the Tribe.

This brings us to what is perhaps the central focus of today's hearing; what is the proper role of the Department and the BIA in resolving these disputes. The BIA role in resolving these disputes is generally secondary to the role of tribal governmental institutions, but it is nonetheless a very important role when fulfilled properly. In cases such as Goodface v. Grassrope, 708 F.2d 335 (8th Cir. 1983) and Runs After v. United States, 766 F.2d 347 (8th Cir. 1985), the courts have held that the Department's trust responsibility to tribes requires it to determine which of two or more competing governments it will recognize in carrying out the government-to-government relationship with tribes. These courts have also held, relying on Santa Clara Pueblo v. Martinez, 436 U.S. 958 (1976), that intra-tribal and leadership disputes must be resolved in tribal forums, because federal courts lack jurisdiction over these disputes. See Goodface at 338 (n. 4), and also Runs After at 352, Wisconsin Winnebago Business Committee v. Koberstein, 636 F. Supp. 814, 814-15 (W.D. Wis. 1986), Wheeler v. United States Department of Interior, 835, f.2d 259, 261 (10th Cir. 1987) (Wheeler I) and Shenandoah v. United States, 159 F.3d 708, 713 (2nd Cir.1998), all relying on Goodface.

Generally, the BIA should refrain from taking any action until the disputing parties have exhausted all levels of appeal at the tribal level. See Wheeler v. United States Department of Interior, 811 F.2d 549, 552, 553 (10th Cir. 1987) (Wheeler II) ("when a tribal forum exists for resolving an election dispute, the Department must respect the tribe's right to self-government and, thus, has no authority to interfere.") If the disputing parties accept the judgment of the tribal forum, the BIA needs do nothing further than to recognize the party that prevailed at the tribal level. It is common, however, that at least one of the parties will refuse to accept the resolution at the tribal level and requests that the BIA deal with it as the legitimate governing body of the tribe. It is then that the BIA becomes involved in the process under the principles set forth in cases such as Goodface, Runs After, and Wheeler II (an election dispute can be resolved in tribal forums without any Department involvement, and "the Department can only take action when necessary to carry out its statutory and regulatory obligations"). 811 F.2d at 552.

In determining which competing government (or chairperson or president) to recognize, the BIA should rely on the interpretation of tribal law by the tribal courts, election boards, and tribal councils that participated in the dispute resolution process under tribal law. See Carrigan v. Acting Eastern Oklahoma Regional Director, 36 IBIA 87 (2001) (holding that BIA was bound by the General Council's resolution of a dispute regarding the recall of tribal officials). Reliance on and deference to tribal forums and their interpretations of tribal law is mandated by the Santa Clara decision, and it is also consistent with and enhances tribal sovereignty and self-determination. See Wheeler I at 262 (noting that the inherent right of tribal self-government requires that persons seeking relief use the available tribal forum), Wheeler II at 551 (federal courts encourage tribal self-government by prohibiting the federal government from interference in intra-tribal matters), and Bowen v. Doyle, 880 F.Supp. 99, 112-13 ("the sovereignty retained by tribes includes 'the power of regulating their internal and social relations, . . . and this authority includes the "power to make their own substantive

law in internal matters and to enforce that law in their own forums." Internal citations omitted.) See also Smoke v. Acting Eastern Area Director, 30 IBIA 90 (1996) (Board refused to ignore concept of tribal self-determination in deferring to tribal forum.) (Cite IBIA cases).

BIA recognition decisions are generally made by the superintendent of the BIA agency office that serves the tribe, and the superintendent's decision is appealable to the Regional Director pursuant to 25 C.F.R. Part 2. The decision of the BIA Regional Director to recognize one of the competing parties is appealable to the IBIA, and a decision of the IBIA is final agency action that is appealable to a federal court under the APA. See Goodface at 338 (the district court had jurisdiction under 28 U.S.C. § 1331 and the APA to review BIA action), Runs After at 351 (same, citing Goodface), and Shenandoah at 713 (same, also citing Goodface). In some situations, the Assistant Secretary may take jurisdiction over an appeal under 25 C.F.R. § 2.20, and the Assistant Secretary's decision is also appealable as final agency action.

Of course, the Buena Vista dispute is not like the "typical" tribal dispute where there are generally tribal courts or other bodies that can interpret and apply tribal law. The question in this dispute is whether the BIA assisted the right people in reorganizing the tribe. Deference to the tribal forum begs the question because the very essence of the dispute is who has the right to reorganize and be considered the tribe in the first place. The IBIA recognized this in its decision in Jeffery Alan-Wilson v. Sacramento Area Director, 30 IBIA 241, 252 (1997), a case also involving a dispute over the reorganization of a Hardwick tribe. As the IBIA said in that case:

This is not an ordinary tribal government dispute, arising from an internal dispute in an already existing tribal entity. In such cases, BIA and this Board must exercise caution to avoid infringing upon tribal sovereignty. E.g., Wadena v. Acting Minneapolis Area Director, 30 IBIA 130 (1996). Rather, this case concerns, in essence, the creation of a tribal entity from a previously unorganized group. In such a case, BIA and this Board have a responsibility to ensure that the initial tribal government is organized by individuals who properly have the right to do so.

In the present case, the BIA has simply followed the IBIA precedent established in the Alan-Wilson case when it decided to hear Ms. Pope's appeal. Upon close examination of the facts and its own precedent in reorganizing sixteen other Hardwick tribes, the BIA has determined that it erred in recognizing Ms. Potts as the tribal chairperson, and that Ms. Pope was wrongfully excluded from the reorganization process. We are confident that the decisions of the Superintendent and Regional Director, both with regard to the procedure they have followed and the merits, will be upheld by the IBIA, and by a federal court if an appeal is taken. We understand the Committee's interest in how intra-tribal and leadership disputes are resolved, but we reiterate that the IBIA and the courts are the proper forum for the review of the merits of this dispute, and these forums must be afforded the opportunity to complete their work without external pressure.

Due to circumstances beyond our control, we were given short notice of today's proceedings. We reserve the right to supplement our written testimony before the record closes with additional legal analysis of the pertinent judicial and administrative precedents in this area.

Thank you for the opportunity to present our views. We are happy to answer questions from the Committee.

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Testimony

for the

U.S. Senate Committee on Indian Affairs

Oversight Hearing on

Intra-tribal Leadership Disputes and Tribal Governance

Thursday, September 26, 2002

By

George L. O'Connell

on behalf of

Rhonda L. Morningstar Pope

Mr. Chairman, Mr. Vice Chairman and Members of the Committee, thank you for the opportunity to testify today. We represent Rhonda L. Morningstar Pope, the only living adult descendent of the Buena Vista Rancheria of Me-Wuk Indians of California. As the Committee is aware, the Vice Chairman invited Ms. Pope to testify today. Unfortunately, Ms. Pope did not receive the invitation until Friday. As a single mother with three small children and a full-time job, Ms. Pope was not able to make arrangements to be here on such short notice. She asked us to thank the Committee for inviting her and for allowing us to appear on her behalf.

I am George O'Connell, litigation counsel for Ms. Pope in the cases pending before the IBIA and the U.S. District Court in California. Derril Jordan, who is an expert in Indian law, has been advising Ms. Pope in that capacity. I am prepared to discuss the specifics of the dispute over the Buena Vista Rancheria and the role of the BIA and the IBIA in it. Mr. Jordan can answer any questions the Committee may have above the governing legal principles in this area more generally. We are both submitting written statements for the record.

Because this matter is under active litigation, I will need to limit my discussion of the facts to matters in the public record. As the Committee is aware, this dispute is currently the subject of an administrative proceeding before the BIA and IBIA. So far, Ms. Pope has prevailed. The Superintendent of the BIA's Central California Agency and the BIA's Regional Director have both held that Ms. Pope – and not Donnamarie Potts – has the right to organize a government for Buena Vista. That issue is now before the IBIA on Potts's appeal. Meanwhile, the U.S. District Court has issued a preliminary injunction barring Potts from building a massive casino project on the sacred land of the Rancheria until the IBIA proceedings are complete. The District Court issued its injunction based on its conclusion that there is a strong likelihood Ms. Pope will continue to prevail on the merits of her case as it nears conclusion. In July, the Ninth Circuit affirmed that order from the District Court.

I would like to explain a bit about the nature of the dispute over Buena Vista, and how it is different than the typical tribal membership and leadership disputes with which this Committee is probably more familiar. In most intra-tribal disputes, there is usually an established tribal constitution and a fairly well-defined tribal membership, or at least a core group of individuals who are indisputably tribal members. The disputes usually involve competing claims between two or more groups as to which of them can appropriately lead an existing and established government or otherwise take part in the affairs of the tribe. In these situations, there are generally tribal lawmaking and law-applying bodies – a tribal council or general council, tribal courts or the like – who can hear and decide disputes on the basis of tribal law and custom.

The dispute over Buena Vista is different. At Buena Vista, the question is not whether one individual or another is entitled to lead an existing tribal government or enforce an existing tribal constitution. Rather, the question is whether Buena Vista *ever* had a legitimate tribal government after its restoration in the 1980s. At Buena Vista, that question turns on a determination of whether the individuals who purported to organize the Rancheria in 1994 actually had the right to do so. If those individuals had no right to organize Buena Vista in the

first place, the government they created cannot be legitimate. And if that government is not legitimate, it has no right now to determine who can and cannot be involved in the tribe.

This is the nature of the Buena Vista dispute now pending before the IBIA, and it is the type of dispute in which the BIA and the IBIA have always played an important role. As the IBIA explained in a 1997 decision, the IBIA and the BIA have a “responsibility” to “ensure that [an] initial government is organized by individuals who properly have the right to do so.” And that is what the BIA and now the IBIA are doing with respect to Buena Vista – they are exercising their “responsibility” to “ensure” that the government created for Buena Vista in 1994 was organized by individuals who “properly” had the right to do so.

I’d like to spend a few moments now telling you how that process is playing out in the Buena Vista case – and why we believe that the process will ultimately confirm the conclusion that the individuals who organized Buena Vista in 1994 did not, in fact, have the right to do so – at least not without including our client, Rhonda L. Morningstar Pope.

The Buena Vista Rancheria is a federally recognized Indian tribe and has been since the early part of the last century. In the 1950s, the United States withdrew federal recognition from Buena Vista and 16 other tribes pursuant to the California Indian Rancheria Act of 1958. In 1983, the United States restored federal recognition to those tribes through the settlement of a lawsuit entitled *Tillie Hardwick v. United States*.

Once these tribes were restored to federal recognition, many of them sought to organize themselves for the first time. When they began to do so, the BIA was confronted with a question: Who are the proper individuals to organize tribes that had been “terminated” by the California Indian Rancheria Act and then restored through the *Tillie Hardwick* judgment? And *every single time* the BIA has been confronted with that question, the BIA has reached exactly the same conclusion: In the absence of a pre-termination document, the “proper” individuals to organize a *Tillie Hardwick* tribe are the individuals to whom the tribes’ assets were distributed as a result of the termination in the late 1950s – those individuals are known as the “distributees” – plus the distributees’ dependents and direct lineal descendants. This is the test the BIA has *always* used, and there really can’t be any dispute about it. Indeed, in a case resolved a few years before the Buena Vista dispute arose, the BIA, the IBIA and the U.S. Justice Department all agreed that this “distributee-dependent-direct-lineal-descendant” test has been the “consistent practice” of the BIA with respect to *Tillie Hardwick* tribes.

The BIA thought it was following that “consistent practice” when it allowed Lucille Lucero and Donnamarie Potts to organize a government for Buena Vista in 1994: That is, the BIA thought that Buena Vista was being organized by the last living descendants of the Buena Vista’s distributees. This is what the BIA thought because this is what Lucero and Potts said.

When Lucero and Potts first sought the BIA’s assistance in organizing Buena Vista in 1994, they sent a letter to the BIA in which they claimed that Lucero was the “only living descendant” of the Rancheria’s distributees. Later in the 1994 organization process, Lucero

apparently told the BIA that Potts herself was also a direct lineal descendent – the secret illegitimate child of the daughter of the distributees. Still later, after Lucero had died, Potts told the BIA in writing that she and her children were not just direct lineal descendents, but the *only* direct lineal descendents of the Buena Vista distributees.

As we now know, all of these statements were not true.

First, Lucero was not in 1994 the only living direct lineal descendent of the Buena Vista Rancheria. There was at least one other direct lineal descendent: Rhonda L. Morningstar Pope. And let us be clear about this: There is absolutely no dispute that Ms. Pope is a direct lineal descendent of the Rancheria's distributees. Her birth certificate shows it, and Potts's lawyer has conceded it on the record before the U.S. District Court in Sacramento.

Second, Potts was not and is not a direct lineal descendent of the Buena Vista distributees. According to Potts's birth certificate, she is the daughter of Leonard Potts and Margaret Mary Lucero, two people with absolutely no blood ties to Buena Vista. When confronted with her birth certificate in proceedings before the BIA last year, Potts feigned surprise and claimed that "nothing in her life" would ever have suggested to her that she was the daughter of Leonard Potts and Margaret Mary Lucero. The evidence is to the contrary: In 1962, 1967 and 1997, Potts made statements under oath to obtain marriage certificates. In each of these three statements, she identified her parents as Leonard Potts and Margaret Mary Lucero.

Third, Potts was certainly not the "only" direct lineal descendent of the distributees, as she claimed in her 1999 letter to the BIA. Rather, as Potts now admits, she and Lucero knew all along that Ms. Pope was a direct lineal descendent. For whatever reason, they simply chose to exclude her from the 1994 organization process.

Lucero and Potts knew about Ms. Pope because, at the same time they were organizing a government for Buena Vista, Ms. Pope was trying to contact them and meet with them about her interest in the tribe. Ms. Pope's father died on the Rancheria land when she was a young child, so she spent much of her youth living with her mother away from the land. But when Ms. Pope reached adulthood, she began to re-connect with her tribal heritage. To do so, she contacted the BIA in 1992 and asked how to become more involved in Buena Vista. The BIA directed Ms. Pope to Lucero. Ms. Pope traveled to the Rancheria land in 1992 in the hope of meeting with Lucero. Lucero all but refused to speak with her, denied her the right to visit her father's gravesite, and told her that she should direct any further inquiries to Donnamarie Potts. Over the next several years, Ms. Pope tried again and again to contact Potts, but her efforts were to no avail. Potts refused to return her calls, and Lucero refused to speak to her.

Then, in 2000, Ms. Pope began to learn why. She learned then for the first time that Lucero and Potts had secretly organized a government for Buena Vista – and that Potts planned to build a massive casino on the Rancheria's land. Alarmed that such a casino would desecrate the sacred land – including the traditional Indian cemetery where her father and other ancestors

are buried – Ms. Pope immediately asked Potts to put a stop to her plans. When that request was ignored, Ms. Pope initiated her proceeding before the BIA.

In December 2001, the Superintendent of the BIA's Central California Agency ruled in Ms. Pope's favor. After reviewing the evidence submitted by both sides – the birth certificates, the marriage licenses, and volumes of other evidence establishing that Ms. Pope is a direct lineal descendent but Potts is not – the Superintendent ruled that Ms. Pope, and not Potts, has the right to organize a government for Buena Vista. And because Lucero and Potts denied her that right in 1994, the Superintendent held, the 1994 organization was not valid and the government it purported to create was not legitimate.

Potts appealed to the BIA's Regional Director, who affirmed the Superintendent's ruling. Potts has appealed once again, this time to the IBIA. This *is* a long process, and it is difficult on everyone involved. That having been said, Potts has no one but herself to blame for the predicament in which she now finds herself. The BIA initially recognized the Lucero-Potts government based on statements Lucero and Potts made which they knew to be untrue. Moreover, as the District Court found, Potts knew that serious questions were being raised about the legitimacy of her government before she moved ahead with the casino project. In early May 2000, the BIA told Potts of these questions, and it asked her to confirm that Buena Vista was being governed by the Rancheria's distributees, dependents or direct lineal descendants. Potts never provided the BIA with that confirmation. Instead, she ignored the BIA's notice and proceeded to borrow millions of dollars to secure gambling licenses for her casino project. If she and her gambling-company partner lose money on that deal, it is only because Potts proceeded with her casino plans when she knew she had no right to do so.

Ms. Pope wishes the process were faster. She wishes that the uncertainty about Buena Vista would end, and that she could know now that she will succeed in protecting the sacred Buena Vista land from further desecration. But the administrative process is working now, and the damage caused by the false statements of Lucero and Potts is finally being addressed. We all await the day when the process is done and the Buena Vista Rancheria is restored to legitimacy.

On behalf of Ms. Pope, thank you for the opportunity to present this testimony. We are happy to answer any questions you may have.

ALBIETZ
LAW
CORPORATION

2001 "N" STREET, SUITE 100
SACRAMENTO, CA 95814
(916) 442-4241
FAX (916) 444-5494

September 1, 2000

Dale Risling, Sr., Superintendent
Bureau of Indian Affairs, Central California Agency
1824 Tribute Road, Suite J
Sacramento, CA 95815-4308

Re: Request for IRA Approval of Proposed Tribal Constitution for the Buena Vista Rancheria

Dear Mr. Risling:

Our firm represents Rhonda Morningstar Pope, a lineal descendant of Louie and Annie Oliver, sole distributees of the Buena Vista Rancheria of Me-Wuk Indians of California ("Tribe"). As I am sure you are aware by now through the voluminous correspondence between our client and the Bureau of Indian Affairs ("BIA"), our client challenges the authority of the current tribal government and the tribal constitution under which it is functioning. The grounds for this position are as follows: (1) the tribal constitution adopted in 1994 is ineffective under the Indian Reorganization Act (25 U.S.C. § 461 et seq.) ("IRA"); and (2) without the 1994 tribal constitution, members of the current tribal government do not qualify as tribal members and have no authority to act on behalf of the Tribe, thus invalidating the proposed 1999 tribal constitution.

Given that there are no effective tribal constitutions from which to base the reorganization of the Tribe, our client Rhonda Morningstar Pope, daughter of Jesse Pope and lineal descendant of Louie and Annie Oliver, has prepared and duly adopted the enclosed constitution ("Proposed Tribal Constitution") and hereby submits it for approval under the IRA, along with the following factual and legal support.¹

1. Factual Background

On June 12, 1933 the Tribe voted to include itself under the IRA. Subsequently, on August 18, 1958, the BIA approved a distribution plan for the distribution of assets of the Buena Vista Rancheria for the sole benefit of Louie and Annie Oliver, thus terminating the Tribe. Since the distribution plan was effectuated, the Tribe was "unterminated" through the Tillie Hardwick

¹ Rhonda Pope's lineal descendency has already been documented and acknowledged by the BIA. See attached as Exhibit "1," a copy of a May 2, 2000 letter from the BIA showing said acknowledgment.

Dale Rising, Sr.
September 1, 2000
Page 2

settlement in 1983.

In 1994, Lucille Lucero, inaccurately representing herself as the only living adult lineal descendant of the Olivers, attempted to reorganize the Tribe and draft a constitution ("1994 tribal constitution"). At the time, Ms. Lucero was only one of at least two known living adult lineal descendants, one of which being our client Rhonda Pope. The constitution prepared by Ms. Lucero had a provision which designated a few named non-lineal descendants as historical members of the Tribe. Ms. Lucero passed away less than a year later in 1995, leaving the Tribe under the control of the non-lineal descendants. These persons are now running the tribal government, and in 1999, they attempted to adopt a new IRA constitution ("1999 tribal constitution").

2. The 1994 Tribal Constitution is ineffective

Section 476(a) of Title 25 of the United States Code provides as follows:

Any Indian tribe shall have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws, and any amendments thereto, which shall become effective when:

- (1) ratified by a majority vote of the adult members of the tribe or tribes at a special election authorized and called by the Secretary under such rules and regulations as the Secretary may prescribe; and
- (2) approved by the Secretary pursuant to subsection (d) of this section.

Based on the information available to us, neither of these two requirements were met for the 1994 tribal constitution. First, there is nothing in the public records maintained by the BIA indicating that the BIA ever called a special election to ratify the 1994 tribal constitution. Even if a special election was called, a majority of the adult "membership" did not approve the ratification, as Ms. Pope did not participate in such an election.²

Furthermore, the 1994 tribal constitution was never submitted for approval by the BIA. This is evident from correspondence from the BIA which indicated that it did not believe it was necessary for the BIA to approve the 1994 tribal constitution, under the mistaken premise that the

² Since there was no constitution to define the membership of the Tribe, the term "membership" is defined, as provided in standard IRA constitutions, to include only listed distributees, their dependents and their lineal descendants.

Dale Risling, Sr.
September 1, 2000
Page 3

Tribe did not fall under the IRA. (See a copy of letter dated August 1, 2000 from Acting BIA Regional Director Gracie A. Murillo to U.S. Representative John T. Doolittle attached hereto as Exhibit "2".) In fact, the Tribe did fall under the IRA, and the submission of the 1994 tribal constitution for BIA approval was required. In a May 5, 1998 BIA report, BIA officer Raymond Fry acknowledged that "the Tribe must still submit a constitution to the BIA requesting Secretarial approval." (See page 2 of copy of report attached hereto as Exhibit "3".)

Based on the forgoing, it is abundantly clear that the 1994 tribal constitution is ineffective as it was not ratified by a majority of the membership and was not submitted to the BIA for approval as required under the IRA.

3. The 1999 Tribal Constitution is Invalid

Given that the 1994 tribal constitution is ineffective, the inclusion of non-lineal descendants as historical members contained therein is also ineffective. Thus, any non-lineal descendants who claim membership solely on the basis of the provisions of the ineffective 1994 constitution are void of membership status. Since they have no status as members of the Tribe, they have no authority to adopt a constitution. Thus, the constitution they attempted to adopt in 1999 is facially invalid.

The only persons who are eligible to claim membership status of the tribe are those who are direct lineal descendants of Louie and Annie Oliver. Furthermore, these are the only people who may vote to ratify a constitution for the Tribe. Currently, there is one known living adult lineal descendant: Rhonda Pope; and four possible adult lateral descendants: Cecil Rey, Celicia Ramos, Buddie Rey, and Lorraine Rey. The latter four are believed to be members of the United Auburn Indian Community.

4. Request for IRA Ratification Election and Approval of Proposed Tribal Constitution

By way of this correspondence, Rhonda Pope hereby requests that the BIA: (1) call a special election pursuant to IRA Section 476 (c) to ratify the Proposed Tribal Constitution submitted herewith; and (2) after the adoption of the Constitution by the Tribe, approve the Proposed Tribal Constitution pursuant to IRA Section 476 (d).

Finally, the BIA's mere acknowledgment of the 1994 tribal constitution and tribal reorganization was based on misinformation. It did so under the false impression that Ms. Lucero was the only living adult lineal descendant of the original distributees, when in fact she was not. This grave omission has set into action a sequence of events that has resulted in a great injustice - a tribe consisting solely of people who are not lineal descendants, who are benefitting from a presumed membership status which was not the desire of a majority of the true

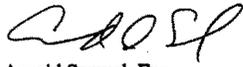
Dale Kistling, Sr.
September 1, 2000
Page 4

membership, being the lineal descendants such as Rhonda Pope. Rhonda Pope, by submitting this request, is simply trying to remedy that injustice. Thus, fairness and the law dictate that the requested actions be taken.

Thank you for your consideration and prompt attention to this matter. Please direct all future correspondence regarding this matter to our office.

Sincerely,

ALBIETZ LAW CORPORATION



Arnold Samuel, Esq.

cc: . Rhonda Morningstar Pope



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
 Central California Agency
 1824 Tribune Road, Suite J
 Sacramento, CA 95815-4308

IN REPLY REFER TO

MAY 2 - 2000

Ms. Donna Marie Potts, Chairperson
 Buena Vista Rancheria
 4650 Coalmine Road
 Ione, California 95640

Dear Ms. Potts:

The purpose of this correspondence is to convey concerns that a direct lineal descendent of your Base roll has, regarding the redefined membership roll for the Buena Vista Rancheria.

The question raised is as follows:

According to ARTICLE III-MEMBERSHIP Section 1. (a) of the latest tribally approved constitution received at the Agency, the Base Roll for the tribe shall consist of the adult direct lineal descendants of Louis Oliver and Annie Oliver and their direct lineal descendants.

The question raised by Ms. Pope, was where does the Potts, Seivey or Vega families fit in here, as these families are not direct lineal descendants of the Oliver family but may be collaterally related.

Under normal circumstances the BIA does not involve ourselves with internal tribal matters, especially those that center around tribal membership. In cases where we have been apprised of a possible enrollment issue that may impact the government-to-government relationship the BIA has with the Buena Vista Rancheria through your elected officials, we have a responsibility to address that issue.

According to tribal laws of membership, direct lineal descendency is a requisite for enrollment and it would appear that to answer the question raised by Ms. Rhonda Pope, a documented direct lineal descendent of Jessie Pope (father) and John Pope/Eleanor Oliver (grand parents) and is the great granddaughter of Louis and Annie Oliver, that all proclaimed members of the Buena Vista Rancheria would have to furnish documentable membership information that bears out the direct lineal descendency, to Louis and Annie Oliver.

To put this governance issue to rest, please provide this Agency with the proper documentation, which shows the makeup of the tribe.

If you have any questions in this matter, please contact Raymond Fry, Tribal Operations Officer, at (916) 566-7124.

FOR

Sincerely,


 Dale Risting, Sr.
 Superintendent

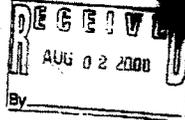
FROM: 00

FAX NO.: 7046364

00-00-00

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
 Pacific Regional Office
 2800 College Way
 Sacramento, California 95823



AUG 01 2000

John T. Doolittle
 U. S. House of Representatives
 2130 Professional Drive, Suite 190
 Roseville, CA 95661-3738

Dear Mr. Doolittle:

This is in response to your letter dated June 29, 2000 regarding your constituent Ms. Rhonda Pope.

Ms. Pope has been in communication with the Superintendent, Central California Agency, and this office, regarding her enrollment concerns since May 2, 2000. In accordance with Bureau procedures and policies, an individual must first file an application for enrollment with the tribe. If he/she is denied membership, an appeal may be filed pursuant to tribal law to the tribal enrollment committee or other body designated to review such appeal. In some instances, a tribal ordinance or governing document may provide for the agency superintendent to review and render an appeal decision. We are not aware that Ms. Pope has made application for enrollment or filed an appeal if she was denied membership.

Review of the Buena Vista Rancheria Constitution does not specifically address appeal procedures. Rather, it states that appeal procedures will be included in a Membership and Enrollment Ordinance. Neither this office, nor the Agency, has such an Ordinance on file.

Ms. Pope states that the Bureau of Indian Affairs has never enforced the Tillie Hardwick Court Decision in validating whether Donnamarie Potts was a blood descendant. Lucille Lucero was the sole surviving descendant of Louis and Anne Oliver, the original distribute listed on the Plan of Distribution pursuant to the Termination Act. Because she was the only descendant, the Bureau determined that she was properly recognized to organize the Buena Vista Rancheria. As such, she had the right to determine the Rancheria's method of governance, including tribal membership criteria.

Bureau records show that Lucille Lucero, as the Tribal Spokesperson, adopted a non-IRA Tribal Constitution on August 4, 1994. Article III, MEMBERSHIP, establishes three classes of members. The first lists individuals defined as historical members. Donnamarie Potts is listed as such. As the Constitution did not require Bureau review

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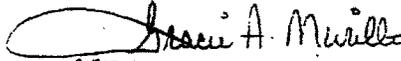
and approval there was no need to question the necessity of Mr. [REDACTED] a United States Supreme Court Decision. [REDACTED] that tribes have a right to determine their own membership. In accordance with this decision, the Bureau of Indian Affairs does not interfere in internal enrollment issues.

It is unfortunate that Mr. Fotts and Mr. Pope are unable to communicate with each other. The Bureau has tried to facilitate such discussion with little success.

Mr. Pope insists that here is not an enrollment issue and wants the Bureau to intercede. We agree with the Superintendent that this is an internal tribal matter and the Bureau of Indian Affairs will not become involved.

Thank you for your interest in Indian affairs. Should you have any questions regarding this matter, please call this office at (916) 978-6000.

Sincerely,



Jessie A. Murrells

Acting Regional Director

cc: Superintendent, Central California Agency
Director, Office of Congressional and Legislative Affairs, Washington, D.C.

MAY - 5 1998

Tribal Operations Officer, Central California Agency

Buena Vista Rancheria - On-Site Monitoring Visit

Awarding Official, Central California Agency

On April 1, 1998, I conducted an on-site monitoring visit at the Buena Vista Rancheria. I was accompanied by Ben Charley, Jr., Housing Officer, and Brian Golding, Sr., Tribal Operations Specialist. The purpose of the visit was to monitor the Tribe's performance under the Aid To Tribal Government (ATTG) portion of Grant #GTJS1T50802, and the ATTG and New Tribes portions of Contract #CTJS1T50804. Representing the Tribe was Donnamarie Potts, Tribal Spokesperson, and Tribal Administrator.

The meeting was held at the Tribal Office. The Tribal Office consists of two rooms, approximately 8' x 10' each, in a mobile home on the Rancheria. The primary use of the mobile home is residential, and is occupied by the Spokesperson/Administrator and her husband. The Tribe also maintains a second office in the home of Frank Vega, Jr., Tribal Vice-Chairperson and ANA Project Director. This home is located off the reservation to the west, toward Camanche Reservoir. This second site is considered the ANA Office. Files are maintained between the two sites.

Introductions and greetings were exchanged, and the purpose of the visit was discussed. We explained that the desired outcome of the meeting was to obtain a better understanding of what the Tribe has accomplished to date under the grants and contract. We explained that we were interested in seeing records, policies, laws, manuals, and other documents that demonstrate progress toward the accomplishment of grant and contract purposes.

Issues Discussed:

We discussed the Tribe's membership. The Spokesperson/Administrator explained that the membership is based on the list of historical members specified at Article III, Section 1, of the Tribe's Constitution, adopted by Lucille Lucero on 08/04/94, and as amended by her to reflect the following deletions:

[REDACTED]

These names were either whited out, or a notation was made on the Constitution stating that the individuals were enrolled with another Tribe. We asked for a copy of these two pages which reflected the amendments to the Constitution, as our copy on file at CCA does not reflect these changes.

The Spokesperson/Administrator then explained that the following were considered as members of the Tribe.

- Donnamarie Potts, Tribal Spokesperson/Administrator
- Renee Selvey, Tribal Secretary
- Frank Vega, Jr., Tribal Vice-Chairperson/ANA Project Director

- two children, both minors
- four children, all minors

Thus, there are nine total members, with three eligible voters.

We discussed the issue of [redacted] for [redacted] #CTJ51T50804. The Tribe estimated that 200 members will receive the benefits or services under the contract. [redacted] Per the proposal for Contract #CTJ51T50804, the Tribe estimated that ten members will receive the benefits or services under the contract. [redacted] authorized the Tribal Council to adopt [redacted] have been [redacted] ordinance has been adopted [redacted] since the [redacted] an [redacted] process [redacted] since the Spokesperson/Administrator stated that are a number of members that are minors, and they were not listed in the Constitution. Once the process is complete, a copy of the new membership roll and the eligible voters list should be submitted to CCA.

We discussed the Tribe's Constitution. We explained that the Tribe voted to accept the terms of IRA, but has never formally organized prior to termination. Lucille Lucero voted to adopt a constitution on 08/08/94. While the BIA recognizes that the Constitution represents the completion of a formal process to organize, the BIA considers the Constitution as Tribally-approved. [redacted] The [redacted] systems to [redacted] to the [redacted] Tribe's [redacted] grant.

We requested to see the administrative management systems that have been adopted by the Tribe. A review of the files at CCA showed that no copies are on file. The Tribe, through its grant application for #GTJ51T50802, stated that it has adopted personnel policies and that a property management system would be incorporated into the fiscal policies within ninety days of award, and contract proposal for #CTJ51T50804, stated that it has adopted administrative systems. The Tribe's CPA certification dated 01/10/95 also refers to procedures being in place. A special condition on #GTJ51T50802 stated that the Tribe was to adopt systems by 07/21/95, and submit copies to CCA by 08/21/95.

At the Buena Vista site, a copy of the financial management system could not be produced; the only administrative management system that was produced dealt with property management. The Spokesperson/Administrator was uncertain of the approval status of the financial management system. The Spokesperson/Administrator stated that a copy of the personnel management system was on file at the ANA Office. We asked for copies of all policies that have been adopted by the Tribe, as these are deliverables under the Tribe's past grants and under the current contract.

requested to see audits. The Administrator produced a copy of [redacted] in 1996 for FY 94. We saw a proposal from a CPA to perform an audit for FY 95. No audits were produced for our examination.

We discussed the reporting requirements of the Tribe's contract. A review of the Tribe's grant and contract files (#GTJ51T50802 and #CTJ51T50804) [redacted] have been received from the Tribe as of the date of [redacted] was explained to the Spokesperson/Administrator. We briefly described the purpose and content of the reports, and advised the Spokesperson/Administrator that technical assistance for the preparation of such reports is available at CCA, either through Self-Determination or Tribal Operations.

We discussed the Labor Force Report, which is one of the functions that the Tribe has contracted. A review of the files showed that the Tribe did not submit either the 1993 or the 1996 report. Rather, CCA staff completed the reports on behalf of the Tribe.

Findings:

1. Tribe did not submit the Labor Force Report required under ATTG portion of #CTJ51T50804.
2. Tribe did not submit the Quarterly Financial Status Reports (SF-269) and the Annual Narrative Reports required under #GTJ51T50802 and #CTJ51T50804.
3. Tribe has not closed out #GTJ51T50802.
4. Tribe has not closed out the first and second years of #CTJ51T50804.
5. While the Tribe did submit a proposed attorney contract in compliance with a special condition specified under #GTJ51T50802, Tribe did not obtain an approved attorney contract.
6. Other deliverables specified under #GTJ51T50802 and #CTJ51T50804, such as economic development plan, business development corporation, and fee-to-trust application, were not submitted.
7. Tribe did not submit copies of Tribally-adopted administrative management systems in compliance with a special condition specified under #GTJ51T50802.
8. Tribe has not submitted copies of updated membership roll, eligible voters, ordinances, or amendments/revisions to the Constitution.
9. Tribe has not completed audits for FY 95, FY 96, and FY 97.
10. Tribe has not submitted information regarding the conduct of elections in compliance with the Tribe's Constitution.

Recommendations:

1. [redacted]
2. [redacted]
3. [redacted]
4. [redacted]
5. [redacted]

+

- 6. [REDACTED]
- 7. [REDACTED]
- 8. [REDACTED]
- 9. [REDACTED]
- 10. [REDACTED]

Further, as the AOR for the Tribe's grants and contracts, [REDACTED]

Please contact Mr. Raymond Fry, Tribal Operations Officer, at (916) 566-7124 should you require additional information with regard to this matter.

sgd. Raymond D. Fry

cc: 3703-P3 Buena Vista Rancheria FY 98
#GTJ51T50802 Grant File (Tribal Ops Copy) FY 95
#CTJ51T50804 Contract File (Tribal Ops Copy) FY 96-98
Tribal Operations Chron
Superintendent Chron
Blind Copy (Brian)

BGolding, Sr 05/05/98

CONSTITUTION
OF THE
BUENA VISTA RANCHERIA
OF
ME-WUK INDIANS OF CALIFORNIA

PREAMBLE

We, the adult lineal descendants of the Buena Vista Rancheria of Me-Wuk Indians of California, hereinafter referred to as the Tribe, in order to establish tribal governmental powers and privileges, do hereby ordain and establish this Constitution pursuant to our tribal sovereignty, the Indian Reorganization Act, 25 U.S.C. 461, and the judgment entered December 22, 1983, in Hardwick v. United States of America, U.S. District Court for the Northern District of California, No. C-79-171-SW, in order to maintain and foster our tribal culture, language and identity, to protect and conserve our land and natural resources, to promote the social, economic and general welfare of our people, to insure our political integrity, to protect the individual rights of our members, to maintain peace and order through the establishment and administration of a justice system, to promote our common welfare, secure to ourselves and our descendants the rights, powers and privileges conferred by the Tribe's inherent rights of self-government and to preserve, secure and exercise all of the rights and powers inherent in our sovereign status, guaranteed to us by the laws of the United States. This Constitution shall govern the Buena Vista Rancheria of Me-Wuk Indians of California.

ARTICLE I - TERRITORY

The territorial jurisdiction of the Tribe shall extend to all those lands as described in Hardwick v. United States of America, U.S. District Court for the Northern District of California, No. C-79-171-SW (1983), and all lands hereafter acquired by or for the Tribe.

ARTICLE II- MEMBERSHIP

Section 1. The membership of the Tribe shall consist of the following:

- (a) All persons of California Indian descent who were listed as distributees in the Plan for the Distribution of the Assets of the Buena Vista Rancheria as approved by the Acting Commissioner of the Interior on April 17, 1959, and effective on July 15, 1959, pursuant to the provisions of the California Rancheria Act, P.L. 85-671, 72 Stat. 619, as amended by P.L. 88-419, 78 Stat. 390.
- (b) Lineal descendants of individuals who qualify under (a) of this section, provided such descendants were born on or prior to the effective date of this Constitution.
- (c) Lineal descendants of individuals who qualify under (a) of this section born after the effective date of this Constitution, provided such descendants possess at least one-fourth (1/4) degree of California Indian blood.

Section 2. No person who is enrolled with the Tribe shall also be a member of another tribe, band or community of Indians. Any persons so dually enrolled shall relinquish membership in the other tribe or be disenrolled, provided nothing in this provision shall be construed in any way to require the relinquishment of any property acquired by purchase, allotment, bequest, inheritance, assignment, or other manner of acquisition.

Section 3. The General Council, as defined below in Article III, shall have the power to adopt ordinances consistent with this Constitution governing future membership, loss of membership and the adoption of members into the Tribe subject to the approval of the Secretary of the Interior.

ARTICLE III - GOVERNING BODY

Section 1. The governing body of the Tribe shall be a five (5) member Tribal Council. The Tribal Council shall consist of a Chairperson, Vice-Chairperson, Secretary, Treasurer and one (1) member each elected by a majority vote of the qualified voters of the Tribe in an election in which at least thirty percent (30%) of the qualified voters have voted. In the event that no candidate receives a majority of the votes cast or in the event that thirty percent (30%) of the voters fail to participate in the election, a subsequent election shall be held within thirty (30) days of the initial election. Should it be necessary to hold a subsequent election, the two (2) candidates receiving the highest number of votes for each position shall be the only candidates for that office at such election.

Section 2. The General Council shall consist of all members of the Tribe eighteen (18) years of age or older.

Section 3. Other officials or committees may be appointed by the Tribal Council when deemed necessary.

ARTICLE IV - NOMINATIONS AND ELECTIONS

Section 1. The lineal descendants of the Tribe, at the time of approval of this Constitution, shall oversee all tribal business until officers are duly elected and installed. The first election under this Constitution shall be held on the first Saturday in October of 2000 and the officials elected shall hold office for two (2) years. Thereafter, elections shall be held every two (2) years on the first Saturday in October. All Tribal Council members shall serve a term of term of two (2) years, unless earlier removed as provided in Article V below.

Section 2. Any enrolled member of the Tribe who is at least eighteen (18) years of age at the time of the election shall be entitled to vote and hold office regardless of residency. Absentee voting shall be permitted.

Section 3. Any qualified voter of the General Council may announce his/her candidacy for the Tribal Council no later than thirty (30) days prior to an election. The list of candidates shall be posted at the tribal office. In the event an insufficient number of candidates, a General Council meeting shall be called and convened to accept nominations.

Section 4. The candidate receiving the highest number of votes for a particular office shall hold that

Section 5. The General Council shall adopt an election ordinance within six (6) months following the effective date of this Constitution. The ordinance shall include secret balloting, voter registration, maintenance at all times of a current list of qualified voters and a procedure for handling election disputes and appeals. Procedures shall also be included regarding the conduct of recall and referendum elections and a uniform procedure and format for submitting and validating petitions. Elections to amend this Constitution shall be conducted in accordance with Article XIII.

ARTICLE V - VACANCIES AND REMOVAL

Section 1. If a member of the Tribal Council should die, resign or be absent from regular Council meetings two (2) successive unexcused times or three (3) unexcused times in any twelve (12) month period, the Council shall declare the position vacant. If a member of the Tribal Council shall be convicted by a court of competent jurisdiction of a felony while in office, the Tribal Council shall, upon a majority vote of the Tribal Council members declare the position vacant. If after an office becomes vacant, and less than twelve (12) months of a term remains, the Council shall fill the vacancy by appointment of a tribal member who qualifies for candidacy. A special election shall be called to fill vacated positions when more than twelve (12) months remain in the unexpired term.

Section 2. The Tribal Council may, by three affirmative votes, expel any officer or Tribal Council member who is proven guilty of improper conduct or of gross neglect of duty, provided the accused official is given written notification of charges at least ten (10) days prior to the designated Tribal Council meeting. Before any vote for expulsion is taken in the matter, such officer or member shall be given an opportunity to answer all written charges at a designated Tribal Council meeting called for that purpose. The decisions of the Tribal Council shall be final. Voting shall be by secret ballot. All members of the Tribal Council may vote on an expulsion charge, except the accused official.

ARTICLE VI- POWERS OF THE TRIBAL COUNCIL

Section 1. Enumerated Powers. The Tribal Council shall exercise the following powers and responsibilities subject only to those limitations imposed by this Constitution and the laws of the United States:

- (a) To consult and negotiate with Federal, State, local and tribal governments and other agencies on behalf of the Tribe on all matters which may affect the Tribe or the lands of the Buena Vista Rancheria, and to advise the Secretary of the Interior on all federal projects for the benefit of the Tribe or the Buena Vista Rancheria;
- (b) To promote the health, education and general welfare of the members of the Tribe and to administer charity and other services as may contribute to the social and economic advancement of the Tribe and its members;
- (c) To encourage and foster arts, crafts, traditions and culture of the Tribe.
- (d) To promulgate and enforce resolutions or ordinances, providing for the manner of making, holding and revoking assignments of Buena Vista Rancheria land; the levying of taxes and the appropriation of available tribal funds for public purposes; the licensing of non-tribal

members; and the exclusion of persons who are not so licensed or are otherwise undesirable, from the Buena Vista Rancheria or other tribal lands;

(e) To promulgate and enforce ordinances on such subjects as the activity of the Tribe may require as are not inconsistent with this Constitution;

(f) To borrow money and provide for the repayment thereof, manage all economic affairs and enterprises, negotiate and contract on behalf of the Tribe, and create tribally-owned corporations;

(g) To initiate, approve, grant or reject any acquisition, disposition, lease, or encumbrance of tribal lands or property; to manage, protect and preserve all lands, minerals, wildlife and other natural resources of the Buena Vista Rancheria; and to initiate and administer land development projects for the entire Buena Vista Rancheria;

(h) To create and maintain a reasonable tribal fund for administrative expenses of the tribe and to provide for remuneration of Tribal Council members and tribal officials as may be required; to administer any funds or property within the control of the Tribe for the benefit of the Tribe and its members, officers or employees; and to allocate tribal funds as loans or grants and to transfer tribal property and other assets to tribal organizations for such use as the Tribal Council may determine;

(i) To employ legal counsel on behalf of the Tribe, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior or his authorized representative so long as such approval is required by Federal law;

(j) To sue and be sued on behalf of the Tribe provided such suit is consented to by waiver of sovereign immunity; provided, no waiver of sovereign immunity shall be made by the Tribal Council without the express prior approval by a majority of the General Council, voting thereon at a meeting duly called and noticed for that express purpose, or at a regularly scheduled meeting;

(k) Employ consultants for the protection and advancement of the interest of the Tribe and its members;

(l) To form or join existing tribal courts, consortiums or Indian organizations dealing with Indian Child Welfare Act of 1978 (25 U.S.C. 1901 *et seq.*) and to reassume jurisdiction over Indian child custody proceedings as authorized by the Indian Child Welfare Act (25 U.S.C. 1918);

(m) To establish a tribal judicial system, define its jurisdiction and promulgate tribal court rules;

(n) To create and regulate subordinate organizations, and to delegate to such organizations, or to any subordinate boards or officials of the Buena Vista Rancheria, any of the foregoing powers, reserving the right to review and rescind any action taken by virtue of such delegated powers; and

(o) To form or join an existing housing authority.

Section 2. The Tribal Council shall have all of the appropriate powers necessary to implement specific provisions of this Constitution and to effectively govern tribal affairs. All powers heretofore vested in the Tribe, but not specifically referred to in this Constitution, shall not be abridged, but shall be reserved to the people of the Tribe and may be exercised through appropriate amendment to this Constitution.

ARTICLE VII - DUTIES OF OFFICERS

Section 1. The Chairperson of the Tribal Council shall preside at all meetings of the General Council and of the Tribal Council, and shall execute on behalf of the Tribe all contracts, leases or other documents approved by the Tribal Council. He/she shall have general supervision of all other officers, employees and committees of the Tribe. When neither the General Council nor the Tribal Council is in session, the Chairperson shall be the official representative of the Tribe.

Section 2. The Vice-Chairperson of the Tribal Council shall assist the Chairperson when called upon to do so, and in the absence of the Chairperson, he/she shall preside over the Tribal Council. When presiding, the Vice-Chairperson shall have all the rights, privileges, duties, and responsibilities of the Chairperson.

Section 3. The Secretary of the Tribal Council shall conduct all tribal correspondence, keep a complete and accurate record of all matters transacted at Council meetings and attest to the enactment of all resolutions and ordinances. At the expiration of the Secretary's term of office, all records and papers in his/her possession shall be turned over to his/her successor or the Tribal Council.

Section 4. The Treasurer of the Tribal Council shall accept, receive, receipt for, preserve and safeguard all funds in the custody of the Tribal Council. As directed by the Tribal Council, the Treasurer shall deposit all such funds in financial institutions, where depositors' funds are insured by the Federal Deposit Insurance Corporation. The Treasurer shall not disburse nor authorize disbursement of any funds in his/her possession or custody or in the possession or custody of the Tribal Council, except when properly authorized to do so by a majority vote of the Tribal Council. The books and records of the Treasurer shall be audited at least once a year by a competent auditor selected by the Tribal Council. The Treasurer shall be required to provide a bond satisfactory to the Tribal Council. The premium for such bond shall be paid from tribal funds.

Section 5. The duties of all appointive committees or officials of the Tribe shall be clearly defined by the Tribal Council at the time of their creation or appointment. Appointive committees and officers shall report on their activities and decisions from time to time as required by the Tribal Council. The and decisions of all appointive committees and officials shall be subject to review by the Tribal Council.

Section 6. Newly-elected members who have been duly certified shall be installed at the first regular meeting of the Tribal Council following certification.

ARTICLE VIII - MEETINGS

Section 1. Regular meetings of the Tribal Council shall be held on the last Saturday of each month, or at such other times as the Tribal Council may by resolution provide, on a day to be determined by the Tribal Council. Special meetings may be called by written notice signed by the Chairperson, and shall be called by him/her upon receipt of a petition signed by at least three (3) Tribal Council members. When a special meeting is called, the Tribal Council shall have the same power to transact business as in the regular meetings, provided a quorum is present.

Section 2. The General Council shall meet quarterly on the last Sunday of each third month. Special meetings of the General Council may be called by the Chairperson and must be called by him/her upon receipt of a petition signed by at least thirty percent (30%) of the members of the General Council.

Section 3. No resolutions, ordinances or contracts may be signed at regular or special meetings unless a quorum is present. A quorum of the Tribal Council is three (3) members. For General Council meetings a quorum is thirty percent (30%) of the qualified voters.

Section 4. Order of Business.

- (a) Call to Order by Chairperson
- (b) Roll Call
- (c) Reading of Minutes of Last Meeting
- (d) Unfinished Business
- (e) Reports
- (f) New Business
- (g) Adjournment

ARTICLE IX – POPULAR PARTICIPATION OF GOVERNMENT

Section 1. Initiative. The qualified voters of the Tribe reserve the power to independently propose tribal legislation which does not infringe on the Enumerated Powers of the Tribal Council pursuant to Article VII of this Constitution. The Initiative process is the procedure where the General Council may propose legislation and compel the Tribal Council to submit the proposed tribal law to the General Council for a vote.

(a) Upon presentation to the Tribal Council of a petition signed by at least thirty percent (30%) of the qualified voters, the Tribal Council shall review the petitioners signatures for accuracy, and review the substance of the proposed legislation for compliance with tribal law and this Constitution;

(b) The Tribal Council shall then within fifteen (15) days of submission of the petition, do one or more of the following: (1) adopt the provisions of the petition by ordinance or resolution; (2) reject the proposed legislation, providing a written explanation of the reason(s) for the rejection; or (3) provide that the legislation presented by the petition be voted on by secret ballot within thirty (30) days after submission of the petition. The Tribal Council shall provide thirty (30) day notice of an election on the proposed initiative in writing to the General Council. The General Council may vote by absentee ballots if requested at least ten (10) days prior to the scheduled election.

Section 2. Recall. The qualified voters of the Tribe reserve the power to independently recall an elected official of the Tribal Council. The Recall process is the procedure where the General Council may compel an individual member of the Tribal Council to relinquish control of his/her

position on the Tribal Council. Only one Tribal Council member at a time may be recalled within any forty-five (45) day period.

(a) Upon presentation to the Tribal Council of a petition signed by at least thirty percent (30%) of the qualified voters, the Tribal Council without the challenged Tribal Council member shall have fifteen (15) days to review the petitioners signatures for accuracy, and review the substance of the Recall petition for compliance with an election ordinance. Once the Tribal Council has made a determination of validity relating to a recall petition against a Tribal Council member, that Tribal Council member shall no longer have any authority on the Tribal Council until such a time as the recall election has been completed. Once an individual has been subjected to Recall proceedings, he/she shall not be again subject to such action for the same charge(s) during the remainder of his/her term of office.

(b) In order for a Recall petition to be valid, the petitioner bears the burden of showing that the Tribe will suffer irreparable harm, as defined in an election ordinance, if the current Tribal Council member is allowed to complete his/her term;

(c) If the Recall petition is deemed valid by the non-challenged members of the Tribal Council, then the Tribal Council shall within thirty (30) days after submission of the Recall petition hold an election. The Tribal Council shall provide fifteen (15) day notice of the election in writing to all the General Council. The General Council may vote by absentee ballots which the Tribal Council shall send out upon request of the General Council.

Section 3. Binding Effect. In either an Initiative or Recall action, the Tribe shall abide by the vote of a two-thirds (2/3) majority of the voters in any such vote, provided that at least fifty-one (51%) of those eligible to vote have voted. The results of the vote shall be binding and remain in effect until amended or rescinded by subsequent action of the voters or until the results expire by its own terms.

ARTICLE X- ORDINANCES AND RESOLUTIONS

Section 1. All final decisions of the Tribal Council on matters of general and permanent interest (such as action on the tribal budget for a single year, or petitions to Congress or the Secretary of the Interior), or matters relating to particular individuals or officials (such as adoption of members, instructions for tribal employees, or rules of order for the Council) shall be embodied in resolutions or ordinances.

Section 2. All questions of procedure (such as acceptance of committee reports, or invitations to outsiders to speak) shall be decided by action of the Tribal Council, or by the ruling of the Chairperson if no objection is raised. On all ordinances, resolutions, or motions, the Tribal Council may act by a majority of those Tribal Council members present.

Section 3. All ordinances and resolutions shall be dated and numbered, and shall include certification showing the presence of a quorum and the number of Tribal Council members voting for or against

the proposed enactment. No action of the Tribal Council shall have any validity or effect in the absence of a quorum, as defined Article VIII, Section 3 above.

ARTICLE XI - BILL OF RIGHTS

Section 1. All members of the Tribe shall enjoy without hindrance, freedom of worship, conscience, speech, press, assembly and association.

Section 2. This Constitution shall not in any way alter, abridge, or otherwise jeopardize the rights and privileges of the members of the Tribe as citizens of the State of California or the United States.

Section 3. The individual property rights of any member of the Tribe shall not be altered, abridged or otherwise affected by the provisions of this Constitution.

Section 4. Tribal members shall have the right to review all tribal records, including financial records, at any reasonable time in accordance with procedures established by the Tribal Council.

Section 5. In accordance with Title II of the Indian Civil Rights Act of 1968 (82 Stat. 77), the Tribe in exercising its powers of self-government shall not:

(a) Make or enforce any law prohibiting the full exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for redress of grievances;

(b) Violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizure, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

(c) Subject any person to be twice put in jeopardy for the same offense;

(d) Compel any person in any criminal case to be a witness against himself;

(e) Take any private property for a public use without just compensation;

(f) Deny to any person in a criminal proceeding the right to a speedy trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him/her, to have compulsory process for obtaining witnesses in his/her favor, and, at his/her own expense, to have the assistance of counsel for his/her defense;

(g) Require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of six (6) months or a fine of \$500, or both;

(h) Deny to any person within the Tribe's jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of laws;

(i) Pass any bill of attainder or ex post facto law; or

(j) Deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six (6) persons.

ARTICLE XII - SEVERABILITY

If any provision of this Constitution shall, in the future, be declared invalid by a court of competent jurisdiction, the invalid provision or provisions shall be severed and the remaining provisions shall continue in full force and effect.

ARTICLE XIII - AMENDMENTS

Section 1. This Constitution may be amended by a majority vote of the qualified voters of the Tribe voting in an election called for that purpose by the Secretary of the Interior or his/her authorized representative, provided that at least thirty percent (30%) of those entitled to vote shall vote in such election. No amendment shall become effective until approved by the Secretary of the Interior or his/her duly authorized representative.

Section 2. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment at the request of the Tribal Council or upon receipt of a petition signed by at least thirty percent (30%) of the qualified voters of the Tribe.

ARTICLE XIV - RATIFICATION

Section 1. This Constitution when ratified by a majority vote of the qualified voters of the Tribe, voting at an election called for that purpose by the Secretary of the Interior or his/her authorized representative in which at least thirty percent (30%) of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his/her approval, and shall be effective from the date of his/her approval.

CERTIFICATE OF ADOPTION

I, Rhonda Morningstar Pope, as a lineal descendent of Louie and Annie Oliver, hereby adopt this Constitution of the Tribe in accordance with 25 U.S.C. §476(a), and hereby request that the Secretary of the Interior call and hold an election in order for any California Indian who qualifies as a lineal descendant to the individuals named under the Plan for the Distribution of the Assets of the Buena Vista Rancheria as approved by the Acting Commissioner of the Interior on April 17, 1959, and effective on July 15, 1959, pursuant to the provisions of the California Rancheria Act, P.L. 85-671, 72 Stat. 619, as amended by P.L. 88-419, 78 Stat. 390, to vote in such election for the purpose of ratifying said Constitution pursuant to 25 U.S.C. §476(a)(1), unless said descendant is an enrolled member of another tribe, band, or community of Indians.


Rhonda Morningstar Pope
Lineal Descendent

8-31-00
Date

CERTIFICATE OF RESULTS OF ELECTION

Pursuant to an order issued _____, 2000, by _____ Assistant Secretary - Indian Affairs (Operations), the Constitution of the Tribe was submitted to the qualified voters of the Tribe, and was on _____, 2000, duly ratified, pursuant to 25 U.S.C. §476(a)(1) by a vote of _____ for, and _____ against, in an election in which at least thirty percent (30%) of the _____ entitled to vote cast their ballots in accordance with 25 CFR 81 and Article XIV of this Constitution.

CERTIFICATE OF APPROVAL

I, _____, Assistant Secretary - Indian Affairs, by virtue of the authority granted to me by 209 DM. §8.3, 25 U.S.C. §467(a)(2) and (d)(1) do hereby approve this Constitution of the Tribe. It is effective as of this date, provided that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to federal law.

Date

Assistant Secretary - Indian Affairs

ALBIETZ
LAW
CORPORATION

2001 'N' STREET, SUITE 100
SACRAMENTO, CA 95814
(916) 442-4241
FAX (916) 444-5494

November 4, 2000

Dale Rising, Sr., Superintendent
Bureau of Indian Affairs, Central California Agency
1824 Tribute Road, Suite J
Sacramento, CA 95815-4308

SUPT.	<i>dl</i>
ADMIN.	<i>to. dl</i>
ROUTE	<i>11/13/00</i>
RESPONSE REQUIRED	<i>11/13/00</i>
DUE DATE	
MEMO	ITR
TELE	OTHER

11/13/00

Re: Proposed Tribal Constitution for the Buena Vista Rancheria/ Request for Election

Dear Mr. Rising:

We are in receipt of your letter dated November 2, 2000, wherein you indicated that the BIA could not take any action on our client, Rhonda Pope's proposed constitution for the Buena Vista Rancheria ("Tribe") due to a lack of a "proper request" to "formally review the proposed constitution." Although, it is our position that the request submitted on September 1, 2000 was proper under 25 C.F.R. § 81.5(a), see enclosed a signed Petition for the calling of an election to adopt the proposed constitution (also enclosed herewith), pursuant to 25 C.F.R. § 81.5(b).

Additionally, while 25 U.S.C. § 476(c)(2) mandates that the Secretary of the Interior ("Secretary") review constitutions which are the subject of an election, neither 25 U.S.C. § 476 nor 25 CFR § 85.1 require that the Tribe request a formal review by the Secretary. They simply require that, in adopting a constitution, the Tribe request the Secretary to authorize and call an election ratifying the adoption of the constitution. After the election, if the adoption of the constitution is passed, the Secretary must then approve the constitution unless the Secretary finds that the constitution is contrary to applicable laws. (See 25 U.S.C. § 476(d)(1).)

Referring back to our initial point, 25 C.F.R. § 81.5(a) provides that the Secretary shall authorize an election to adopt a constitution upon a simple request from the tribal government. No further requirement is provided under that section.

Since Rhonda Pope is the only living direct lineal descendant of the distributees of the Buena Vista Rancheria, she is, in and of herself, the Tribe and its governing body. Thus, under Section 81.5(a) she need only make a request to the Secretary to call an election, and the Secretary is required to do so, without discretion. Thus, we maintain that the correspondence provided by us on September 1, 2000 was sufficient to trigger the Secretary's duty to call an election.

Notwithstanding the above objections, pursuant to your November 2, 2000 letter, Rhonda Pope, as 100% of the Tribe's adult membership, has signed the enclosed Petition requesting that

Dale Risling, Sr.
November 4, 2000
Page 2

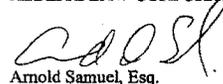
the Secretary authorize and call an election for the adoption of the proposed Constitution enclosed herewith.

Given the circumstances surrounding the current events which may irreparably harm the Tribe, we respectfully request that the election be authorized and called in the most expedient manner. If there is anything further you need from us before calling the election, please let us know as soon as possible.

We thank you in advance for your cooperation in the handling of this matter.

Sincerely,

ALBIETZ LAW CORPORATION



Arnold Samuel, Esq.

w/ enclosures

cc: Rhonda Morningstar Pope w/o enclosures

**PETITION
FOR THE
SECRETARY OF THE INTERIOR
TO CALL AN ELECTION
FOR THE ADOPTION
OF THE
PROPOSED CONSTITUTION
OF THE
BUENA VISTA RANCHERIA**

I, Rhonda Morningstar Pope, as a lineal descendant of Louie and Annie Oliver and the only adult member of the Buena Vista Rancheria ("Tribe"), hereby adopt the attached Constitution of the Tribe submitted to the Secretary of the Interior on September 5, 2000 in accordance with 25 U.S.C. §476(a), and hereby request that the Secretary of the Interior call and hold an election in order for any California Indian who qualifies as a lineal descendant to the individuals named under the Plan for the Distribution of the Assets of the Buena Vista Rancheria as approved by the Acting Commissioner of the Interior on April 17, 1959, and effective on July 15, 1959, pursuant to the provisions of the California Rancheria Act, P.L. 85-671, 72 Stat. 619, as amended by P.L. 88-419, 78 Stat. 390, to vote in such election for the purpose of adopting said Constitution pursuant to 25 U.S.C. §476(a)(1), unless said descendant is an enrolled member of another tribe, band, or community of Indians.

THEREFORE, pursuant to 25 U.S.C. §476(a) and 25 CFR 81.5, let this Petition be presented to the Secretary of the Interior with the attached signature by one-hundred percent (100%) of the Tribe's adult members. Whereupon receipt of this Petition, the Secretary shall call and hold an election for the purpose of allowing the adult members of the Tribe to vote in such election for the purpose of adopting the attached Constitution pursuant to 25 U.S.C. §476(a)(1).

PETITION

Name/Address

Signature

Date

Rhonda Morningstar Pope
P.O. Box 162283
Sacramento, CA 95816

 11-2-00



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825

CERTIFIED MAIL NO. Z 468 808 840
RETURN RECEIPT REQUESTED

OCT - 2 2001

Judith Kammins Albiets, Attorney at Law
Albiets Law Corporation
2001 N Street, Suite 100
Sacramento, California 95814

Dear Ms. Albiets:

The purpose of this correspondence is to inform you of my decision regarding the Notice of Appeal dated June 26, 2001, which you filed on behalf of your client, Rhonda Morningstar Pope, appealing the failure of the Bureau of Indian Affairs, Central California Agency (BIA) to act upon the request dated September 1, 2000. The Notice of Appeal was received in this Office on June 29, 2001. The Amendment to the Notice of Appeal dated July 12, 2001 was received on July 13, 2001.

BACKGROUND

By your letter dated September 1, 2000, your client, Rhonda Morningstar Pope, challenged the authority of the current Tribal Government and the Tribal Constitution under which it is functioning. The grounds for your client's position are as follows: (1) the Constitution adopted in 1994 is ineffective under the Indian Reorganization Act (25 U.S.C. § 461 et seq.) (IRA); and (2) without the 1994 Tribal Constitution, members of the current Tribal Government do not qualify as members and have no authority to act on behalf of the Tribe, thus invalidating the proposed 1999 Tribal Constitution. Therefore, your client, requested that the BIA: (1) "call a special election pursuant to the Indian Reorganization Act (IRA) Section 476 (c) to ratify a proposed Tribal Constitution for the Buena Vista Rancheria; and (2) approve the proposed Tribal Constitution pursuant to IRA Section 476(d) after adoption of the Constitution by the Tribe."

By letter dated November 2, 2000, the BIA, Superintendent, Central California Agency acknowledged and responded to your letter dated September 1, 2000. The Superintendent informed you that your letter and the proposed Constitution are being returned without action for lack of a proper request to the Secretary of the Interior to formally review the proposed Constitution. Further, the Superintendent informed you that a proper request would consist of either a resolution or petition.

OPTIONAL FORM NO. 10 (7-97) 10/02/01

FAX TRANSMITTAL # of pages 3

To: *Albiets Law Corp.* From: *F. Danks, Jr.*

Destination: *Albiets Law Corp.* Phone: *916-875-6067*

Phone: *(916) 444-5444*

U.S. GOVERNMENT PRINTING OFFICE: 2000-101 GENERAL SERVICES ADMINISTRATION

On November 4, 2000, you responded on behalf of your client, to the BIA, Superintendent, Central California Agency's letter dated November 2, 2000. Enclosed was a Petition signed by your client, purporting to constitute 100% of the Tribe's adult membership, and calling for an election to adopt the proposed Constitution for the Buena Vista Rancheria, pursuant to 25 CFR § 81.5(b).

Your letter dated April 11, 2001, on behalf of your client, Rhonda Morningstar Pope, pursuant to 25 CFR § 2.8, requested the BIA to take the action originally requested on September 1, 2000, which was as follows: (1) "call a special election pursuant to the Indian Reorganization Act (IRA) Section 476 (c) to ratify a proposed Tribal Constitution for the Buena Vista Rancheria; and (2) approve the proposed Tribal Constitution pursuant to IRA Section 476(d) after adoption of the Constitution by the Tribe."

By letter dated April 24, 2001, the BIA, Superintendent, Central California Agency, acknowledged and responded to your letter dated April 11, 2001. The Superintendent informed you that a response to your client's initial request of September 1, 2000, was issued on November 2, 2000. In regard to your November 4, 2000 request, the Superintendent determined that the request did not conform to the requirements established by 25 USC § 476, 25 CFR § 81, or applicable Bureau of Indian Affairs guidelines. The Superintendent then returned the Petition and proposed constitution without action for lack of a proper request.

DISCUSSION AND CONCLUSION

The Buena Vista Rancheria of Me-Wuk Indians of California (Tribe) is a Federally recognized Tribe eligible to receive services from the United States Bureau of Indian Affairs. On June 12, 1935, members of the Tribe voted to accept the terms of the Indian Reorganization Act (IRA).

The Buena Vista Rancheria was terminated pursuant to the California Indian Rancheria Act of 1958 and the Distribution Plan for the Buena Vista Rancheria listed Louis and Anne Oliver, husband and wife as the only original distributees. The Buena Vista Rancheria was one of seventeen rancherias restored to Federal recognition under the stipulated judgment in Tillie Hardwick, et al., v. United States, Civil No. C 79-1710 SW (N.D. Calif. Dec. 22, 1983). The Buena Vista Rancheria was listed in the Federal Register on February 13, 1985 and is still so listed.

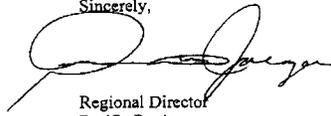
On August 4, 1994, the Tribe adopted a Constitution, which was signed by Ms. Lucille Lucero, as Spokesperson for the Band, a lineal descendent of Louis Oliver and Anne Oliver. Furthermore, Article III, Membership, of the 1994 Constitution, identified the membership of the Tribe, which listed Donnamarie Potts as a Historical member of the Band. After the death of Ms. Lucille Lucero, and under the leadership of Ms. Donnamarie Potts, the Tribe amended the Tribal Constitution on June 25, 1999 and again on October 25, 2000. To date, the Tribe has not requested a Secretarial election be conducted on either of the three constitutions.

Under most circumstances involving the review of a petition requesting a Secretarial election, a Superintendent properly defers to a reorganized Tribe's determination of whether a petitioner is a Tribal member. However, the Interior Board of Indian Appeals in Jefferey Alan-Wilson, Sr. v. Sacramento Area Director, Bureau of Indian Affairs (30 IBIA 241, 252) has stated that the BIA and the IBIA have a responsibility to ensure that the initial tribal government of a previously

unorganized group is organized by individuals who properly have the right to do so. Ms. Pope's requests have raised the question of whether she or the leadership of the Tribe presently recognized by the BIA is properly entitled to reorganize the Tribe. Yet the administrative record does not show whether the Superintendent ever considered this question.

Therefore, for the foregoing reasons, this matter is remanded to the Superintendent, Central California Agency to consider (1) whether under the circumstances Ms. Pope or the leadership presently recognized by the BIA has a right to participate in the reorganization of the Buena Vista Rancheria, and (2) whether Ms. Pope's requests would have conformed to the requirements established by 25 USC § 476, 25 CFR § 81, or applicable BIA guidelines.

Sincerely,



Regional Director
Pacific Region

cc: Michael Anderson, Attorney
Monteau, Peebles & Crowell, L.L.P.
1001 2nd Street
Sacramento, CA 95814

Dale Risling, Superintendent, Central California Agency
1824 Tribute Road, Suite J
Sacramento, CA 95815



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
 Central California Agency
 1824 Tribute Road, Suite J
 Sacramento, CA 95815-4308

DEC 27 2001

CERTIFIED MAIL NO. 7099 3220 0009 8659 6371
 RETURN RECEIPT REQUESTED

Judith Kammins Albietz, Attorney at Law
 Albietz Law Corporation
 2001 "N" Street, Suite 100
 Sacramento, California 95814

Dear Ms. Albietz:

The purpose of this correspondence is to inform you of my decision regarding the June 26, 2001, appeal of your client, Ms. Rhonda Pope, alleging that I failed to timely act upon the September 1, 2000, request of Ms. Pope for a Secretarial election for the Buena Vista Rancheria (Tribe). On October 2, 2001, the Regional Director, Pacific Region, remanded Ms. Pope's appeal to me. After reviewing records maintained by the Central California Agency (Agency) and the arguments of the parties, I conclude that Ms. Pope, but not the Tribe's leadership presently recognized by the Agency, has a right to participate in the organization of the Tribe. Further, I conclude that neither of Ms. Pope's Secretarial election requests conform to the statutory or regulatory requirements for such requests. The balance of this letter briefly presents the background of Ms. Pope's appeal, discusses the arguments raised and evidence provided by the parties, and explains the bases for my conclusions.

BACKGROUND

Ms. Pope's appeal of June 26, 2001, made pursuant to 25 CFR § 2.8, alleges that I failed to timely act "upon the request of" Ms. Pope for the calling of a Secretarial election on and approval of her proposed constitution. Ms. Pope's appeal of June 26, 2001, follows from her letter of April 11, 2001, wherein she states that on "September 1, 2000, [she] ... requested" the calling of a Secretarial election on and approval of her proposed constitution.

On November 2, 2000, I responded to Ms. Pope's September 1, 2000, Secretarial election request. I returned without action Ms. Pope's request, because I concluded that her request did not constitute a proper request.

By letter dated November 4, 2000, Ms. Pope reiterated her request for a Secretarial election in the form of a petition. On April 24, 2001, I returned without action Ms. Pope's petition because I concluded that her petition did not meet the requirement at 25 CFR § 81.5 that such a petition be signed by at least sixty percent (60%) of the adult membership of the Tribe. Further, I stated that her petition could not meet the 25 CFR § 81.5 requirement because the presently recognized Tribal government did not recognize Ms. Pope as a Tribal member.

Ms. Pope's appeal of June 26, 2001, followed, and was forwarded to the Regional Director, Pacific Region, for his action.

Via letter dated October 2, 2001, the Regional Director, Pacific Region, made the following observations:

Under most circumstances involving the review of a petition requesting a Secretarial election, a Superintendent properly defers to a reorganized Tribe's determination of whether a petitioner is a Tribal member. However, the Interior Board of Indian Appeals in Jefferey Alan-Wilson, Sr. v. Sacramento Area Director, Bureau of Indian Affairs (30 IBIA 241, 252) has stated that the BIA and the IBIA have a responsibility to ensure that the initial tribal government of a previously unorganized group is organized by individuals who properly have the right to do so. Ms. Pope's requests have raised the question of whether she or the leadership of the Tribe presently recognized by the BIA is properly entitled to reorganize the Tribe. Yet the administrative record does not show whether the Superintendent ever considered this question.

The Regional Director then remanded Ms. Pope's appeal to me for my consideration of two issues, namely:

1. Whether under the circumstances Rhonda Morningstar Pope or the leadership presently recognized by the BIA has a right to participate in the reorganization of the Buena Vista Rancheria, and
2. Whether Ms. Pope's requests would have conformed to the requirements established by 25 USC § 476, 25 CFR § 81, or applicable BIA guidelines.

I provided Ms. Pope and the leadership presently recognized by the BIA an opportunity to file briefs and replies on the aforementioned issues.

DISCUSSION AND CONCLUSION

1. Whether under the circumstances Rhonda Morningstar Pope or the leadership presently recognized by the BIA has a right to participate in the reorganization of the Buena Vista Rancheria.

The Buena Vista Rancheria (Tribe) is one of seventeen tribes that were restored as federally recognized via the Stipulation for Entry of Judgment in Tillie Hardwick v. United States, Civil No. C-79-1710 SW (N.D. Calif., December 22, 1983). The Bureau of Indian Affairs (Bureau) interprets the stipulated judgment in Hardwick as establishing that, in the absence of a pre-termination governing document, distributees, dependent members, and lineal descendants thereof who were listed in a tribe's distribution plan, possess the right to participate in the organization of the initial tribal government of each Hardwick tribe.

The Bureau's interpretation was challenged before the Interior Board of Indian Appeals (IBIA), first in Alan-Wilson v. Sacramento Area Director (Alan-Wilson I), 30 IBIA 241, recon. denied, 31 IBIA 4 (1997), and again in Alan-Wilson v. Acting Sacramento Area Director (Alan-Wilson II), 33 IBIA 55 (1998). In Alan-Wilson I, 30 IBIA at 254-257, the

BIA found the Bureau's interpretation to be reasonable, but also found no evidence that the Bureau had followed a consistent interpretation of Hardwick in connection with the reorganization of other Hardwick rancherias. In Alan-Wilson II, 33 BIA at 57, concluded that, with the exception of the Cloverdale Rancheria, the Bureau consistently applied its interpretation of the stipulated judgment in Hardwick.

The two possible exceptions from the application of the Bureau's interpretation of the stipulated judgment in Hardwick are inapplicable. First, there exists no pre-termination governing document establishing different criteria for determining participation rights in the organization process for the Tribe. Second, since the Tribe's restoration in 1983, no person or group of persons possessing the right to participate in the organization of an initial tribal government has reorganized under an effective constitution that establishes membership criteria differing from the Hardwick criteria. Thus, Ms. Pope and the leadership presently recognized by the BIA have the burden to demonstrate by reliable evidence that they are lineal descendants of either or both of the distributees listed in the Tribe's distribution plan. If so demonstrated, then they would be eligible to participate in the organization of the initial tribal government or the reorganization of the Tribe under a constitutional form of government.

Ms. Pope claims that she is a lineal descendent of the distributees listed in the Tribe's distribution plan. Ms. Pope provided to the Agency various forms of reliable evidence, including her birth certificate, a Stipulation and Order for Support, and a Form SSA-2458 issued by the Social Security Administration, that demonstrate her status as a lineal descendent of the distributees listed in the Tribe's distribution plan. I conclude, in light of such reliable evidence and the Bureau's interpretation of the Hardwick judgment, that Ms. Pope is a lineal descendent of the distributees and possesses the right to participate in the organization or reorganization of the Tribe.

The leadership presently recognized by the BIA consists of Ms. Donnamarie Potts, Mr. Frank Vega, Jr., and Ms. Renee Selvey. Mr. Vega and Ms. Selvey are son and daughter of Ms. Potts. Ms. Potts claims, at least initially, that she is a lineal descendent of one of the distributees listed in the Tribe's distribution plan. Ms. Potts provided to the Agency certain evidence, including an affidavit by Mr. William J. Pink, a former employee of the Tribe, dated October 15, 2000, that alleges Ms. Potts to be the illegitimate child of one of the distributees' daughters. Even if the affidavit by Mr. Pink is considered as carrying great weight, the affidavit does not outweigh other forms of reliable evidence that strongly supports the conclusion that Ms. Potts is not a lineal descendent of the distributees. Such other reliable evidence includes Ms. Potts' birth certificate, her application for inclusion on the 1972 California Indian Judgment Fund Payment Roll, and her application for membership in the Greenville Rancheria. Each of these documents was created (the latter two by Ms. Potts herself) years before the present controversy and names as Ms. Potts' parents two persons unrelated to the distributees. I conclude, in light of such reliable evidence and the Bureau's interpretation of the Hardwick judgment, that Ms. Potts is not a lineal descendent of the distributees and does not possess the right to participate in the organization or reorganization of the Tribe.

Further, since I conclude that Ms. Potts is not a lineal descendent of the distributees, the eligibility of Mr. Vega and Ms. Selvey depends upon whether their father is a lineal descendent. However, their applications for inclusion on the 1972 California Indian Judgment Fund Payment Roll are reliable evidence on file at the Agency strongly suggesting that their father is not a lineal descendent of either of the distributees.

Rather, such evidence indicates that their father is non-Indian. Thus, I conclude that neither Mr. Vega nor Ms. Selvey is a lineal descendent of the distributees and they do not possess the right to participate in the organization or reorganization of the Tribe.

However, Ms. Potts offers two alternative bases as establishing her right of participation. First, Ms. Potts claims such a right was conferred upon her via the 1994 Constitution. Second, Ms. Potts argues that her residency upon the Rancheria establishes such a right of participation. I conclude that neither alternative applies in this situation.

As to Ms. Potts claim regarding the 1994 Constitution, I conclude that the 1994 Constitution is ineffective and cannot confer unto Ms. Potts the right she claims. Under Section 16 of the IRA (25 USC § 476), "[a]ny Indian tribe shall have the right to organize for its common welfare, and may adopt an appropriate constitution, which shall become effective when ratified by [the Tribe] ... and approved by the Secretary [of the Interior]." Approval by the Secretary is the last step in a process that begins with a request from a tribe or its members calling for a Secretarial election to adopt a proposed constitution. The IRA does not require a tribe exercising its "right to organize" do so under a constitutional form of government. Rather, when a tribe chooses to reorganize under a constitutional form of government, the process required by the IRA for adoption and approval must be completed in order for a tribe's "appropriate constitution" to become effective. At that point, such a tribe is deemed a "reorganized tribe", as defined at 25 CFR § 81.1(p).

However, Ms. Potts and Ms. Pope each claim that when a tribe chooses to reorganize under a constitutional form of government, the IRA does not require Secretarial approval for such a constitution to become effective. I disagree. Such an interpretation of the IRA would render meaningless the statute's command that "an appropriate constitution... shall become effective when ratified by [the tribe] ... and approved by the Secretary [of the Interior]." I believe that Congress in enacting the IRA and its amendments intended the Secretarial approval requirement to have meaning.

Both parties point to the IBIA's decision in Estate of Alvin Ward, 19 IBIA 196 (1991), as support for their claim. However, Ward involved the constitution adopted by the Quinault Tribe in 1922, twelve years prior to the enactment of the IRA. The situation in Ward is in stark contrast to the situation at Buena Vista; no constitution existed prior to 1994, sixty years following the enactment of the IRA. Thus, while the IRA's Secretarial election and approval process may not have retroactive effect, the question of whether the 1994 Constitution is effective depends not upon retroactivity, but rather the prospective effect of the IRA.

Agency records yield no evidence that either Lucille Lucero or Ms. Potts ever requested a Secretarial election or otherwise sought Secretarial approval of the 1994 Constitution. Ms. Lucero's "ratification" of the 1994 Constitution did not occur at a Secretarial election. Further, no Secretarial approval of the 1994 Constitution has occurred. As such, I conclude that the 1994 Constitution is ineffective. I also conclude that, as an ineffective document, the 1994 Constitution cannot confer upon Ms. Potts the right of participation.

Ms. Potts also claims that her residency upon the Rancheria is sufficient to confer upon her the right of participation in the reorganization of the Tribe, if not also in the organization of an initial Tribal government. I conclude that her residency does not confer any such right.

In Alan-Wilson, 30 IBIA at 254-255, the IBIA stated:

Although paragraphs 2 and 3 of the Hardwick stipulated judgment relate to individuals and individual rights, paragraph 4 requires the restoration of the 17 rancherias "with the same status as they possessed prior to distribution of [their] assets." The Area Director reads Hardwick as restoring the rancherias as groups of adult Indians residing on reservations, i.e., "the same status as they possessed prior to distribution of [their] assets." If the Cloverdale Rancheria were restored to the status of a group of adult Indians residing on a reservation as of the time just prior to distribution, those adult Indians would be the distributees, dependent members, and, by extension, their adult lineal descendants. The Board concludes that the record amply demonstrates that the Department considered the status of the Cloverdale Rancheria prior to termination to be that of a group of adult Indians residing on a reservation, and therefore holds that the Area Director's interpretation of paragraph 4 of Hardwick is reasonable.

Agency records also demonstrate that the Bureau considered the Buena Vista Rancheria, like the Cloverdale Rancheria, as a group of adult Indians residing upon trust lands. The Rancheria was purchased in 1927 with funds appropriated via the Act of May 10, 1926 (44 Stat. 453, 461), which authorized the Secretary of the Interior to purchase lands for the "use and occupancy of" the "homeless Indians in California." Although the deed executed May 5, 1927, does not mention a specific tribe, contemporaneous correspondence evidences the intent of the Department of the Interior to acquire the land for the benefit of a band of about twenty homeless Mewuk Indians. Further, the four Indian residents of the Rancheria were determined eligible to vote in the June 12, 1935, election held pursuant to Section 16 of the IRA. The two voters actually voting accepted the IRA. Thus, Agency records clearly demonstrate that the Bureau considered the status of the Tribe prior to termination to be that of a group of adult Indians residing on a reservation.

As such, the application of the Bureau's interpretation of the stipulated judgment in Hardwick that the distributees, dependent members, and, by extension, their lineal descendants possess the right to organize an initial tribal government is appropriate in this situation. Such persons would effectively represent that group of adult Indians residing on the Rancheria just prior to distribution of the Tribe's assets.

Although Ms. Potts claims she has resided on the Rancheria over the last twenty years, Ms. Potts did not reside on the Rancheria just prior to distribution. If she had, she in all likelihood would have been listed as a dependant member in the Tribe's distribution plan, and under the Bureau's interpretation of Hardwick, she would possess the right to participate in the organization of the tribe. Although records demonstrate that Ms. Lucero was a Rancheria resident on January 5, 1956, she was not listed in the Tribe's distribution plan. The distribution plan states that "Mr. Oliver's children are all adults and earn their own living." Further, the distribution plan states that "[t]here are no dependent members of the immediate family of Louie Oliver and Annie Oliver." Ms. Potts provided me with copies of letters of various dates throughout 1951, written by her and Ms. Lucero to Mr. Donald Lucero. These letters demonstrate that Ms. Potts was living with Ms. Lucero during that time. However, by January 5, 1956, records give no indication of Ms. Potts' residency with Ms. Lucero. Thus, she did not reside on the Rancheria at the time most critical to obtaining rights as either a distributee or dependent member--just prior to the distribution.

The fact that Ms. Potts presently resides on the Rancheria is irrelevant with respect to the Bureau's Hardwick interpretation as well as in the IRA context, because the Bureau also interprets paragraph 4 of the stipulated judgment in Hardwick as a waiver of the IRA requirement that a reservation first be established for a tribe or adult Indian community prior to its reorganization. This interpretation was first applied with respect to the successful reorganization effort at the Greenville Rancheria, another IRA tribe restored by the Hardwick stipulated judgment. Via the letter by the Acting Director, Office of Tribal Services, BIA, dated July 27, 1994, the Acting Director pointed out that the Greenville Rancheria did not have a land base, and stated further, "[h]owever, the Court in the Hardwick decision in effect waived the land base requirements for IRA organization for the Greenville Rancheria." The Acting Director further stated that as a result of the 1994 amendment to the IRA (P.L. 103-263, 108 Stat. 707), "the Department no longer makes any distinction between eligible groups organizing under the IRA." Thus, in conducting the Secretarial election at Greenville, the Agency applied the criteria at 25 CFR § 81.6(a), such that all persons meeting the Hardwick criteria for participation in the organization of an initial tribal government without regard for residency were eligible to vote in the Secretarial election. I believe this approach is reasonable, given that the Hardwick decision did not restore Rancheria lands to the same status they had prior to termination. Since there was no reservation, by definition there could not be any reservation residents, and no means of reorganization under 25 CFR § 81.6(b).

Thus, I conclude that Ms. Potts' residency is insufficient to confer upon her the right to participate in either the organization of an initial tribal government or the reorganization of the Tribe under the IRA.

2. Whether Ms. Pope's requests would have conformed to the requirements established by 25 USC § 476, 25 CFR § 81, or applicable BIA guidelines.

Section 16 of the IRA (25 USC § 476) was amended in 1988 with the passage of Public Law 100-581 (102 Stat. 2938). Section 102 of Public Law 100-581 defines "appropriate tribal request" as "a duly enacted tribal resolution requesting a Secretarial election as well as a copy of the proposed tribal constitution and bylaws." Further, the Bureau's guidelines specified in a March 4, 1988, memorandum by the Acting Assistant Secretary-Indian Affairs, provide that:

A proper request shall consist of:

1. A resolution from the recognized tribal governing body which clearly and unambiguously requests the Secretary of the Interior to formally review the proposed constitution a copy of which shall accompany the resolution, or
2. A petition which shall meet the requirements of 25 CFR 81.5(b). A copy of the proposed constitution shall accompany the petition.

These are the criteria I referred to in my November 2, 2000, letter to Ms. Pope, returning without action her September 1, 2000, request. As I explained in my April 24, 2001, letter to Ms. Pope, I believe that my inability to act on her September 1, 2000, request cannot be construed as a failure to act on the request. I reviewed Ms. Pope's request, determined the request to be nonconforming, and informed her of the deficiency. Although I did not use the explicit words, I effectively denied Ms. Pope's September 1, 2000, request. I stand by that decision.

As for Ms. Pope's November 4, 2000, request, the implementing regulations at 25 CFR § 81.5 require that the Secretary of the Interior shall authorize a Secretarial election upon receipt of a petition "bearing the signatures of at least 60 percent of the tribe's adult members." Thus, the standard to be applied to the November 4, 2000, request is that of 25 CFR § 81.5—whether the petition submitted by Ms. Pope bears the signatures of at least sixty percent of the Tribe's adult members.

The standard requires Agency knowledge of the number of adult members. As acknowledged by the Regional Director, Pacific Region, in his October 2, 2001, remand letter, the Agency relies upon a reorganized tribe to provide us with such information. In this situation, however, the Tribe is not yet reorganized. Rather, the Tribe is once again faced with the task of organizing an initial Tribal government. In such circumstances, as pointed out by the IBIA in Alan-Wilson I, 30 IBIA at 252:

[T]he BIA and the IBIA has a responsibility to ensure the initial tribal government of a previously unorganized group is organized by individuals who properly have the right to do so.

Ms. Pope claims that the Agency failed to fulfill this responsibility to identify and notify all persons eligible to participate in the organization of an initial Tribal government for the Tribe. In light of Ms. Pope's claim, we would be remiss in accepting Ms. Pope's assertion that she is the last surviving lineal descendant. At this time, the Agency has not completed research of its records to determine whether there are other potential eligible persons. Further, the Agency has not yet worked with Ms. Pope to identify other potential eligible persons. Thus, until the Agency, in cooperation with Ms. Pope, can complete further research and publish a notice regarding the pending organization of the Tribe, I deny her November 4, 2000, request because the number of adult members is not yet known. Since the number of adult members is unknown, Ms. Pope's petition cannot be determined to be sufficient, and is by definition an insufficient request. Once the number of adult members is determined, such members may submit at that time a new petition for my action.

In conclusion, I find that Ms. Pope, but none of the persons comprising the present leadership recognized by the BIA, has the right to participate in the organization of an initial Tribal government for the Tribe. Further, I conclude that neither of Ms. Pope's requests for a Secretarial election conform to the statutory or regulatory requirements for such requests, and are denied.

This decision may be appealed to the Regional Director, Pacific Region, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California, 95825, in accordance with the regulations in 25 CFR Part 2 (copy enclosed). Your notice of appeal must be filed in this office (the Central California Agency) within 30 days of the date you receive this decision. The date of filing your notice of appeal is the date it is postmarked or the date it is personally delivered to this office. Your notice of appeal must include your name, address, and telephone number. It should clearly identify the decision being appealed. If possible, attach a copy of the decision. The notice and the envelope in which it is mailed should be clearly labeled "Notice of Appeal." Your notice of appeal must list the names and addresses of the interested parties known to you and certify that you have sent them copies of the notice. You must also send a copy of your notice of appeal to the Regional Director, at the address given above. If you are not represented by an attorney, you may request assistance from this office in the preparation of your appeal.

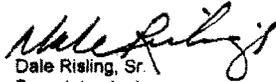
If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

At such time as this decision becomes final, I will recognize at least one of the persons possessing participation rights as the Spokesperson of the Tribe. Such recognition shall be strictly limited to purposes and activities related to the identification of other persons who may possess a right to participate in the organization or reorganization of the Tribe. As circumstances warrant, I may authorize additional purposes and activities.

Further, until this decision becomes final, I request the cooperation of the Tribe's leadership to ensure the safekeeping of all records, property, equipment, of the Tribe. Once this decision becomes final, I shall oversee the orderly transfer of such property to the spokesperson described above.

Should you have any questions with regard to this matter, please contact Raymond Fry, Tribal Operations Officer, at (916) 566-7124.

Sincerely,


Dale Rising, Sr.
Superintendent

cc: John M. Peebles, Attorney at Law
Monteau & Peebles, LLP
1001 Second Street
Sacramento, California 95814
(via Certified Mail No. 7099 3220 0009 8859 6401 - Return Receipt Requested)
Regional Director, Pacific Region

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FILED

MAR - 7 2002

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA.

BY _____
DEPUTY CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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RHONDA L. MORNINGSTAR POPE,
Plaintiff,
v. MEMORANDUM AND ORDER
NO. CIV. S-01-2255 FCD DAD
UNITED STATES OF AMERICA, et
al.,
Defendants.

-----oo0oo-----

Plaintiff Rhonda L. Morningstar Pope brought suit against
defendants United States of America, Gale A. Norton, as Secretary
of the Interior, the Bureau of Indian Affairs, Dale Risling, Sr.,
as Superintendent of the California Central Agency of the Bureau
of Indian Affairs, and Donnamarie Potts. Pope seeks *inter alia*
to enjoin Potts from beginning construction on a casino project
on the lands of the Buena Vista Rancheria of Me-Wuk Indians of
California. On January 25, 2002, this court issued an order
granting Pope's motion for a preliminary injunction and set the
matter for further hearing to review the preliminary injunction.

1 On February 13, 2002, this court ordered that a bond of \$100,000
2 be obtained to secure the preliminary injunction, as required by
3 Federal Rule of Civil Procedure 65(c).

4 On January 23, 2002, defendant Donnamarie Potts filed a
5 cross-complaint against Norton, Risling, the BIA, and the United
6 States (hereinafter referred to collectively as the "Federal
7 defendants"). Potts seeks a writ of mandamus from this court
8 requiring the Federal defendants to reinstate their recognition
9 of Potts as legally authorized to participate in the governance
10 of the tribe.

11 This matter is now before the court on further review of the
12 preliminary injunction granted in favor of Pope and defendant
13 Potts' motion for a preliminary injunction against the Federal
14 defendants. The court also reviews motions to strike filed by
15 both Pope and Potts. For the reasons set forth below, the
16 court's order granting Pope's motion for preliminary injunction
17 is affirmed and denies Pott's motion for a preliminary
18 injunction.

19 **BACKGROUND**

20 1. **The Buena Vista Rancheria of Me-Wuk Indians of California**
21 Me-Wuk Indians have lived in and around what is now Amador
22 County for thousands of years. By the late nineteenth century,
23 the Me-Wuks in the Amador County area were reduced to a
24 smattering of individual families, including the Olivers. Since
25 sometime before 1900, members of the Oliver family of Me-Wuk
26 Indians lived on a piece of land located in Ione in Amador
27 County, which they called the Buena Vista. The United States
28 purchased this land for the benefit of the Me-Wuks in the 1920s.

1 In 1935, the Buena Vista Rancheria of Me-Wuk Indians voted to
2 accept the terms of the federal Indian Reorganization Act
3 ("IRA"). The Buena Vista Rancheria became a federally recognized
4 Indian tribe, eligible to receive services that the United States
5 provided.

6 In the late 1950s, pursuant to the California Indian
7 Rancheria Act of 1958, the United States "terminated" the Buena
8 Vista Rancheria and other California tribes. Under this
9 "termination," property held by the United States for the tribes
10 was transferred to the tribal members. In exchange for these
11 transfers, the tribal members relinquished their rights to
12 receive Indian-specific services from the United States.
13 Pursuant to the distribution plan, the property held by the
14 United States for the Buena Vista Rancheria was transferred to
15 two "distributees"--Louie and Annie Oliver.

16 In the late 1970s, litigation was brought against the United
17 States in the Northern District by the distributors of the
18 terminated tribes and their descendants who alleged that the
19 distribution plans were fundamentally unfair. In 1983, the
20 United States stipulated to the entry of a judgment effectively
21 "unterminating" the tribes and restoring their status as
22 federally recognized Indian tribes. See Albietz Decl., Ex. B for
23 a copy of the stipulated entry of judgment in Tillie Hardiwick v.
24 United States. As a result of this stipulation, the Buena Vista
25 Rancheria of Me-Wuk Indians of California was listed in the
26 Federal Register on February 13, 1985 as a federally recognized
27 Indian tribe and continues to be so listed.

28

1 **2. Plaintiff's Ties to the Buena Vista Rancheria**

2 One of Louie and Annie Oliver's children was Elinor Oliver.
3 Elinor Oliver's children included Jesse Flying Cloud Pope,
4 plaintiff's father. Both Elinor Oliver and Jesse Flying Cloud
5 Pope are buried on the Buena Vista Rancheria. Plaintiff's father
6 died of a gunshot wound in 1975 when plaintiff was four years
7 old. Prior to his death, Jesse Flying Cloud Pope assigned his
8 interest in the Buena Vista Rancheria to his aunt Lucille Lucero
9 and his uncle Enos Oliver (both were children of Louie and Annie
10 Oliver). In 1976, a state court denied Barbara Hatfield's motion
11 on behalf of her daughter, plaintiff Pope, to vacate the judgment
12 ordering distribution of Louie Oliver's estate.

13 Plaintiff asserts that she spent a significant amount of
14 time on the Rancheria when her father was alive, even though she
15 was raised by her mother in Yolo County. In 1992, Pope contacted
16 the Bureau of Indian Affairs ("BIA") for assistance in locating
17 and visiting her father's gravesite. The BIA referred Pope to
18 Lucille Lucero.

19 In summer 1992, Pope met with Lucero at the Rancheria.
20 Lucero informed Pope that if she wanted to see her father's
21 gravesite, she would need to contact defendant Potts. According
22 to Pope, Lucero then threatened her with a knife when Pope asked
23 to see her father's gravesite again. Potts disputes this
24 account, stating that Lucero was confined to a wheelchair at this
25 time.

26 From 1992 to 1995, Pope made repeated attempts to contact
27 Potts by telephone. Potts did not return the calls. In 1999,
28 Pope again traveled to the Rancheria and was informed that

1 Lucille Lucero had died in 1995. Pope made contact with Potts.

2 **3. Potts' Ties to the Buena Vista Rancheria**

3 The parties dispute whether Potts is indeed a lineal
4 descendant of Louie and Annie Oliver and how much time Potts has
5 spent at the Rancheria.

6 According to Potts, she was raised by her father Donald
7 Lucero and his wife Lucille Lucero, who called Potts both "niece"
8 and "daughter." During her grade and high school years in the
9 1950s and early 1960s, Potts spent her summers and vacations at
10 the Rancheria. Potts had represented to the BIA that she was a
11 direct lineal descendant of the Olivers - daughter of Donald
12 Lucero and Elinor Oliver, Lucille Lucero's sister.

13 Pope states that Potts' own admissions show that Potts spent
14 a significant portion of her life away from the Rancheria. Potts
15 went to high school in Yuba City and then in Trinity County,
16 hundreds of miles from the Rancheria. Pope states that Potts
17 also admitted that she stayed away from the Rancheria for 20
18 years, beginning when she was 19 years old. Pope also claims
19 that she submitted evidence to the BIA that Potts lived in
20 Marysville until at least 1983 and lived in a string of rental
21 units in Marysville and Sacramento at various times in 1985 and
22 1996. Finally, Pope points to information that she submitted to
23 the BIA demonstrating that Potts is not a lineal descendant of
24 the Olivers. Specifically, Potts' California birth certificate
25 lists her as the daughter of Leonard Robert Potts and Margaret
26 Mary Lucero, as does her 1962 marriage certificate and her 1997
27 marriage license for a subsequent marriage. Pope also claims
28 that if the date of birth listed on Potts' birth certificate is

1 accurate, it would be biologically impossible for Potts to be the
2 daughter of Elinor Oliver since Potts would have been born only
3 two and one-half months after Jesse Flying Cloud Pope.

4 Potts claims that Lucille Lucero informed her that it was
5 necessary to keep the circumstances of her birth a secret and
6 that she acted accordingly.

7 **4. Adoption of a Constitution for the Buena Vista Rancheria**

8 In 1993 and 1994 Lucille Lucero and Potts petitioned the BIA
9 for assistance in drafting a constitution for the tribe. Pope
10 was not provided notice. In 1994, Lucille Lucero and Potts
11 adopted this constitution, which limited membership in such a way
12 to exclude Pope. Another constitution was adopted in 1999 and
13 again in 2000. Both constitutions limited membership in such a
14 way as to exclude Pope. From 1996 until December 2001, the BIA
15 recognized Potts as the chairperson and spokesperson for the
16 tribe.

17 **5. Potts' efforts to establish a Gaming Casino at the Rancheria**

18 According to Potts, she has worked for the past four years
19 to develop the Rancheria land in order to help lift the tribe out
20 of poverty. In September 1999, Potts and the state of California
21 entered into a compact authorizing Class III gaming pursuant to
22 the Indian Gaming Regulatory Act ("IGRA"). The compact was
23 approved by the Secretary of the Interior and published in the
24 Federal Register in May 2000.

25 Pursuant to the compact, the Buena Vista Rancheria purchased
26 the right to operate 1,450 gaming devices on May 15, 2000, at a
27 cost of \$1,812,000. Potts expects that these licenses will be
28 issued to the tribe by early February 2002. The compact provides

1 that these licenses will be canceled if the gaming devices are
2 not in commercial operation within 12 months after the licenses
3 are issued. The Buena Vista Rancheria has entered into a
4 development agreement with Cascade Entertainment LLC to finance,
5 develop, and manage the gaming facility on Rancheria lands. The
6 Buena Vista Rancheria is in the final process of raising \$150
7 million for the gaming facility. The Buena Vista Rancheria has
8 borrowed and expended over \$10 million. Potts claims that any
9 delay in obtaining financing will jeopardize the licenses, the
10 funding, and the viability of the project.

11 **6. Actions by the BIA regarding the Rancheria**

12 On June 26, 2000 and June 23, 2000, Dale Risling, Sr.,
13 Superintendent of the Central California Agency of the BIA
14 stated, in writing, that Potts was a member of the tribe. On
15 September 1, 2000, Pope submitted a proposed Tribal Constitution
16 to Risling and asked him to call a special election. On November
17 2, 2000, Risling stated that the BIA would take no action because
18 Pope's request was not presented as a formal petition or
19 resolution. Two days later, Pope resubmitted her request in the
20 form of a formal petition.

21 On December 14, 2000 Pope renewed her request that the BIA
22 expedite its review of her petition. On April 11, 2001, Pope
23 notified the Central California Agency of her intention to file
24 an appeal. On April 24, 2001, the Central California Agency, per
25 Risling, stated that it would not act on Pope's petition because
26 the petition did not contain signatures of at least two-thirds of
27 the tribe, and that Pope's signature was insufficient because she
28 was not listed as a tribe member in the Constitution.

1 Pope appealed to the BIA's Regional Director. On October
2 10, 2001, the Regional Director remanded the matter to the
3 Central California Agency and directed the Superintendent to
4 consider whether Pope or Potts is properly entitled to reorganize
5 the tribe. On December 27, 2001, Risling issued a decision that
6 stated that Pope could properly participate in the reorganization
7 of the tribe since she was a direct lineal descendant of the
8 distributees Louie and Annie Oliver, but that Potts and her
9 children could not because they were not lineal descendants
10 (hereafter referred to as the "Risling decision"). See Peebles
11 Decl. Ex. H. Potts has filed an appeal within the BIA of the
12 Risling decision.

13 Potts' appeal of the Risling decision will first be heard by
14 the Regional Director and then may be appealed to the Interior
15 Board of Indian Appeals ("IBIA"). 25 C.F.R. § 2.4; 43 C.F.R. §
16 4.1(b)(2). The Regional Director must issue his or her decision
17 within 60 days after all time for pleading has expired. 25
18 C.F.R. § 2.19. Appeals to the IBIA can be taken up directly by
19 the Assistant Secretary of the Interior-Indian Affairs, who has
20 the authority to issue a decision or assign responsibility to a
21 Deputy to issue the decision. 25 C.F.R. § 2.20(c). If the
22 Assistant Secretary does not make a decision within 60 days after
23 all time for pleadings has expired, any party may move the IBIA
24 to assume jurisdiction. 25 C.F.R. § 2.20(e). IBIA decisions or
25 decisions by the Assistant Secretary constitute "final" decisions
26 of the Department of the Interior. 43 C.F.R. § 4.1; 25 C.F.R. §
27 2.20.

28 Pope and defendants United State of America, Gale A. Norton,

1 BIA, and Risling have entered into a stipulation that Pope's
2 motion is moot with respect to these defendants only.

3 **STANDARD**

4 A party moving for a preliminary injunction may meet its
5 burden by demonstrating either (1) a combination of probable
6 success on the merits and the possibility of irreparable injury
7 or (2) that serious questions are raised and the balance of
8 hardships tips sharply in its favor. See Textile Unlimited
9 Inc. v. A..BMH & Co., Inc., 240 F.3d 781, 786 (9th Cir. 2001)
10 (quoting Los Angeles Mem'l Coliseum Comm'n v. Nat'l Footbal
11 League, 634 F.2d 1197, 1201 (9th Cir. 1980). "A preliminary
12 injunction is not a preliminary adjudication on the merits, but a
13 device for preserving the status quo and preventing the
14 irreparable loss of rights before judgment." Textile Unlimited,
15 240 F.3d at 786.

16 **ANALYSIS**

- 17 1. **Pope's Motion for a Preliminary Injunction**
- 18 **A. Motion to Strike Portions of Grieve Declaration**
- 19 Potts has moved to strike portions of a declaration of
20 Timothy P. Grieve, one of Pope's attorneys, filed on January 31,
21 2002. Potts objects to portions of the Grieve declaration as
22 being hearsay. See Fed. R. Evid. 802. The court addresses
23 Potts' individual objections to Grieve's declarations as follows:
- 24 1. Paragraph 1. Potts' objection is granted and this
25 paragraph is stricken. Grieve's statements about what
26 counsel for the National Indian Gaming Commission
27 ("NIGC") allegedly told him is inadmissible hearsay.
28 The letter from counsel for the National Indian Gaming

- 1 Commission to Grieve, attached as Exhibit A, is also
2 hearsay, and is stricken.
- 3 2. Paragraph 2. Potts' objection is granted and this
4 paragraph is stricken. As noted above, Grieve's
5 statements about what NIGC counsel allegedly told him
6 is hearsay.
- 7 3. Paragraph 3. Potts' objection is granted and this
8 paragraph is stricken. Grieve's statements about what
9 counsel for the California Gambling Control Commission
10 ("CIGCC") allegedly told him is hearsay.
- 11 4. Paragraph 4. Potts' objection is granted and this
12 paragraph is stricken. Grieve references a draft
13 transcript of court proceedings which has not been
14 certified by the court. The court finds that said
15 statements within the Grieve declaration are hearsay.
- 16 5. Paragraph 7. Potts objection is granted and this
17 paragraph is stricken. Grieve references a letter
18 written by Risling to Potts, attached as Exhibit E, to
19 which he has no personal knowledge as to its
20 preparation or receipt and, therefore, cannot
21 authenticate. Grieve also testifies that Potts
22 borrowed money allegedly after she received the letter
23 from Risling. This is inadmissible speculation.

24 **B. Jurisdiction**

25 The Administrative Procedures Act ("APA") allows for
26 judicial review of a "final" agency decision. 5 U.S.C. § 704.
27 However, the implementing regulations of the Indian
28 Reorganization Act ("IRA") provides that a decision by a

1 Superintendent may be appealed to the Regional Director and then
2 to the Interior Board of Indian Appeals, and that such an
3 appealable decision cannot be considered final. See 25 C.F.R. §§
4 2.4(a), 2.4(e), 2.6 and 43 C.F.R. § 4.314. Therefore, the
5 December 2001 decision issued by Risling does not constitute a
6 "final" agency decision, subject to review by this court under
7 the APA.

8 However, Pope asserts that this court has jurisdiction under
9 the All Writs Act, which states that "[t]he Supreme Court and all
10 courts established by Act of Congress may issue all writs
11 necessary or appropriate in aid of their respective jurisdictions
12 and agreeable to the usages and principles of law." 28 U.S.C. §
13 1651(a). Pope further argues that this court will eventually
14 have jurisdiction to review an agency action by the BIA under the
15 Indian Reorganization Act. See 25 U.S.C. § 476(d)(2). The court
16 agrees that it will have jurisdiction to review a final agency
17 action by the BIA.

18 In Federal Trade Commission v. Dean Foods Company, 384 U.S.
19 597, 86 S. Ct. 1738 (1966), the Supreme Court stated that under
20 the All Writs Act, federal courts have a "limited judicial power
21 to preserve the court's jurisdiction or maintain the status quo
22 by injunction pending review of an agency's action through the
23 prescribed statutory channels. . . Such power has been deemed
24 merely incidental to the court's jurisdiction to review final
25 agency actions." Id. at 604, 86 S. Ct. at 1742 (internal
26 citations omitted).

27 The Ninth Circuit has also held that "use of the All Writs
28 Act might be available to preserve [a] court's prospective

1 jurisdiction" California Energy Comm'n v. Johnson, 767
2 F.2d 631, 634 (9th Cir. 1985). However, "[i]n connection with
3 ongoing agency proceedings, this judicial power is limited and is
4 to be used in only the most extreme circumstances." Id. The
5 Fourth Circuit has stated that "[t]he crucial inquiry in
6 determining whether such relief is appropriate is whether the
7 problem raised by the petitioner can be safeguarded against in
8 the very course of the ongoing administrative proceeding."
9 Virginia Dep't of Educ. v. Riley, 23 F.3d 80, 84 (4th Cir. 1994).
10 Therefore, it appears that this court may issue a preliminary
11 injunction if Pope can satisfy the that she is entitled to such
12 relief and the problem she raises cannot be adequately
13 safeguarded against during the course of the BIA's proceedings.

14 **C. Likelihood of Success on the Merits or Serious**
15 **Questions Going to the Merits**

16 Pope argues that the Risling decision demonstrates that Pope
17 will likely be successful on the merits. In his decision,
18 Risling stated that the BIA interprets the stipulated judgment in
19 Hardwick as establishing that, in the absence of a pre-
20 termination governing document,¹ distributees, dependent members,
21 and lineal descendants thereof who were listed in a tribe's
22 distribution plan possess the right to participate in the
23 organization of a tribal government. See Peebles Decl., Ex. H
24 for December 2001 decision by Risling. Risling concluded that
25 Pope could participate because she had established that she was a
26 direct lineal descendant of the distributees, Louie and Annie

27 _____
28 ¹ Parties do not argue that a pre-termination governing
document exists.

1 Oliver. See id. See also Kammins Decl. filed December 10, 2001,
2 Ex. A for Buena Vista Rancheria distribution plan. Risling
3 further concluded that Potts could not participate because
4 evidence submitted supported that she was not a lineal descendant
5 of Louie and Annie Oliver.

6 Risling rejected Potts' arguments that either the 1994
7 tribal constitution or her residency on Rancheria lands provided
8 the basis for her right to participate in the tribe's
9 organization. Risling stated that the 1994 tribal constitution
10 was invalid because the Indian Reorganization Act ("IRA")
11 requires approval of the constitution by the Secretary of the
12 Interior. Risling found that Potts' residency on the Rancheria
13 was inadequate because Potts was not a resident at the most
14 crucial time—just prior to distribution—and was not listed in the
15 distribution plan. See Peebles Decl., Ex. H.

16 Potts argues that the Risling decision is contrary to
17 provisions of the implementing regulations of the IRA that states
18 that only residents of a tribe may vote. See 25 C.F.R. §
19 81.6(b). Potts also argues that the decision is contrary to the
20 Hardwick stipulation and, moreover, that a tribe has the power to
21 organize outside the requirements of the IRA. Potts further
22 contends that the since she relied on the BIA's decision to
23 recognize her as spokesperson for the tribe to enter into gaming
24 compacts and obtain gaming licenses, the BIA should be estopped
25 from any actions that rescind that recognition. Finally, Potts
26 claims that she will suffer irreparable harm if a preliminary
27 injunction is granted.

28 The Risling decision does not constitute final agency action

1 by the BIA. It is still subject to the appeals process of the
2 BIA, with the final agency review by the Secretary of the
3 Interior. Under the APA, this court may only review final agency
4 action and, contrary to Potts' assertions, has no jurisdiction to
5 estop the BIA from exercising its discretionary power to proceed
6 with its own administrative appeals process. Moreover, it appears
7 that Potts knew that her tribal government was subject to
8 question when she entered gaming compacts and obtained licenses.

9 As the Risling decision is not a final agency action and is
10 subject to further review by the BIA, it is not proper for this
11 court to comment on the merits of that decision nor assess the
12 validity of Potts' arguments before the BIA.

13 However, it does appear that the Risling decision
14 demonstrates at the least that Pope has raised serious questions
15 going to the merits of who is legitimately entitled to establish
16 the tribe's government. Currently the BIA has retracted its
17 earlier recognition of Potts and now recognizes Pope as eligible
18 to participate in organizing the tribe since she is a lineal
19 descendant. The question of who can legitimately act on behalf
20 of the tribe goes to the heart of this litigation. Unless the
21 Risling decision is reversed, Potts' ability to construct a
22 casino on tribal lands has been abrogated. Therefore, a
23 preliminary injunction to preserve the "status quo" is
24 warranted.²

25
26 ² At the bond hearing, Potts' counsel suggested that
27 absent the preliminary injunction, Potts might still be able to
28 continue with development of the casino. It is precisely for
that reason that a preliminary injunction becomes necessary to
maintain the status quo.

1 The court also agrees that the balance of hardships tilts
2 sharply in Pope's favor. Pope has argued that she will suffer
3 irreparable harm if a casino is built on land upon which her
4 father and ancestors are buried and which has served as the focal
5 point for the tribe's religious and spiritual activities. The
6 court agrees that the harm alleged by Pope is significant.
7 Further if a preliminary injunction is later found to be wrongly
8 issued, Potts will likely still be able to build the casino and
9 seek monetary compensation for any injury she may have suffered.
10 However, if a preliminary injunction does not issue and Pope is
11 eventually vindicated, it will be much harder to "unbuild" a
12 multi-million dollar casino and compensate Pope for her injury.

13 Therefore, since the All Writs Act authorizes the issuance
14 of a preliminary injunction to preserve the "status quo" during
15 the pendency of administrative proceedings, the court finds that
16 issuance of a preliminary injunction is appropriate in this case
17 and grants Pope's motion.

18 **2. Potts' Motion for a Preliminary Injunction**

19 **A. Filing of Potts' Cross-Complaint**

20 Pope has filed a motion to strike Potts's Cross-Complaint as
21 untimely. Federal Rule of Civil Procedure 15(a) allows a party
22 to amend a pleading 20 days after it has been served, otherwise a
23 party may only amend a pleading upon leave of court or written
24 consent of the adverse party. Rule 15 requires that leave to
25 amend be freely given. In this case, Potts served her answer on
26 January 2, 2002. Twenty one days later, on January 23, 2002,
27 Potts served her First Amended Answer and Cross Complaint.

28 Given that Potts filed her cross complaint one day late and

1 courts generally grant parties liberal leave to amend, this court
2 denies Pope's motion to strike Potts' First Amended Answer and
3 Cross Complaint.

4 **B. Motion to Strike Portions of Declarations of Potts and**
5 **Pratt**

6 Pope has filed a motion to strike portions of the
7 declarations of Potts and Russell Pratt³ in support of Potts'
8 motion for preliminary injunction. The court addresses Pope's
9 individual objections to Potts's declaration as follows:

- 10 1. Paragraph 16. Pope's objection is granted and
11 this paragraph is stricken. Potts lacks personal
12 knowledge to testify as to what Lucille Lucero
13 thought regarding her alleged apprehension that
14 persons unconnected with the Rancheria might make
15 a claim to it.
- 16 2. Paragraph 19. Pope's objection is granted and
17 this paragraph is stricken. Potts lacks personal
18 knowledge to testify as to what Lucille Lucero
19 thought regarding whether plaintiff was indeed
20 Jesse Pope's daughter. If Potts' declaration
21 stated that Lucille Lucero made these statements
22 to her, it may be admissible under the family
23 history exception to hearsay. See Fed. R. Evid.
24 803(19).
- 25 3. Paragraph 39. Pope's objection is denied.

26
27 ³ According to his declaration, Pratt is the President
28 and CEO of Cascade Entertainment Group, LLC which is assisting
Potts in development of the proposed casino project.

1 Superintendent Bradford's statements to Potts
2 regarding what Lucille Lucero told him regarding
3 Potts' true lineage falls within the family
4 history exception to hearsay. See Fed. R. Evid.
5 803(19).

- 6 4. Paragraph 42. Pope's objection is granted and
7 this paragraph is stricken. Potts lacks personal
8 knowledge as to whether Pope visited the
9 Rancheria. Potts' statement regarding what Jesse
10 Pope believed about plaintiff does not fall within
11 the family history exception since Potts does not
12 state that Jesse Pope made those statements to
13 Potts. Potts lacks personal knowledge to testify
14 regarding what Jesse Pope believed about
15 plaintiff's lineage.

16 Pope objects to Pratt's testimony regarding gaming licenses
17 and what Pope or her representatives may have told various
18 governmental agencies because he lacks personal knowledge. The
19 court finds that Pratt has laid a sufficient foundation to
20 testify regarding gaming licenses based on his personal
21 involvement and experience in the gaming industry. However, the
22 court sustains Pope's objection to Pratt's testimony regarding
23 Pope's alleged representations to various governmental agencies.
24 Pratt lacks personal knowledge to testify as to what Pope
25 allegedly told others. Therefore Paragraph 16 of Pratt's
26 declaration is stricken.

27 **C. Exhaustion of Administrative Remedies**

28 Both Pope and the Federal defendants assert that the court

1 does not have jurisdiction over Potts' motion because Potts has
2 not exhausted her administrative remedies. Specifically, the
3 Risling decision is not final and is still subject to further
4 review within the BIA.⁴

5 The APA allows for judicial review of a "final" agency
6 decision. 5 U.S.C. § 704. However, as noted above, the
7 implementing regulations of the IRA provide that a decision by a
8 Superintendent may be appealed to the Regional Director and then
9 to the Interior Board of Indian Appeals, and that such an
10 appealable decision cannot be considered final. See 25 C.F.R. §§
11 2.4(a), 2.4(e), 2.6 and 43 C.F.R. § 4.314. Therefore, the
12 December 2001 decision issued by Risling does not constitute a
13 "final" agency decision, subject to review by this court under
14 the APA.

15 Indeed, the Ninth Circuit has long held that exhaustion of
16 administrative remedies is a prerequisite for judicial review.
17 Requiring exhaustion of administrative remedies "permits the
18 development of a factual record, application of agency expertise,
19 and possible resolution of the dispute without resort to federal
20 court." See Stock West Corp. v. Lujan, 982 F.2d 1389, 1394 (9th
21 Cir. 1993). See also White Mountain Apache Tribe v. Hodel, 840
22 F.2d 675, 677 (9th Cir. 1988); and Faras v. Hodel, 845 F.2d 202
23 (9th Cir. 1988). "Exhaustion insures that a court will have the
24 benefit of the agency's experience in exercising administrative
25 discretion, as well as a factual record to review." Joint Bd. of
26 Control v. United States, 862 F.2d 195, 199 (9th Cir. 1988).

27 _____
28 ⁴ Indeed, Potts has filed an appeal within the BIA of the
Risling decision.

1 Getting the benefit of a complete factual record and agency
2 expertise is particularly relevant in this case where many facts
3 appear to be still developing-particularly regarding the
4 circumstances of Potts' lineage-and the subject matter (i.e.
5 Indian law) is highly specialized.

6 In some "exceptional" circumstances, exhaustion may not be
7 required. For instance, where a party subject to exhaustion
8 could show "[o]bjective and undisputed evidence of administrative
9 bias [that] would render pursuit of an administrative remedy
10 futile." Id. at 200. "However, the futility exception . . .
11 should not be applied where the agency has not had an opportunity
12 to develop a record" Id. Another exception is where the
13 agency has announced its final decision. See Stock West, 982
14 F.2d at 1394.

15 Potts argues that she is not required to exhaust her
16 administrative remedies because the issue to be decided is purely
17 legal and appeal would be futile. Potts claims that if financing
18 is not secured in time to permit construction prior to the
19 expiration of the gaming licenses, the appeal will be futile
20 because once the licenses are lost, they can never be restored.

21 The court disagrees that the issues to be decided in this
22 case are purely legal. As mentioned above, the factual record
23 still needs to be developed. Potts' arguments about the futility
24 of the appeal misapprehends the definition of futility. An
25 appeal is futile where there is administrative bias or an
26 unwillingness to consider the merits of an appellant's arguments,
27 thus making further appeal ineffectual. In this case, no party
28 has suggested administrative bias on the part of the Regional

1 Director or the IBIA. Therefore, appeal would not be futile.⁵

2 Nevertheless, Potts argues that she is not required to
3 exhaust her administrative remedies because Pope and the Federal
4 Defendants seek to interpret the stipulated judgment entered in
5 Hardwick and this court has jurisdiction to enforce the consent
6 decree. Potts contends that the Risling decision's
7 interpretation of the Hardwick stipulation is entitled to no
8 greater weight than that given one party's interpretation of a
9 contract.

10 Potts' argument that the Risling decision turns solely on
11 contract interpretation goes to the question of the deference to
12 which the BIA's decision is entitled. However, it does not
13 answer the question of whether the court has jurisdiction at this
14 point over the administrative proceedings.⁶ As described above,
15 the Risling decision does not constitute final agency action and
16 this court does not yet have jurisdiction.

17 Even assuming *arguendo* that the Risling decision should be
18 viewed as solely a matter of contractual interpretation of the
19 stipulated judgment entered in Hardwick,⁷ Potts has provided no

20
21 ⁵ The Risling decision was issued on December 27, 2001
22 and Potts filed her notice of appeal with the BIA on January 23,
23 2002. The court notes that if Potts was overly concerned about
24 an expeditious disposition of her case, she could have appealed
25 the Risling decision earlier.

26
27 ⁶ It is unnecessary and this court does not decide
28 whether the BIA's position is entitled to any deference. Once
the BIA issues a "final" decision and should the parties decide
to appeal that decision to this court, that question will become
ripe for adjudication.

⁷ At this point, the court is unpersuaded by Potts'
argument that the most recent formal agency recognition of Pope
as tribal member and rescission of the recognition of Potts as
(continued...)

1 basis to distinguish this agency action from any other agency
 2 action. Therefore, even if the Risling decision is solely a
 3 matter of "interpreting a contract," the Risling decision is,
 4 without question, an administrative agency action subject to the
 5 APA. In Marathon Oil Co. v. United States, 807 F.2d 759, 765
 6 (9th Cir. 1986), the Ninth Circuit reviewed the Mineral
 7 Management Service's interpretation of royalty values in federal
 8 oil and gas leases under the APA. The APA allows judicial review
 9 of final agency actions only. Potts cannot avoid the
 10 jurisdictional requirement that she exhaust her administrative
 11 remedies before review by this court.

12 **D. Mandamus relief**

13 A writ of mandamus is "an extraordinary remedy traditionally
 14 within a district court's discretion." R.T. Vanderbilt Co. v.
 15 Babbitt, 113 F.3d 1061, 1065 (9th Cir. 1997). The three elements
 16 of the test for mandamus are: (1) the claim of the person seeking
 17 mandamus is clear and certain; (2) the government official's duty
 18 is "ministerial and so plainly prescribed as to be free from
 19 doubt"; and (3) no other adequate remedy is available. Id. at

20 _____
 21 ⁷(...continued)

22 tribal representative is merely "an interpretation of a contract"
 23 and, thus, should not be accorded any deference by this court.
 24 The obvious legal effect of the earlier recognition of Potts
 25 enabled her to act on behalf of the tribe in developing the
 26 casino. The earlier recognition of Potts was based on the same
 27 authority as the later recognition of Pope in December 2001.
 28 Therefore if the latest agency recognition of Pope is only "a
 contractual interpretation" lacking legal force and effect, then
 the earlier recognition of Potts was also "a contractual
 interpretation" lacking legal force and effect. Yet clearly the
 earlier recognition of Potts did have legal force and effect,
 and, therefore, the subsequent reversal of that recognition based
 on new facts, resulting in the recognition of Pope, has the same
 legal effect and must be accorded due deference by this court.

1 1065, n. 5.

2 Even if judicial review were available to Potts at this
3 point, and it is not, she would not satisfy the test for mandamus
4 because she has not identified a government duty that is
5 "ministerial and so plainly prescribed as to be free from doubt."
6 Potts argues that the BIA owes her a duty to continue its
7 recognition of the 1994 Constitution and Potts as tribal
8 chairperson. However, Potts is only entitled to this recognition
9 if she is legitimately entitled to participate in the tribe's
10 governance and this question is still under review within the
11 BIA. As such, there is no duty on the BIA to recognize Potts
12 until such time that it has determined that Potts has a right to
13 organize the tribe. Winnebago Tribe of Nebraska v. Babbit, 915
14 F. Supp. 157 (D.S.D. 1996), cited by Potts, is not to the
15 contrary. In Winnebago, the BIA clearly had a duty to consult
16 with the tribe before instituting a hiring freeze. Id. at 167.
17 No such duty exists in this case.

18 **E. Affirmative Nature of the Relief Potts Seeks**

19 The purpose of a preliminary injunction is to preserve the
20 *status quo*. See See Textile Unlimited, supra, 240 F.3d at 786.
21 While Potts seeks to characterize the relief she seeks as "not
22 affirmative in nature," that is simply not the case. Potts seeks
23 an order from this court (1) ordering the BIA to reverse its
24 decision, (2) halting the BIA's administrative appeals process
25 (that has already been commenced by Potts), and (3) reinstating
26 Potts as tribal chairperson. Rather than preserving the *status*
27 *quo*, Potts seeks to completely change the *status quo* so that she
28 may build the casino. Such relief preserves nothing but Potts'

1 wishes. That is hardly the basis for an injunction.

2 **F. Estoppel**

3 Potts claims that equitable estoppel bars the BIA from
4 challenging the validity of the 1994 Constitution. Since the
5 court finds that Potts is not entitled to judicial review at this
6 time, it is unnecessary to reach her estoppel arguments.

7 **CONCLUSION**

- 8 (1) This court has previously issued an order granting
9 Plaintiff's motion for preliminary injunction. Upon
10 further review, that order is AFFIRMED.
- 11 (2) Potts' motion to strike portions of the Grieve
12 declaration filed January 31, 2002 is GRANTED.
- 13 (3) Because she has not yet exhausted her administrative
14 remedies, Potts' motion for preliminary injunction is
15 DENIED.
- 16 (4) Pope's motion to strike Potts' amended answer and
17 cross-complaint is DENIED.
- 18 (5) Pope's motion to strike portions of Potts' declaration
19 and Pratt's declaration is GRANTED in part and DENIED
20 in part.

21
22
23 IT IS SO ORDERED.

24 DATED: March 6, 2002

25
26 
27 FRANK C. DAMRELL, Jr.
28 UNITED STATES DISTRICT JUDGE

United States District Court
for the
Eastern District of California
March 7, 2002

ds

* * CERTIFICATE OF SERVICE * *

2:01-cv-02255

Morningstar-Pope

v.

USA

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

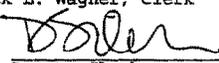
That on March 7, 2002, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office, or, pursuant to prior authorization by counsel, via facsimile.

Timothy Patrick Grieve
Stevens and O'Connell
400 Capitol Mall
Suite 1400
Sacramento, CA 95814

MP/FCD

Rosemary Kelley
Weintraub Genshlea Chediak Sproul
400 Capitol Mall
Eleventh Floor
Sacramento, CA 95814

Jack L. Wagner, Clerk

BY: 
Deputy Clerk



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
 Central California Agency
 1824 Tribune Road, Suite J
 Sacramento, CA 95815-4305

IN REPLY REFER TO

MAY 2 - 2000

Ms. Donna Marie Potts, Chairperson
 Buena Vista Rancheria
 4650 Coalmine Road
 Ione, California 95640

Dear Ms. Potts:

The purpose of this correspondence is to convey concerns that a direct lineal descendent of your Base roll has, regarding the redefined membership roll for the Buena Vista Rancheria.

The question raised is as follows:

According to ARTICLE III-MEMBERSHIP Section 1. (a) of the latest tribally approved constitution received at the Agency, the Base Roll for the tribe shall consist of the adult direct lineal descendants of Louis Oliver and Annie Oliver and their direct lineal descendants.

The question raised by Ms. Potts, was where does the Potts, Selvey or Vega families fit in here, as these families are not direct lineal descendants of the Oliver family but may be collaterally related.

Under normal circumstances the BIA does not involve ourselves with internal tribal matters, especially those that center around tribal membership. In cases where we have been apprised of a possible enrollment issue that may impact the government-to-government relationship the BIA has with the Buena Vista Rancheria through your elected officials, we have a responsibility to address that issue.

According to tribal laws of membership, direct lineal descendency is a requisite for enrollment and it would appear that to answer the question raised by Ms. Rhonda Pope, a documented direct lineal descendent of Jessie Pope (father) and John Pope/Eleanor Oliver (grand parents) and is the great granddaughter of Louis and Annie Oliver, that all proclaimed members of the Buena Vista Rancheria would have to furnish documentable membership information that bears out the direct lineal descendency, to Louis and Annie Oliver.

To put this governance issue to rest, please provide this Agency with the proper documentation, which shows the makeup of the tribe.

If you have any questions in this matter, please contact Raymond Fry, Tribal Operations Officer, at (916) 566-7124.

Sincerely,

FOR

Dale Rising, Sr.
 Superintendent

ALBIETZ LAW CORPORATION

916 444 5494

12/08/01 12:14 :02/03 NO:038

FROM: RHONDA POPE

FRK NO. : 9167338912

May 23 2000 12:28PM P3

Buena Vista Rancheria
POB 162283
SACRAMENTO, CA 95816-2283

May 22, 2000

Donnamarie Potts
4650 Coalmine Road
Ione, CA. 95640

Re: Termination of Representation

Dear Ms. Potts:

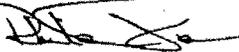
As the last documented direct lineal descendent of the Buena Vista Rancheria as verified by the Bureau of Indian Affairs, you are hereby notified that you are to immediately discontinue representation of the Buena Vista Rancheria.

You are to turn over all documentation to me immediately. Include all federal funds, copies of the single unit audits of the federal dollars provided to you through "new tribes" money, the 17 Tillie Hardwick Tribes funding, housing funding, Environmental Protection Agency Funding, NAHASDA Funding, 638 contract funding and any and all federal funds or documentation provided to you as the alleged spokesperson for the Buena Vista Rancheria.

You are to immediately terminate all employees, attorneys or consultants hired by yourself and/or supporters alleging to be representing the Buena Vista Rancheria.

I have requested a probate on my Aunt Lucille Lucero's estate to begin immediately. You are hereby notified to vacate property at 4650 Coalmine Road during the probate process.

Thank you,



Rhonda Pope
Spokesperson
Buena Vista Rancheria and the
Estate of Lucille Oliver Lucero

Cc: Kevin Gover
Assistant Secretary - BIA

Ronald Jaeger
Area Director

Dale Rialing
Superintendent

MONTEAU, PEEBLES & CROWELL, L.L.P.
1001 2nd Street
Sacramento, CA 95814
Telephone: (916) 441-2700
Facsimile: (916) 441-2067

Attorneys for Interested Party
BUENA VISTA RANCHERIA OF THE ME-WUK-INDIANS

BEFORE THE BUREAU OF INDIAN AFFAIRS

CENTRAL CALIFORNIA AGENCY

IN THE MATTER OF THE APPEAL	)	ANSWER OF INTERESTED PARTY
OF:	)	BUENA VISTA RANCHERIA OF
RHONDA MORNINGSTAR POPE	)	THE ME-WUK INDIANS
_____	)	[25 CFR § 2.11

This ANSWER OF INTERESTED PARTY BUENA VISTA RANCHERIA OF THE ME-WUK INDIANS is filed IN THE MATTER OF THE APPEAL OF RHONDA MORNINGSTAR POPE. Pursuant to 25 CFR § 2.11, this Answer is filed within thirty days of receipt of the Statement of Reasons by attorneys for Appellant, Rhonda Morningstar Pope, service of which was received June 29, 2001. The Buena Vista Rancheria of The Me-Wuk Indians ("Buena Vista Tribe") is a federally recognized tribe and for the reasons stated in this Answer request that Appellant's prayer for relief to the Bureau of Indian Affairs Central California Agency be denied. Appellant is not a member of the Buena Vista Tribe. Yet her Appeal and Statement of Reasons raise membership issues within the sole discretion of the Buena Vista Tribe. The Bureau of Indian Affairs properly rejected Appellant's earlier letters requesting relief and should deny this Appeal on the same grounds.

DATED: July 27, 2001

MONTEAU, PEEBLES & CROWELL, L.L.P.

BY: Michael J. Anderson

Attorneys for Buena Vista Rancheria of
Me-Wuk Indians

ANSWER OF BUENA VISTA RANCHERIA OF ME-WUK INDIANS**I.****INTRODUCTION**

The Buena Vista Rancheria of Me-Wuk Indians ("Buena Vista"), located in Amador County, California is a federally recognized American Indian Tribe. Buena Vista governs its membership pursuant to the Constitution of the Buena Vista Rancheria of Me-Wuk Indians adopted October 25, 2000. (See attached as Exhibit 1). Buena Vista's October 25, 2000 Constitution supercedes its prior Constitutions including its June 25, 1999 Constitution (see attached as Exhibit 2) and its August 4, 1994 Constitution (see attached as Exhibit 3). The August 4, 1994 Constitution was the first adopted by Buena Vista since it regained federal recognition status pursuant to the settlement in United States v. Hardwick, No. C 79-1710SW (N.D. Cal. 1983). Buena Vista is not organized pursuant to the Indian Reorganization Act, 25 U.S.C. § 476. It governs itself under tribal, not federal law.

The governing body of the Buena Vista Rancheria is the Buena Vista Tribal Council, consisting of three (3) members, a Chairperson, Vice-Chairperson and Secretary/Treasurer. The current Tribal Council was elected on January 21, 1998 and will remain in office until January 20, 2002, when an election will be called to elect the members of the Tribal Council for the next term of office. This election will be conducted in accordance with an election ordinance adopted by the Tribal Council.

The Appellant, Rhonda "Morningstar" Pope, is not a member of the Buena Vista Tribe nor any federally recognized Tribe. Notwithstanding her lack of Buena Vista tribal membership status, on September 1, 2000, Ms. Pope submitted a proposed Tribal "Constitution" and a letter to Superintendent Dale Risling, Bureau of Indian Affairs, Central California Office, requesting that the BIA: (1) call a Buena Vista special election pursuant to IRA Section 476(c) to ratify Ms. Pope's own proposed Constitution; and (2) approve her Constitution pursuant to IRA Section 476(d) after its adoption by the

membership of the Tribe. (Ms. Pope's letter with exhibits and her proposed Constitution are attached hereto as Exhibit 4). On September 25, 2000, Ms. Pope provided the BIA with additional information purporting to challenge Buena Vista's 1994 Tribal Constitution.

On November 2, 2000, the BIA acknowledged receipt of the September 1, 2000, request letter and returned the letter and Ms. Pope's proposed Constitution without action for lack of a proper request to the Secretary of the Interior to formally review the proposed Constitution. The BIA explained that all proper requests consists of the following:

- 1) Either:
 - a) Resolution adopted by the recognized governing body of the Tribe,
or
 - b) A petition of the general membership of the Tribe signed by at least sixty percent (60%) of its adult members,
Whereby either document clearly and unambiguously requests that the Secretary of the Interior or his authorized representative conduct a formal review of the proposed constitution and authorize the conduct of a Secretarial Election;
- 2) A copy of the Proposed constitution.

Since the request did not consist of either a resolution or petition described above, we cannot act on the request. Please find enclosed your letter and proposed constitution.

(See November 2, 2000, BIA letter attached as Exhibit 5.)

On November 4, 2000, Ms. Pope sent a response letter to the BIA objecting to the BIA's interpretation of the requirements for submission of a Constitution for approval under the Indian Reorganization Act. On November 4, 2000, Ms. Pope again resubmitted her proposed Constitution with a so-called petition signed only by herself. She again

requested the Secretary of the Interior to call an election pursuant to Section 476(a) to adopt her Constitution. (Ms. Pope's November 4, 2000 letter, petition, and Constitution are attached as Exhibit 6).

On December 14, 2000, Ms. Pope again wrote a letter requesting the BIA to expedite its review of her Constitution due to exigent circumstances. (Attached hereto as Exhibit 7 is a copy of the December 14, 2000 letter.) On April 11, 2001, citing CFR Section 2.8, Ms. Pope notified the BIA of her intent to appeal the BIA's purported "inaction" and requested that the BIA take the actions originally requested on September 1, 2000 and subsequently on November 4, 2000 within ten days of her notice. (A copy of the April 11, 2001 letter is attached hereto as Exhibit 8).

On April 24, 2001, BIA Superintendent Dale Risling sent Ms. Pope a letter stating that the BIA "cannot act on the request" and returned her November 4, 2000 letter, her petition, and her Constitution. Mr. Risling also stated that the BIA recognized Donnamarie Potts and two other persons as the only members of the Tribe and that Ms. Pope was not recognized as a member of the Tribe. Mr. Risling concluded that Ms. Pope's petition was not valid because it did not contain the signatures of at least 60% of the Buena Vista Tribe's membership. (A copy of the April 24, 2001 BIA letter is attached hereto as Exhibit 9).

Appellant in her Statement of Reasons appeals the "inaction" by the BIA on the grounds that it violates the Indian Reorganization Act and constitutes a breach of the BIA's fiduciary duty to the Tribe. Her appeal is also based on the following: (1) the Buena Vista Constitution is not effective under the same standard BIA has applied to denying appellant - it was not approved by 60% of the tribal membership; (2) without the 1994 Tribal Constitution, neither Chairperson Donnamarie Potts, nor any of the current members of the Tribe has status as members of the Tribe, thus invalidating the 1999 Buena Vista Constitution; and (3) without any effective Tribal Constitution, Ms. Pope alleges she is the "one and only" person eligible to approve a tribal Constitution and requests the Secretary to call an election to ratify it. Ms. Pope also alleges there is

substantial documentation demonstrating the knowledge and intent of the involved parties when her rights were allegedly violated.

As explained below, Appellant's appeal is without merit and should be rejected. Ms. Pope, as a non-member of a federally recognized Tribe, has no rights to call a special tribal election.

II.

STANDARD OF REVIEW

The BIA is an agency of a Department of the Interior of the United States. Decisions made by BIA Area Directors are subject to administrative appeal. (25 C.F.R. § 2.1 et seq.) Judicial review of administrative decisions of the BIA are governed under the Administrative Procedure Act ("APA"). (5 U.S.C. Section 706.) An agency action may be reversed if found to be arbitrary, capricious, and abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706. American Indian Tribes have primary authority to interpret their own law and where the tribe has put forth a reasonable interpretation of its law, the BIA must defer to that interpretation. Paula Brady, et al v. Phoenix Area Director, 30 IBIA 294 (1997).

III.

ARGUMENT

A. THE BIA PROPERLY DEFERRED TO THE BUENA VISTA RANCHERIA.

1. Private Citizens Like Appellant Rhonda Pope May Not Petition the Secretary of the Interior to Call Tribal Elections or to Remedy Allegations Concerning Tribal Membership

Indian tribes retain elements of sovereign status, including the power to protect tribal self-government and to control internal relations. Smith v. Babbitt, 100 F.3d 556 (8th Cir. 1996) citing Montana v. United States, 450 U.S. 544, 564, 101 S.Ct. 1245,

1257-58 (1981). One such aspect of this sovereignty is the authority to determine tribal membership. *Id.* Such membership determinations are generally committed to the discretion of the tribes themselves. *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 54, 98 S.Ct. 1670, 1674-75 (1978). As the United States Supreme Court has stated, “[a] tribe’s right to define its own membership for tribal purposes has long been recognized as central to its existence as an independent political community.” *id.* at 72 n. 32, 98 S.Ct. at 1684 n. 32. Essentially, therefore, a membership dispute is an issue for a tribe and its courts. See, e.g., *Equal Employment Opportunity Comm’n v. Fond du Lac Heavy Equip. and Constr. Co.*, 986 F.2d 246, 249 (8th Cir.1993); *Martinez v. Southern Ute Tribe*, 249 (8th Cir.1993); See also *Vizenor v. Babbitt*, 927 F.Supp 1193 (D. Minn, 1996) (rights arising out of the Minnesota Chippewa Tribal Constitution must be determined at the Tribal level, as federal courts do not have jurisdiction to interpret a tribal constitution or tribal laws).

As the case law cited above makes clear, Appellant must proceed in a tribal forum with her membership and Constitution issues concerning the Buena Vista Tribe. Moreover, as a private citizen and non-member of a federally recognized tribe she has no standing to bring complaints against Buena Vista to the Bureau of Indian Affairs. Thus, the BIA acted legally and appropriately in its November 2, 2000 and April 24, 2001 letters rejecting Ms. Pope’s request for a Secretarial election.

2. Appellant’s Petition Did Not Meet the Statutory Requirements for Calling a Special Constitutional Election

Ms. Pope’s request for a Secretarial election also violates that statutory requirements in 25 U.S.C. Section 476. Section 476(c)(1)(a) requires the Secretary to hold an election pursuant to a “tribal request.” The Buena Vista Tribe has not requested the Secretary to call and hold a constitutional election. As a non-member of the Buena Vista Tribe, Ms. Pope may not act on the Tribe’s behalf.

Absent a tribal request, the Secretary shall only authorize the calling of an election to adopt a constitution upon receipt of a petition bearing the signatures of at least 60 percent of the tribe's adult members. 25 C.F.R. § 81.5. Since Ms. Pope is not a member of the Buena Vista Tribe she fails to meet this requirement. Even if Ms. Pope was a member of Buena Vista, which she is not, she would need to add additional members from Buena Vista to meet the 60 percent petition requirement.

Appellant's citation of Pit River Home and Agricultural Cooperative Association v. United States, 130 F.3d 1088 (9th Cir. 1994) for the proposition that Buena Vista is not properly organized under its 1994 Constitution is misplaced. Pit River involved a group of Indian families seeking initial federal recognition. This group of families was not recognized by statute or by treaty as a federally recognized tribe. Pit River at 1095. By contrast, Buena Vista is a federally recognized tribe and has been recognized by BIA since its political status was reaffirmed in United States v. Hardwick. Moreover the Buena Vista Tribe was published in the 1994 federal statute listing federally recognized tribes, Pub. L. 103-454 and is in the current BIA list of federally recognized tribes. Fed. Reg. Vol. 65, No. 49 (March 13, 2000). Buena Vista's August 4, 1994, Constitution was recognized as valid by the Bureau of Indian Affairs and Superintendent Risling's letter to that effect also replied to Appellant that "Your assertion that the BIA has responsibility to resolve this matter is simply not correct, as enrollment issues within tribes are internal matters and in this case there is no exception". (A copy of the BIA letter dated June 23, 2000, is attached as Exhibit 10).

IV.

CONCLUSION

The Buena Vista Rancheria of Me-Wuk Indians is a federally recognized tribe with all the attributes of sovereignty that status provides. Appellant Rhonda Morningstar Pope is not a member of Buena Vista and therefore enjoys no rights to participate or interfere with the current governing structure of Buena Vista as set forth in its October 225, 2000 Constitution. Moreover, Appellant is ineligible under the terms of 25 U.S.C. §

476 to petition for a constitutional election and in any event, failed to meet those statutory requirements. Accordingly, the BIA should reject Appellant's appeal.

Dated this 27th day of July, 2001

MONTEAU, PEEBLES & CROWELL, L.L.P.

BY: Michael J. Anderson
Attorneys for Buena Vista Rancheria of
Me-Wuk Indians

PROOF OF SERVICE

I certify that I am an employee of Monteau Peebles & Crowell, 1001 2nd Street, Sacramento, California 95814, and that on this date I deposited for mailing in the U.S. Mail Sacramento, California, a true and correct copy of the foregoing **ANSWER OF BUENA VISTA RANCHERIA OF ME-WUK INDIANS**, addressed to the known interested parties as follows:

Arnold Samuel, Esquire
ALBIETZ LAW CORPORATION
2001 'N' Street, Suite 100
Sacramento, CA 95814

Dated this 30th of July 2001.


Jackie Lamb

MONTEAU, PEEBLES & CROWELL, L.L.P.
1001 2nd Street
Sacramento, CA 95814
Telephone: (916) 441-2700
Facsimile: (916) 441-2067

Attorneys for Interested Party
BUENA VISTA RANCHERIA OF THE ME-WUK-INDIANS

BEFORE THE BUREAU OF INDIAN AFFAIRS
CENTRAL CALIFORNIA AGENCY

	)	AMENDMENT TO
IN THE MATTER OF THE APPEAL	)	ANSWER OF INTERESTED PARTY
OF:	)	BUENA VISTA RANCHERIA OF
RHONDA MORINGSTAR POPE	)	THE ME-WUK INDIANS
_____	)	[25 CFR § 2.11]

AMENDMENT

In the **ANSWER OF INTERESTED PARTY BUENA VISTA RANCHERIA OF THE ME-WUK INDIANS** filed with the Bureau of Indian Affairs Central California Agency, July 27, 2001, please amend the following sentences:

Page 1, Paragraph 1, Lines 9, 10 and 11.

Delete: Buena Vista is not organized pursuant to the Indian Reorganization Act, 25 U.S.C. §476. It governs itself under tribal, not federal law.

Insert: It governs itself under a Tribal Constitution, not an Indian Reorganization Act Constitution.

A corrected page is attached.

MONTEAU, PEEBLES & CROWELL, L.L.P.

BY Michael A. Anderson
Attorneys for Buena Vista Rancheria of
Me-Wuk Indians

ANSWER OF BUENA VISTA RANCHERIA OF ME-WUK INDIANS**L****INTRODUCTION**

The Buena Vista Rancheria of Me-Wuk Indians ("Buena Vista"), located in Amador County, California is a federally recognized American Indian Tribe. Buena Vista governs its membership pursuant to the Constitution of the Buena Vista Rancheria of Me-Wuk Indians adopted October 25, 2000. (See attached as Exhibit 1). Buena Vista's October 25, 2000 Constitution supercedes its prior Constitutions including its June 25, 1999 Constitution (see attached as Exhibit 2) and its August 4, 1994 Constitution (see attached as Exhibit 3). The August 4, 1994 Constitution was the first adopted by Buena Vista since it regained federal recognition status pursuant to the settlement in United States v. Hardwick, No. C 79-1710SW (N.D. Cal. 1983). It governs itself under a Tribal Constitution, not an Indian Reorganization Act Constitution.

The governing body of the Buena Vista Rancheria is the Buena Vista Tribal Council, consisting of three (3) members, a Chairperson, Vice-Chairperson and Secretary/Treasurer. The current Tribal Council was elected on January 21, 1998 and will remain in office until January 20, 2002, when an election will be called to elect the members of the Tribal Council for the next term of office. This election will be conducted in accordance with an election ordinance adopted by the Tribal Council.

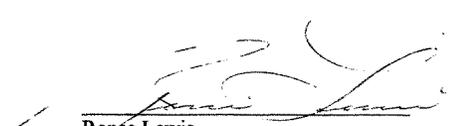
The Appellant, Rhonda "Morningstar" Pope, is not a member of the Buena Vista Tribe nor any federally recognized Tribe. Notwithstanding her lack of Buena Vista tribal membership status, on September 1, 2000, Ms. Pope submitted a proposed Tribal "Constitution" and a letter to Superintendent Dale Risling, Bureau of Indian Affairs, Central California Office, requesting that the BIA: (1) call a Buena Vista special election pursuant to IRA Section 476(c) to ratify Ms. Pope's own proposed Constitution; and (2) approve her Constitution pursuant to IRA Section 476(d) after its adoption by the membership of the Tribe. (Ms. Pope's letter with exhibits and her proposed Constitution

PROOF OF SERVICE

I certify that I am an employee of Monteau Peebles & Crowell, 511 C Street, N.E., Washington, D.C. 20002 and that on this date I deposited for mailing in the U.S. Mail District of Columbia, a true and correct copy of the foregoing **AMENDMENT TO ANSWER OF BUENA VISTA RANCHERIA OF ME-WUK INDIANS**, addressed to the known interested parties as follows:

Arnold Samuel, Esquire
ALBIETZ LAW CORPORATION
2001 'N' Street, Suite 100
Sacramento, CA 95814

Dated this 2nd of August 2001.


Renee Lewis

MONTEAU, PEEBLES & CROWELL, L.L.P.
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Attorneys for Interested Party
BUENA VISTA RANCHERIA OF THE ME-WUK INDIANS

**BEFORE THE BUREAU OF INDIAN AFFAIRS
CENTRAL CALIFORNIA AGENCY**

IN THE MATTER OF THE APPEAL)
OF:) **AMENDMENT TO**
RHONDA MORINGSTAR POPE) **ANSWER OF INTERESTED PARTY**
) **BUENA VISTA RANCHERIA OF**
) **THE ME-WUK INDIANS**
) **[25 CFR § 2.11]**

AMENDMENT

In the **ANSWER OF INTERESTED PARTY BUENA VISTA RANCHERIA OF THE ME-WUK INDIANS** filed with the Bureau of Indian Affairs Central California Agency, July 27, 2001, please amend the following sentences:

Page 1, Paragraph 1, Lines 9, 10 and 11.

Delete: Buena Vista is not organized pursuant to the Indian Reorganization Act, 25 U.S.C. §476. It governs itself under tribal, not federal law.

Insert: It governs itself under a Tribal Constitution, not an Indian Reorganization Act Constitution.

A corrected page is attached.

MONTEAU, PEEBLES & CROWELL, L.L.P.

BY Michael A. Anderson
Attorneys for Buena Vista Rancheria of
Me-Wuk Indians

ANSWER OF BUENA VISTA RANCHERIA OF ME-WUK INDIANS**I****INTRODUCTION**

The Buena Vista Rancheria of Me-Wuk Indians ("Buena Vista"), located in Amador County, California is a federally recognized American Indian Tribe. Buena Vista governs its membership pursuant to the Constitution of the Buena Vista Rancheria of Me-Wuk Indians adopted October 25, 2000. (See attached as Exhibit 1). Buena Vista's October 25, 2000 Constitution supercedes its prior Constitutions including its June 25, 1999 Constitution (see attached as Exhibit 2) and its August 4, 1994 Constitution (see attached as Exhibit 3). The August 4, 1994 Constitution was the first adopted by Buena Vista since it regained federal recognition status pursuant to the settlement in United States v. Hardwick, No. C 79-1710SW (N.D. Cal. 1983). It governs itself under a Tribal Constitution, not an Indian Reorganization Act Constitution.

The governing body of the Buena Vista Rancheria is the Buena Vista Tribal Council, consisting of three (3) members, a Chairperson, Vice-Chairperson and Secretary/Treasurer. The current Tribal Council was elected on January 21, 1998 and will remain in office until January 20, 2002, when an election will be called to elect the members of the Tribal Council for the next term of office. This election will be conducted in accordance with an election ordinance adopted by the Tribal Council.

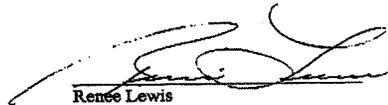
The Appellant, Rhonda "Morningstar" Pope, is not a member of the Buena Vista Tribe nor any federally recognized Tribe. Notwithstanding her lack of Buena Vista tribal membership status, on September 1, 2000, Ms. Pope submitted a proposed Tribal "Constitution" and a letter to Superintendent Dale Risling, Bureau of Indian Affairs, Central California Office, requesting that the BIA: (1) call a Buena Vista special election pursuant to IRA Section 476(c) to ratify Ms. Pope's own proposed Constitution; and (2) approve her Constitution pursuant to IRA Section 476(d) after its adoption by the membership of the Tribe. (Ms. Pope's letter with exhibits and her proposed Constitution

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I certify that I am an employee of Monteau Peebles & Crowell, 511 C Street, N.E., Washington, D.C. 20002 and that on this date I deposited for mailing in the U.S. Mail District of Columbia, a true and correct copy of the foregoing **AMENDMENT TO ANSWER OF BUENA VISTA RANCHERIA OF ME-WUK INDIANS**, addressed to the known interested parties as follows:

Arnold Samuel, Esquire
ALBIETZ LAW CORPORATION
2001 'N' Street, Suite 100
Sacramento, CA 95814

Dated this 2nd of August 2001.



Renee Lewis

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LESLAND A. MCGEE
DARREN R. PETE

DATE: August 2, 2001
TO: Arnold Samuel, Esq.
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FROM: Monteau, Peebles & Crowell
RE: Rhonda Morningstar Pope

NUMBER OF PAGES (including cover sheet) 5

COMMENTS:

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requirements established by 25 USC §476, 25 CFR §81, or applicable BIA guidelines.

Regional Director's Letter, at (unnumbered) page 3.

2. Response of the Buena Vista Rancheria.

The Buena Vista Rancheria was established as a reservation for landless Indians, not as a reservation for any particular tribe of Indians. Therefore, in accordance with interpretations of the Indian Reorganization Act which the Interior Department has followed since the year the Act was adopted, the persons who are entitled to reorganize the Rancheria are only the Indian residents of the Rancheria. The Affidavit of Donnamarie Potts which accompanies this Memorandum, and the exhibits attached thereto, establish that Ms. Potts has lived on the Rancheria for the last twenty years; that she was raised as a child of the family to whom the Rancheria was assigned by the Indian Service; that she was the sole heir of the last surviving "subclass" member named in the Tillie Hardwick litigation; that she was the fee owner of all lands within the Rancheria's boundaries, until she recently conveyed her title to the Rancheria; and that the Bureau of Indian Affairs has recognized her as a member and as the Chairperson of the Buena Vista Rancheria since 1994.

Equally clearly, the materials submitted to the Bureau of Indian Affairs by the Appellant, Ms. Rhonda Pope, establish that Ms. Pope has never been a resident of the Rancheria, has never had any legal interest in the Rancheria's lands (indeed -- the only possible source of such rights, her father Jesse Pope, conveyed those rights to Ms. Potts predecessors in title in 1975), and has never had any connection of any kind with the Rancheria's life, work, or people.

For these reasons, the answers to the Regional Director's questions are:

Question 1: The leadership of the Rancheria that the Bureau of Indian Affairs presently recognizes, alone have the right to reorganize the Buena Vista Rancheria.

Question 2: Ms. Pope's requests for a Constitutional election do not conform to the requirements of the Indian Reorganization Act, because Ms. Pope is not and never has been an Indian resident of the Buena Vista Rancheria.

3. Discussion

A. The Purpose for Which the Buena Vista Rancheria was Established.

The Buena Vista Rancheria was established as a home for landless Indians, not as a reservation for any specific tribe or tribes of Indians. The lands of the Rancheria were acquired by the United States in 1927, using appropriations made by Congress in 1906 "for Indians who are not now upon reservations in [California]". See Exhibit 1 to the Affidavit of Donnamarie Potts (hereafter, "Potts Aff."), attached to this Memorandum at Tab B.

Thereafter, as discussed in detail below, the Bureau of Indian Affairs and its predecessors consistently took the position that the Buena Vista Rancheria was available as a home for any Indian. For example, in 1935 the Indian Service informed Louie Oliver, at that time the Rancheria resident of longest standing--

"Kindly be advised that this property was purchased several years ago by former Superintendent Dorrington for the Indian Service, and the title rests in the U.S. Indian Service. The land was purchased for homeless Indians, and the Indian Service has the right to settle any homeless family on the tract. However, it is not our desire to have families settle on the same tract, who could not be neighborly..."

Potts aff., ¶6 and Exhibit 12
(Emphasis added).

B. Eligibility to Vote at the Buena Vista Rancheria, under the Indian Reorganization Act, at the Buena Vista Rancheria.

The fact that the Buena Vista Rancheria was established for landless Indians, regardless of their tribe, has clear legal consequences under the Indian Reorganization Act of 1934. The Indian Reorganization Act (or "Wheeler-Howard Act"), 25 U.S.C. §§461 -479 (2000) envisions two distinct ways in which an Indian reservation are reorganized, depending on the purposes for which the reservation was established. On the one hand, if a reservation was established for the benefit of a specific Indian tribe or tribes, the reorganization of that reservation should be done by all adult members of that tribe or those tribes, regardless of their residence. On the other hand, if the reservation was established as a residence for Indians regardless of their tribe, then the reorganization of that reservation is to be done only by the adult Indian residents of that reservation.

This distinction was formally established as the legal position of the United States Department of the Interior in 1934, within months after the passage of the Indian Reorganization Act: on December 13, 1934, the Solicitor of the Interior Department rendered a formal opinion to the Secretary of the Department, saying--

It is clear that the [Indian Reorganization Act] contemplates two distinct and alternative types of tribal organization. In the first place, it authorizes the members of a tribe (or of a group of tribes located upon the same reservation) to organize as a tribe without regard to any requirements of residence. In the second place, this section authorizes the residents of a single reservation (who may be considered a tribe for purposes of this act, under section 19 [25 U.S.C. §479]) to organize without regard to past tribal affiliations.

In the former situation, tribal affiliation is essential, and residence is immaterial in the determination of voting rights.

In the latter situation, residence is a necessary condition of the right to vote.

and tribal affiliation is not necessary. Tribal affiliation may still be one indication of the right to reside on a given reservation; but other proofs of such right are possible, e.g., the holding of restricted property upon the reservation, or the regular receipt of agency services. I am of the opinion that when the residents of a reservation are organized under section 16, the qualifications for voting upon the constitution of such organization will be identical with the qualifications for voting upon the referendum under section 18.

It may be noted that whether the organization is effected by a recognized tribe or by the residents of the reservation, first recognized as a tribe under the Wheeler-Howard Act, the constitution so adopted may prescribe such qualifications of membership or suffrage and such procedures for adoption or abandonment of tribal relations, as seem proper to the Indians concerned and the Secretary of the Interior."

Opinion of the Solicitor of the U.S. Department of the Interior No. M-27819, 1 DOINA 485 (Dec. 13, 1934) (emphasis added), attached to this Memorandum at Tab A.

Today, in the regulations of the Bureau of Indian Affairs, the distinction between "a tribe, or tribes, of a reservation", and a "group composed of the adult Indian residents of a reservation" is embodied in 25 C.F.R. §81.6(a) and §81.6(b). The Buena Vista Rancheria is, and always has been, a "group composed of the adult Indian residents of a reservation", and therefore entitlement to vote in a reorganization election would be determined by residency, under 25 C.F.R. §81.6(b).

Consistent with the purposes for which the Buena Vista Rancheria was established, the history of the United States government's dealings with the Rancheria has been entirely a history of dealings only with the Rancheria's residents. See Potts Aff., ¶¶ 5 - 10, and Exhibits 5 - 21. When the Rancheria voted to accept the Indian Reorganization Act in 1935, it was the residents of the Rancheria who voted. Potts Aff. ¶4. Thereafter, for decades the adult residents of the Rancheria were Louie and Annie Oliver, and some but not all of their children, and during those decades, the Federal government dealt with Louie and Annie Oliver and with those of Louie and

Annie Oliver's adult children who were residing on the Reservation.

Specifically, the Olivers had three children that lived to adulthood: Enos Oliver, Elinor Oliver, and Lucille Oliver Lucero. Enos Oliver lived on the Rancheria virtually his entire life, and therefore he was always a member of the Rancheria with whom the Indian Service and the Bureau of Indian Affairs dealt. Potts Aff. ¶8.A., Exhibits 14 and 15. By contrast, Elinor Oliver (the mother of Jesse Pope and the grandmother of the Appellant, Rhonda Pope) left the Rancheria when she was a young woman and never returned; and neither the Indian Service nor the Bureau of Indian Affairs ever acknowledged her as being a person with whom the Federal government should deal, in Rancheria affairs. Potts Aff. ¶8.B. And Lucille Oliver Lucero, who left the Rancheria as a young woman to work and to get married, and then returned to the Rancheria in the 1950's, was not regarded as having a voice in Rancheria affairs when she was absent, but was dealt with by the Indian Service and the Bureau of Indian Affairs when she had resumed her residency. Potts Aff. ¶8.C., Exhibits 14 and 15.

Similarly, when the Bureau of Indian Affairs consulted with the Rancheria to implement the California Rancheria Act of 1958, the consultation was only with the residents of the Rancheria -- Louie Oliver, Annie Oliver, Enos Oliver, and Lucille Lucero -- and not with any Oliver family members who did not then reside on the Rancheria. Potts Aff. ¶¶9 and 10, Exhibits 5 - 11, 14 and 15.

C. Tillie Hardwick v. United States restored the Buena Vista Rancheria to the same legal status that it had prior to termination.

On August 2, 1983, in the settlement filed with the Court in Tillie Hardwick v. United States, No. C-79-1710 (N.D.Cal.), the United States of America agreed that the Court would--

...certify a class consisting of all those persons who received any of the assets of the rancherias listed and described in paragraph 1 [of the Stipulation, including the Buena Vista Rancheria] pursuant to the California Rancheria Act [footnote omitted] and any Indian heirs, legatees or successors in interest of such persons with respect to any real property they received as a result of the implementation of the California Rancheria Act.

Potts. Aff. Exhibit 23, ¶2 (Emphasis added).

The United States also agreed that--

The status of the named individual plaintiffs and other class members of the seventeen rancherias named and described in paragraph 1 as Indians under the laws of the United States shall be restored and confirmed. ...

Ibid., Exhibit 23, ¶3 (Emphasis added).

And it agreed that--

The Secretary of the Interior shall recognize the Indian Tribes, Bands, Communities or groups of the seventeen rancherias listed in paragraph 1 as Indian entities with the same status as they possessed prior to distribution of the assets of these Rancherias under the California Rancheria Act...

Ibid., Exhibit 23, ¶4 (Emphasis added).

Hence, the intent of the Tillie Hardwick stipulation was to return the Buena Vista Rancheria to the legal status it had before 1958 -- that is, to the status of a reservation which had been established for homeless Indians, which had accepted the Indian Reorganization Act, and which had therefore could only be organized by the votes of the adult Indians residing on the Rancheria. It clearly was not the intent of the Tillie Hardwick stipulation that Rancheria rights would be bestowed on persons who would never have had those rights if the termination and restoration worked by the Rancheria Act and the Tillie Hardwick case had never occurred.

In the years that have followed the Tillie Hardwick case, the Bureau of Indian Affairs has had occasion repeatedly to consider the question of who properly should be recognized as

saving rights on the Buena Vista Rancheria, and consistent with the mandate that the Buena Vista Rancheria be restored to the status it would have had if termination had not occurred, the Bureau has repeatedly and consistently recognized and dealt with Donnamarie Potts. Potts Aff. ¶17 and the documents appearing at Exhibit 30. In 1994, the Superintendent of the Central California Agency assisted Lucille Lucero in adopting the first Buena Vista Constitution. Ibid. Both before and after that Constitution was adopted, the Bureau of Indian Affairs rebuffed attempts by individuals who were not residents of the Rancheria to claim that they represented the Rancheria. Ibid. On May 17, 1996, Superintendent Brafford wrote Donnamarie Potts to confirm the BIA's recognition of her as a member of, and the leader of, the Rancheria. Ibid. That position was affirmed by Superintendent Dale Rising in letters dated June 26, 2000 to Donnamarie Potts, and June 23, 2000 to Rhonda Pope. Ibid. And in Jefferey Alan-Wilson v. Acting Sacramento Area Director, Bureau of Indian Affairs, 33 IBIA 55 (October 14, 1998), the Area Director conducted an investigation and prepared a report on the question of whether the Bureau of Indian Affairs had been consistent in its interpretation of the Tillie Hardwick stipulation. In his report, the Area Director informed the IBIA that, in fact, the Bureau had followed the Tillie Hardwick mandate at all rancherias except the Cloverdale Rancheria. Subsequently, the United States made a similar representation to the United States District Court for the Northern District of California, in the litigation that followed the IBIA decisions in Alan-Wilson.

D. Rhonda Pope has no right to reside at the Buena Vista Rancheria, because her father deeded away his interest in the Rancheria.

When the Buena Vista Rancheria was terminated under the California Rancheria Act, the

Rancheria's lands were conveyed by the United States in fee to Louie and Annie Oliver. Potts Aff., ¶10, Exhibit 17. Louie Oliver died intestate, predeceased by Annie Oliver. Louie Oliver's estate contained the entirety of the lands of the Rancheria. Potts Aff., ¶11. His heirs therefore were his surviving children, Enos Oliver and Lucille Lucero, and his grandson Jesse Pope, the sole surviving child of Elinor Oliver. *Ibid.* Enos Oliver initiated probate proceedings in the California Superior Court for Amador County; and during those proceedings, on January 15, 1975, Jesse Pope deeded to Enos Oliver and Lucille Lucero "all of his right, title and interest in and to" the Rancheria land. *Ibid.*, and Exhibit 19. Therefore, on September 12, 1975, the Superior Court awarded title to the Rancheria land jointly to Enos Oliver and Lucille Lucero; and the Court later refused to reopen the probate proceedings to consider claims by Rhonda Pope's mother and guardian that Jesse Pope's conveyance had been improper. *Id.*

If Jesse Pope had not conveyed his interest in the Rancheria, and if Rhonda Pope had been his heir, then Rhonda Pope could plausibly now make the claim that she has the right to become a resident of, and a member of, the Buena Vista Rancheria. But when Jesse Pope's rights to the Rancheria were conveyed, so too was any right to establish Rancheria residency; and by extension, any right to participate in the reorganization of the Rancheria under 25 C.F.R. §81.6(b).

E. Donnamarie Potts is properly a member of the Buena Vista Rancheria.

The documents and photographs attached to the affidavit of Donnamarie Potts demonstrate that she was raised as the child of Lucille Lucero & Donald Lucero, that as a child she spent great portions of her time on the Rancheria, that she has made the Rancheria her principal residence since the early 1980's, and that she has been intimately connected with the

people and fabric of the Rancheria all her life. Potts Aff., ¶¶21 - 28, Exhibits 36 - 47. The affidavit also establishes that Donnamarie Potts was the sole heir of Lucille Lucero, that from Lucille Lucero she received an undivided three-quarters fee interest in the land of the Rancheria that she then used her own funds to purchase the remaining undivided one-quarter interest from the stepson of Enos Oliver, that also she utilized her own funds to pay real property taxes on the Rancheria lands, and that she recently donated her entire interest in the lands to the Buena Vista Rancheria.

Notwithstanding these connections with and contributions to the Rancheria, Rhonda Pope contends that Donnamarie Potts can have no involvement in the Rancheria's affairs because of her lineage. In the materials Ms. Pope has filed with the Bureau of Indian Affairs, she points to a birth certificate, filed in Sutter County records, indicating that Donnamarie Potts has no claim to lineal descendency from Louie and Annie Oliver. The certificate indicates that on October 30, 1943, a Donna Marie Potts was born to Leonard Robert Potts, who is identified as an "Indian", and Margaret Mary Lucero, (who was Donald Lucero's sister). See Potts Aff., Exhibit 34. On this basis, Ms. Pope claims that Ms. Potts is an interloper with no blood claim to the Buena Vista Rancheria, despite her residency and life-long connection with the land and its people.

Donnamarie Potts frankly has conceded that she is uncertain about the circumstances of her birth. Potts. Aff. ¶21. It can be observed that the birth certificate evidence is not the only evidence that can be adduced as Donnamarie Potts' parentage. Set against the certificate are statements made by Lucille Lucero both to Ms. Potts and, privately and independently, to at least one other person (see the affidavit of William J. Pink, Potts. Aff. Exhibit 35) that Ms.

Potts in fact is the daughter of Elinor Oliver and Donald Lucero -- statements that at least raise the possibility that the child who was born on October 30, 1943 is not the same child that was raised on the Buena Vista Rancheria.

But the only salient point is this: the circumstances of Donnamarie Potts birth are wholly irrelevant to the question of who has the right to reorganize the Buena Vista Rancheria. The birth certificate offered by Ms. Pope indicates that the father of the child who was born in Sutter County on October 30, 1943 was an "Indian". Elinor Oliver clearly also was an Indian. So, whichever set of parents conceived her, Donnamarie Potts is an Indian. And she resides, and for a great portion of her life has resided, on the Buena Vista Rancheria -- an Indian reservation that was established for its Indian residents, not for any particular tribe or clan or community. Therefore, Donnamarie Potts is fully entitled to the benefits of membership in the Rancheria, and to hold office and exercise the power of governance over the Rancheria. Quite properly, this was the conclusion of the Central California Agency of the Bureau of Indian Affairs in 1994, when the Rancheria's first Constitution was adopted (Potts Aff. ¶15, Exhibits 27 and 28), and has been the conclusion of the Bureau of Indian Affairs since the 1994 Constitution of the Buena Vista Rancheria was adopted. Potts Aff. ¶17 and Exhibit 30.

F. Rhonda Pope has no standing to challenge the validity of the present tribal government of the Buena Vista Rancheria, authority, notwithstanding the fact that the Rancheria's constitutional documents were not ratified in an Indian Reorganization Act election.

Rhonda Pope has argued that, inasmuch as the Buena Vista Rancheria accepted the Indian Reorganization Act in 1935, the Constitution adopted by Lucille Lucero in 1994 was fatally flawed because the Bureau of Indian Affairs did not call an election to approve the documents,

and because Ms. Pope was not given notice and a chance to vote on the document¹. And, by extension, Ms. Pope asserts that all subsequent amendments of the 1994 Constitution are void, because the 1994 Constitution was the source document which dictated the amendment procedure.

In reply it may be noted that Ms. Pope's fundamental proposition -- that a tribe which has accepted the Indian Reorganization Act cannot have a government function under a non-Indian Reorganization Act constitution -- is flawed, because on at least one occasion the IBIA has held to the contrary. See Estate of Peter Alvin Ward, 98 I.D. 14, 19 IBIA 196 (Feb. 5, 1991).

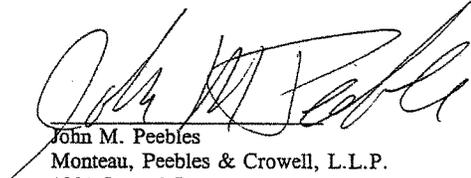
But the more fundamental point is simply that Ms. Pope has no standing to make her claim. She was not entitled to notice of the 1994 proceedings, or any subsequent proceedings, because she was not and is not a resident of the Rancheria. The Buena Vista Rancheria was established for the benefits of Indians living on its lands, and therefore the Indian Reorganization

¹ It is interesting to note that the document purporting to be the 1994 Buena Vista Constitution that Rhonda Pope submitted to the Sacramento Area Director on June 26, 2001 in this appeal is an alteration of the document signed by Lucille Lucero. The document Ms. Lucero signed in the presence of the Superintendent of the Central California Agency on August 4, 1994 contains "whited out" names on its page 3 -- names that were whited out at the suggestion of, and in the presence of, Agency Superintendent Harold Brafford, because they were names of persons who were members of Rancherias other than Buena Vista. Potts Aff., ¶15. Page 3 of the 1994 Constitution also contains a handwritten memorialization of the persons present when the "white outs" were made. Ibid. In contrast, page 3 of the document Ms. Pope submitted contains "blackouts" of names -- and the blacked out names do not completely correspond to the "whited out" names eliminated during the meeting with Superintendent Brafford -- and contains no handwritten notation. It is unclear who is responsible for the creation of page 3 of the document submitted by Ms. Pope; but it is clear that the document is not the 1994 Buena Vista Constitution. However, given the fact that Ms. Pope has no standing to petition for an Indian Reorganization Act election, the questions as to the authorship of Ms. Pope's submission are immaterial to this appeal.

Act, to which Ms. Pope looks in her effort to take control of a Rancheria with which she has never personal connection of any kind, conclusively precludes her claim. Under the provisions of 25 C.F.R. §81.6(b) (2000), she clearly is not entitled to participate in any constitutional election on the Buena Vista Rancheria.

For all of the foregoing reasons, it is respectfully submitted that Ms. Pope's appeal must be denied.

October 17, 2001



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**BEFORE THE BUREAU OF INDIAN AFFAIRS
CENTRAL CALIFORNIA AGENCY**

IN THE MATTER OF THE APPEAL OF)
)
RHONDA MORNINGSTAR POPE)

REPLY MEMORANDUM OF THE BUENA VISTA RANCHERIA

This Reply Memorandum is filed on behalf of the Buena Vista Rancheria, in response to the "Declaration" that the Appellant filed with the Agency on October 17, 2001. It will reiterate the legal baselessness of Ms. Pope's petition to reorganize the Buena Vista Rancheria, and will discuss the devastating consequences -- to Buena Vista's tribal culture, federal contracts, state and county intergovernmental service agreements, land status, financial status and gaming compact -- should her petition be granted.

Summary.

One of the most fundamental rights retained by an Indian tribe is the right to select, and establish the criteria for, its own membership. At the Buena Vista Rancheria, Ms. Lucille Lucero properly and clearly exercised that right in 1994, when she formally memorialized the tribal membership of Donnamarie Potts, and thenceforth the Bureau of Indian Affairs consistently has recognized that action. But in her Declaration, filed in this matter on October 17, 2001, Rhonda Pope asks the Bureau of Indian Affairs now, at this late date, to override Lucille Lucero's decisions, to ignore the pattern of Rancheria life of the Indians who have lived on the Buena Vista Rancheria since it was established, and to reverse all previous decisions of the Bureau of Indian Affairs relating to the governance of the Buena Vista Rancheria. Ms. Pope, who has never applied for

membership at Buena Vista, now asserts that she has all the powers of government at the Rancheria. In the face of the Federal law that establishes an Indian tribe's right to decide who its members are, she demands that the Bureau of Indian Affairs reject Lucille Lucero's decision to formally acknowledge the historic membership of Donnamarie Potts¹. Despite the fact that any possible legal interest Ms. Pope might have claimed in the land of the Rancheria was deeded away, to persons who ultimately deeded the land to Donnamarie Potts, Ms. Pope claims that she now has the right to evict Ms. Potts. The first written communication Ms. Pope ever had with Ms. Potts said this:

You are to turn over all documentation to me immediately. Include all federal funds...contract funding and any and all federal funds or documentation provided to you as the alleged spokesperson for the Buena Vista Rancheria.

You are to immediately terminate all employees, attorneys or consultants hired by yourself and/or supporters alleging to be representing the Buena Vista Rancheria.

I have requested a probate of my Aunt Lucille Lucero's estate to begin immediately. You are hereby notified to vacate [sic] property at 4650 Coalmine Road during the probate process.

See Exhibit 48 to the October 17, 2001
Affidavit of Donnamarie Potts.

Notwithstanding the fact that she has never lived on the Buena Vista Rancheria, has never sought to live there, and has never had any personal connection with the lives of anyone who has lived there²,

¹ She also mischaracterizes Lucille Lucero's statements and actions. In her Appeal documents, Ms. Pope asserts that when the Rancheria was organized, Ms. Lucero misled the Bureau of Indian Affairs -- that Ms. Lucero claimed to be the "only living descendant" of Louie and Annie Oliver. In fact, however, Ms. Lucero stated simply that she was "the only living descendant and recognized member of the Buena Vista Rancheria", a statement that was entirely true. (See Exhibits 18 and 19 to Ms. Pope's Appeal).

² The materials submitted by Ms. Pope in her Appeal, and in her Declaration, are barren of any

Ms. Pope now claims that only she is entitled to reorganize the Rancheria.

If the Bureau of Indian Affairs were to decide that Ms. Pope is correct, the blow that would be struck against tribal self-determination will be incalculable. Ms. Pope's proper remedy, which repeatedly has been suggested to her by the Bureau of Indian Affairs, and which to date she has steadfastly ignored, is to apply for membership in the Rancheria.

1. Lineal descendency alone does not give Ms. Pope the right to reorganize the Buena Vista Rancheria under the Indian Reorganization Act.

Ms. Pope's claim, in her Declaration as in her Appeal, is based wholly on her assertion that she is the daughter of Jesse Pope, the granddaughter of Elinor Pope, and the great granddaughter of Louie and Annie Oliver. She speaks of it as "my natural born right". (Pope Declaration, &24). But as Felix S. Cohen, in his landmark treatise on Indian law, said –

Tribal membership is a bilateral relation, depending for its existence not only upon the action of the tribe but also upon the action of the individual concerned.

Felix S. Cohen's Handbook of Federal Indian Law, 1982 Ed., Michie Bobbs-Merrill (1982), at 22 (emphasis added).

In Ms. Pope's case, neither part of a bilateral relationship has existed. The members of the Buena

indication that she has had any connection with the Rancheria or its people. Her own documents reveal that until August, 2000, she was "Rhonda Lynn Pope", never "Rhonda Morningstar Pope". The first visit to the Rancheria that she alleges, in her Appeal, is when she was twenty-two years old. But this reality did not prevent Ms. Pope's attorneys from making an altogether different representation to the National Indian Gaming Commission, in comments on Buena Vista's Environmental Assessment for its proposed casino development, that "Ms. Pope grew up visiting the Rancheria...". See Exhibit 4, at page 6, &9, to the Affidavit of Donnamarie Potts, attached hereto (emphasis added). This statement, formally made to the NIGC, is wholly undercut by the materials that Ms. Pope has submitted to the Bureau of Indian Affairs in this Appeal; and by extension, doubt must attend any other claims she has made (e.g., allegations of telephone contacts) that cannot be verified by independent records.

Vista Rancheria never considered Ms. Pope to be a member, and until the Rancheria announced that it would pursue gaming development, in the summer of 2000, she never asserted any rights to membership. The written materials which Ms. Pope has attached to her October 17 Declaration contain no writing in which Ms. Pope either claimed or sought membership at Buena Vista, until her letter in May, 2000, demanding that Donnamarie Potts leave the Rancheria.

Nonetheless, there is language in the Interior Board of Indian Appeals' decision in Jeffery Alan-Wilson v. Acting Sacramento Area Director, Bureau of Indian Affairs, 33 IBIA 55 [October 14, 1998] that, on its face, could be read to suggest that lineal descendancy, and nothing else, legally determines the entitlement to organize the rancherias that were restored by the Tillie Hardwick stipulation. Ms. Pope's Declaration actually does not cite or discuss this language, but a review of the differences between the history of the Buena Vista Rancheria and the situation that produced the Alan-Wilson case is instructive. In Alan-Wilson, the person who sought to organize the Cloverdale Rancheria had no colorable claim of authority to organize the Rancheria. He was not a distributee under the California Rancheria Act, nor a descendant, successor in interest, heir, or legatee of a distributee, nor a resident of the Rancheria. By contrast, Lucille Lucero, who organized the Buena Vista Rancheria in 1994, was the sole surviving Buena Vista "Subclass Member" from the Tillie Hardwick litigation, the sole surviving heir and successor in interest of the distributees, a resident of the Rancheria, and the sole surviving person with whom the Bureau of Indian Affairs had consulted during the termination process under the California Rancheria Act. Clearly, Ms. Lucero was entitled to organize the Rancheria, and to adopt such additional Rancheria members as she deemed appropriate.

It also bears noting that if Alan-Wilson were to be read to mean that any lineal descendant of any Tillie Hardwick rancheria automatically is entitled to participate in rancheria organization, then Alan-Wilson would be wrong, at least for rancherias that accepted the Indian Reorganization Act. The United States Congress has made it absolutely clear that for residence-based Indian

reservations, only residents are entitled to cast votes for reorganization under the Indian Reorganization Act. See the Opinion of the Solicitor of the U.S. Department of the Interior No. M-27819, I DOINA 485 (Dec. 13, 1934), attached as Tab A to the October 17, 2001 submission of the Buena Vista Rancheria in this Appeal. See also, the January 14, 1994 Letter from the Secretary of the Interior to the Honorable George Miller, discussing voting rights under the Indian Reorganization Act, attached as Exhibit 3 to the October 31, 2001 affidavit of Donnamarie Potts. The regulations of the Bureau of Indian Affairs implementing the Indian Reorganization Act exactly track the Act's provisions: "Any adult duly registered member physically residing on the reservation shall be entitled to vote". 25 C.F.R. §81.6(b). And the entire purpose and effect of the Tillie Hardwick stipulation was to restore each individual affected rancheria to the status it had before it was terminated. Therefore, it is clear that Alan Wilson could not legally have given Rhonda Pope the power to organize or reorganize the Buena Vista Rancheria.

In fact, the Alan Wilson proceedings illustrate and expressly validate the approach of the Bureau of Indian Affairs to the Buena Vista Rancheria. The report prepared by the Tribal Operations Officer of the Sacramento Regional Office of the Bureau of Indian Affairs, Dorson Zunie, ("the Zunie Report"³), and submitted to the Interior Board of Indian Appeals in the Alan Wilson case, attached a copy of the 1994 Buena Vista Constitution that identified Donnamarie Potts as a "Historical Member", and stated that "the sole surviving distributee was initially recognized as the only member" and "as such she adopted additional members into the Tribe". Technically, as is indicated in the Memorandum submitted by the Buena Vista Rancheria on October 17, 2001, Lucille Lucero was not a "distributee" under the California Rancheria Act of 1958, but she was the only living Tillie Hardwick Subclass Member; she was a resident of the Rancheria; she was formally consulted by the Bureau of Indian Affairs when the Rancheria's Distribution Plan was

³ The Rancheria is today separately transmitting a copy of the Zunie Report, for convenient reference.

being created; and she was given formal notice of the Plan when it was adopted. See Exhibits 6 and 8 to the October 17, 2001 Affidavit of Donnamarie Potts, submitted with the Buena Vista Memorandum. Clearly, the Bureau of Indian Affairs' decision to recognize Ms. Lucero, and to give effect to her reorganization of the Buena Vista Rancheria, was altogether reasonable and consistent.

2. The trust responsibility of the Bureau of Indian Affairs does not run to Rhonda Pope.

Ms. Pope also asserts that the United States has violated a "trust responsibility" to her, because she was not informed that Lucille Lucero had adopted a Constitution for the Buena Vista Rancheria in 1994⁴, and because she asserts that the Bureau of Indian Affairs has not responded to her recent inquiries about the Rancheria's government in a manner that satisfied her⁵. To bolster her assertion, she cites *Loudner v. United States*, 108 F.3d 896 (8th Cir. 1997) -- a case which, as is noted below, actually serves simply to expose the emptiness of her position. The simple answer to Ms. Pope's "trust responsibility" contention is that, unless the United States Congress has specifically declared otherwise, the trust responsibility of the United States of America, in the context the organization of Indian tribal governments, flows not to every person who happens to be

⁴ Ironically, when she challenges the 1994 Constitution, Ms. Pope is challenging the single legal mechanism that could, perhaps, now operate to make her a member of the Buena Vista Rancheria. Until the Rancheria organized, only resident Indians could be members. However, under the 1994 Constitution adopted by Ms. Lucero, and under subsequent amended Constitutions adopted thereafter, it is possible for lineal descendants of historical members of the Rancheria to apply for and be accepted into membership. (This is consistent with the Opinion of the Solicitor, attached at Tab A to the Rancheria's October 18, 2001 submission, holding that reservations established as homes for landless Indians can, when they reorganize, adopt constitutions containing different or additional membership provisions). Ms. Pope never has sought to avail herself of that mechanism -- she never has applied for membership -- but that avenue remains open to her.

⁵ Interestingly, Ms. Pope's Declaration, in its discussion both of Ms. Potts' presence on the Rancheria, and of Ms. Lucero's relationship with Ms. Potts, reinforces the fundamental fact that Donnamarie Potts is and has been a resident of the Rancheria for much of her life, and is and has been connected with the Rancheria's people for her entire life.

a lineal descendant of a tribal member, but only to the tribe itself and to the tribe's members. See generally, 25 C.F.R. §81.6(b)(1). In the Loudner case, cited by Ms. Pope, the United States Court of Appeals for the Eighth Circuit held that the United States in fact does have a trust responsibility in the specific case of the lineal descendants of the Sisseton and Wahpeton Mississippi Sioux Tribe because a specific Act of Congress had explicitly made those lineal descendants the beneficiaries of a judgment fund. See 108 F.3d, at 898-9. Obviously, there is no similar Act of Congress to which Ms. Pope can point that would give her rights on the Buena Vista Rancheria. Nor, given the history of the Rancheria and its lands, can she make any claim to a right to lands or residence on the Rancheria. Therefore, there is no "trust responsibility" owed to her.

3. The Federal trust responsibility would be violated if the Bureau of Indian Affairs reverses its position with respect to the government of the Buena Vista Rancheria.

The Federal trust responsibility running to the Buena Vista Rancheria would be hopelessly violated if the Bureau of Indian Affairs followed Ms. Pope's suggestion and withdrew its recognition of the present government of the Buena Vista Rancheria. That recognition is of long standing, and because of that recognition the government of the Buena Vista Rancheria has undertaken immensely important obligations to other governments and business entities, all of which would be cast into doubt by a change in the policies of the Bureau of Indian Affairs.

A. The history of the Bureau of Indian Affairs' recognition of the present government of the Buena Vista Rancheria.

The Bureau's present position -- that the present government and membership of the Rancheria are valid -- has been affirmed consistently over a period of nearly two decades. The Bureau of Indian Affairs repeatedly has informed individuals, governments, and other entities, that the United States of America recognizes the effectiveness of Lucille Lucero's adoption of the first Buena Vista Constitution in 1994; that, before 1994, the United States recognized Lucille Lucero as the sole person with whom it should deal; and that the United States now recognizes Donnamarie

Potts as a member and the Chairperson of the Buena Vista Rancheria.

The modern relationship between the United States Government and the Buena Vista Rancheria began shortly after the settlement, in 1983, of *Tillie Hardwick v. United States*, No. C-79-1710 (N.D.Cal.). In 1984, the Bureau of Indian Affairs began dealing with Lucille Lucero, who still resided on the Rancheria, who was the sole remaining person at Buena Vista that had been consulted by the Bureau before termination, the only living "Subclass member" in the *Tillie Hardwick* case, and the heir, successor in interest, and legatee of the distributees. From 1984 through 1986, the Bureau of Indian Affairs and Ms. Lucero exchanged correspondence concerning the prospect of placing the Rancheria's land into trust. That process in fact was not consummated, and Ms. Lucero elected instead to convey all of her interest in the Rancheria's Indian lands to Donnamarie Potts; but the pattern of Federal recognition was established, and it has continued and has been consistent. In 1992, in a dispute with Mr. Nicolas Villa Jr. of the Ione Band of Miwok Indians, the Bureau of Indian Affairs strongly defended Ms. Lucero's right to govern the Rancheria. (See the correspondence attached as Exhibit 29 to the October 17, 2001 affidavit of Donnamarie Potts, previously submitted to the Agency). Again, in February, 1994, the Central Office of the Bureau of Indian Affairs in Washington, D.C. informed Nicolas and Joan Villa by letter "that the Bureau of Indian Affairs recognizes Ms. Lucille Lucero as the official Spokesperson/Chair of the Buena Vista Rancheria". (See *Ibid*, Exhibit 29). In the same month, the Central California Agency similarly informed the California Nevada Indian Gaming Association, in response to another attempt by Mr. Villa to assert governance rights at Buena Vista. (See *Ibid*, Exhibit 30). Yet again, on July 7, 1994, the Central California Agency of the Bureau of Indian Affairs wrote to Mr. Villa, informing him that the Bureau had "contacted Ms. Donna Marie Potts, Spokesperson for the Buena Vista Rancheria", and that Ms. Potts had told the Bureau that there should be no difficulty in Mr. Villa's obtaining access to the cemetery located on the Rancheria. (See *Ibid*, Exhibit 29). Notably, this last letter, stating the Bureau's recognition of Ms. Potts, was written even ~~before the 1994~~

Constitution was adopted.

In January, 1994, the Bureau of Indian Affairs invited Ms. Lucero to participate in processes relating to the preparation of tribal enrollment ordinances, and the initiation of "638 contracting" processes. (See *Ibid*, Exhibit 30). This contact, and the felt need to deal with ongoing harassment by persons such as Mr. Villa, initiated the events which led to the adoption, at the Central California Agency of the Bureau of Indian Affairs, of the 1994 Constitution of the Buena Vista Rancheria -- the document which establishes the Historical Membership of the Tribe. In March, 1994, an Enrollment Specialist from the Central California Agency met with Lucille Lucero and, in a March 10, 1994 memorandum, as part of a summary of that meeting, she reported:

I suggested that Lucille Lucero, her mother and father, Louie Lucero and Annie (Howdy) Lucero, along with their [sic] brothers and sisters of Louie and Annie be listed on their Base Roll. Donna and the other [blacked out⁶] persons would be included under the adoption section of the Enrollment Ordinance with full rights as a [sic] regular members. This way Donna Marie and the other [blacked out] person would be allowed to hold office.

See Exhibit 2 to the October 31, 2001
Affidavit of Donnamarie Potts.

Ultimately, Lucille Lucero chose to include Donnamarie Potts directly in the 1994 Constitution, and not in any subsequent enrollment ordinance -- a decision that clearly was within her legal authority, and that was explicitly approved by the Superintendent of the Central California Agency.

This latter point must be stressed. When Lucille Lucero signed the 1994 Constitution, in the offices of the Central California Agency, the matter of Donnamarie Potts' status was raised,

⁶ A copy of this memorandum was one of the documents attached by Ms. Pope in her Appeal. That copy had words blacked out. The Buena Vista Rancheria does not itself have any copies of the document, and therefore the copy attached to Ms. Potts' affidavit is a reproduction of the copy used by Ms. Pope, with its blackouts.

discussed, and resolved by Superintendent Harold Brafford, Sr.. Ms. Lucero confidentially revealed Ms. Potts background to Superintendent Brafford. She explained that Ms. Potts had been raised on by Donald and Lucille Lucero, and had spent the greatest part of her life working and living on the Rancharia. See the October 17, 2001 affidavit of Donnamarie Potts, at &15, and her October 31, 2001 affidavit at &5. Upon hearing Ms. Lucero, the Superintendent was satisfied that Ms. Potts had been properly adopted into the tribe; and at all times thereafter the Bureau of Indian Affairs has recognized and dealt with her as a member and as Chairperson of the Rancharia.

Specifically, in May, 1996, after the Constitution was adopted, the Central California Agency sent a letter to Ms. Potts, saying in part:

Dear Ms. Potts:

~~This letter will serve to provide you with a formal position that the Central California Agency has in regards to both the status of the Buena Vista Rancharia as well as the status of the tribal government.~~

As the sole Spokesperson and surviving distributee of the re-recognized Buena Vista Rancharia Ms. Lucille Lucero did enact and put into affect [sic] a governing document. This action by Ms. Lucero did by definition initiate and constitute a formal organization process for the Rancharia that has been completed.

Ms. Donna Marie Potts by virtue of this governing document was recognized as having historical tribal member status.

Further, since the untimely passing of Ms. Lucero, the tribal government has been organized and chosen Ms. Potts as the primary spokesperson for the Rancharia.

Additionally, the Central California Agency does recognize Ms. Potts as the formal representative for the Buena Vista Rancharia and that a government-to-government relationship does exist between the federal government and this Rancharia. In this context, formal 638 contracts have been entered into between the Bureau of Indian Affairs and the Buena Vista Rancharia, as well as the agency's continuous [sic] provision of other direct federal services to the Rancharia and Tribal membership.

(See *Ibid.* (Emphasis added))

The Zunie Report, on November 19, 1997, recited that the Buena Vista Rancheria had been reorganized in a manner that was consistent with the Tillie Hardwick stipulation, and that Lucille Lucero had "adopted additional members into the Tribe". (Emphasis added). The Bureau of Indian Affairs subsequently represented to the United States District Court for Northern District of California that the Zunie Report accurately described the state of affairs on the Hardwick-restored rancherias. And on May 16, 2000, the United States Department of the Interior, acting through the Assistant Secretary - Indian Affairs, published notice in the Federal Register of the Department's approval of Tribal-State Class III Gaming Compact between the Buena Vista Rancheria and the State of California, a Compact that was executed by Ms. Donnamarie Potts as Chairperson of the Rancheria. See 65 Fed. Reg. 31189 (May 16, 2000).

Also in 2000, when Ms. Pope had asserted her claim to membership in the Rancheria, the Bureau of Indian Affairs informed Ms. Pope --

It is evident by your numerous letters to the Agency and tribe, that you strongly believe that as a lineal descendent [sic] of the tribe that you belong on the membership roll.

To date, the Bureau of Indian Affairs has developed and maintained a government-to-government relationship with the tribe and this relationship starts and ends with the governing body of the tribe, led by Donnamarie Potts. In this case that governing body is the elected tribal council.

Based upon the response from the tribe, it appears that you have not exhausted all tribal remedy [sic] in this matter. These remedy [sic] would include completing an enrollment process with the tribe.

(See *Ibid.*)

Again on June 26, 2000, after a meeting with Donnamarie Potts on this very issue⁷, the Bureau of Indian Affairs sent a letter to Ms. Potts, saying:

This letter will serve as a followup to the meeting held at the Central California Agency on June 6, 2000, between Buena Vista Representatives and my staff.

The Bureau of Indian Affairs has recognized a government-to-government relationship with the tribe through its governing body and as such the Agency continues to recognize your constitutionally defined form of government and you as the Chairperson for the governing body of the Buena Vista Rancheria. ...

(See *Ibid.*)

B. The effect of withdrawal of recognition on the Rancheria and its members would be devastating.

If, despite the foregoing history, the Bureau of Indian Affairs now concludes that Ms. Pope is entitled to reorganize the Buena Vista government, terrible consequences will follow, for Buena Vista and for the long-established principal that stability is necessary for tribal governments to function. The status of the Rancheria's land, which Donnamarie Potts conveyed to the Rancheria on the explicit understanding and belief that the Rancheria was properly organized and she was its Chairperson, would be in grave doubt. Governmental service agreements with county government, city government, service providers, negotiated over many months, presumably would be voided. The validity of the Tribal-State Class III Gaming Compact, approved and executed by the Rancheria's government and the State of California in 1999, will be cast into question -- and, as is

⁷ This meeting took place in response to a letter which the Bureau of Indian Affairs had received from Ms. Rhonda Pope. The subsequent letters from the Bureau to Ms. Pope and Ms. Potts, quoted above, resulted from that meeting. So, Ms. Pope's assertions in her Declaration that neither the Bureau of Indian Affairs nor Ms. Potts ever has responded to her claims and demands plainly are false.

well known, the Governor of the State of California now has taken the position that he will negotiate no more Compacts with California tribes. Pursuant to the Class III Gaming Compact, the government of the Rancheria has borrowed the sum of \$1,820,250.00, and has paid that amount to the State of California as a licensing fee for 1,800 gaming devices. If the Bureau of Indian Affairs now reverses its position with respect to the validity of the government of the Rancheria, the payment to the State will have been made for nothing, and the financing which made the payment possible will be hopelessly defaulted. Default also will occur in the Development Agreement under which the Rancheria is seeking to build a casino facility, and under which the Rancheria has borrowed more than \$8,000,000 – money that has been expended to obtain necessary regulatory approvals, investigate and protect cultural resources and the environment, design and engineer a casino structure, and create and improve the Rancheria's tribal government and infrastructure. Numbers of other legal obligations would be thrown into chaos. The resulting litigation, and damage to the Rancheria and its future, would be catastrophic.

Nor would the injury be limited to the Buena Vista Rancheria. In a larger context, the injury would be to all tribes that have a relationship with the United States government. Federal recognition is fundamentally important to all tribes in their business and governmental affairs, and if federal recognition of one tribe's government, that has been consistently maintained for years, can be withdrawn in a moment upon the petition of a single person who has had no previous connection with that tribe, the stability of any tribal government is threatened. In order for tribal governments to function, non-tribal governments, as well as business and financial entities, must be able to rely, over the long term, upon the representations of the United States government in matters of tribal recognition and governance.

4. Recently Received Bureau of Indian Affairs Documents.

The foregoing discussion sets out the position of the Buena Vista Rancheria with respect to Ms. Pope's Declaration. However, it is necessary to discuss briefly a set of documents which the

Tribal Operations Officer of the Central California Agency of the Bureau of Indian Affairs, sent by telefax to counsel for the parties on October 23, 2001. The documents were:

-An undated and unnumbered first page, followed by a page numbered 4, with no pages numbered 2 or 3, from one or more forms. The unnumbered page is captioned "Application for Membership with the Northeastern Maidu Tribe". It states the name of the applicant as Donnamarie Potts. On the page numbered 4 there appears a statement that some document was approved on March 24, 1986. But neither page bears any signature of Donnamarie Potts, and both pages contain handwriting and typescript that varies markedly, between and within the pages. It appears, in fact, that the pages came from two different forms. Finally, the page numbered 4 is blank, where the name of the tribe for which the form is prepared should be inserted.

-A "family tree" form, for Donnamarie Vega Potts, with no indications of its source or purpose, other than a notation "SEARCHED BY: C. Hamilton" and another notation "DATE: May 23, 1986". The chart, in handwritten entries, states that Donnamarie Vega Potts is a child of Leonard R. Potts, whose Indian blood is shown as 11/16 Miwok and Maidu, and Mary (Margaret) Lucero Steele, whose Indian blood degree is shown as 1/4 Maidu. Evidently, the family tree was prepared by the Bureau of Indian Affairs for purposes of generating a "Certificate of Degree of Indian Blood" ("CDIB") card: on May 23, 1986, Ms. Potts was issued a CDIB card, stating that she was "15/32 degree Indian blood of the Maidu/Miwok tribe(s)". A copy of that card is Exhibit 1 to the affidavit of Ms. Potts, attached hereto.

-A copy of the Constitution of the Buena Vista Rancheria of Me-Wuk Indians ("the Constitution"), and six pages of a Buena Vista Enrollment Ordinance.

To the extent these documents have any bearing on the matters at issue in this Appeal, they simply demonstrate again the possibility that Donnamarie Potts was the natural child of Leonard Potts and

Margaret (or Mary) Lucero -- both of whom are identified as having Indian blood (and one of whom, Mr. Potts, is identified as having Maui blood). Ms. Potts acknowledged this possibility in the affidavit she filed with the Central California Agency on October 17, 2001. The Memorandum which accompanied that affidavit makes it absolutely clear that, as a matter of law, that parentage would make no difference whatsoever to Ms. Potts rights on the Buena Vista Rancheria. The Rancheria was established as a home for landless Indians, and the Bureau of Indian Affairs never imposed either a tribal requirement or a lineage requirement as a precondition for a person having rights on the Rancheria. To the contrary, the Bureau of Indian Affairs, from the earliest days of the Rancheria, insisted that any Indian person could acquire rights on the Rancheria, provided only that the Indian persons who already were there agreed. This is entirely consistent with the laws generally applicable to Indian tribal membership in the United States -- a most fundamental right retained by tribes is the right to select, and establish criteria for, their own members⁵. The record leaves no doubt that the Buena Vista Tribe adopted Donna Marie Potts as a member in her childhood -- as it had every right to do -- by practice and by welcoming her residency on the Rancheria, long before the Rancheria had any formal governing document, and then formally, in 1994, when Lucille Lucero executed the Rancheria's first Constitution.

Nor does the incomplete and unsigned "Application" form add anything to the present appeal process. Even if the document was prepared by and signed by Ms. Potts (which she denies, in her October 31, 2001 affidavit accompanying this Memorandum), it changes her eligibility for membership at Buena Vista not one iota. The "Application" says she is a Maui Indian -- and again, at Buena Vista that heritage would qualify her for membership, so long as the Rancheria's

⁵ The United States Supreme Court has repeatedly held that one of the most fundamental rights retained by an Indian tribe is the right to determine its own membership. *Santa Clara Pueblo v. Martinez*, 436 U.S. 71, 73 n.32 (1978); *United States v. Wheeler*, 435 U.S. 313 (1978); *United States v. Mazurie*, 419 U.S. 544 (1975); *Red Fox v. Burney*, 168 U.S. 218 (1897); *Worcester v. Georgia*, 6 Pet. 515, 8 L.Ed. 483 (1832).

previous members permitted her to be a resident there, as they unquestionably did. The "Northeastern Maidu Tribe" is not a Federally recognized tribe (see 68 Fed. Reg. 13298 (Mar. 13, 2000))², and although Ms. Potts denies membership in the organization (see paragraph 2 of the October 31, 2001 affidavit of Doremarie Potts, attached hereto), membership in a non-Federally recognized entity does not disqualify any person from membership at Buena Vista (see Constitution, Art. III, Sect. 2, and Buena Vista Enrollment Ordinance, ch. 5).

But the fact that these documents were telefaxed to counsel for the parties suggests that there may be a belief, in the Bureau of Indian Affairs, that the documents have legal significance — that, notwithstanding the Indian Reorganization Act, the regulations of the Bureau of Indian Affairs, and the history of the Federal government's dealings with Buena Vista, still the documents somehow bear on Ms. Potts' eligibility for membership at Buena Vista. So, it again must be stressed: the uncontroverted facts before the Bureau of Indian Affairs are that Ms. Potts is an Indian (with Mi-Wuk blood, even though Mi-Wuk blood is not a requisite for membership at Buena Vista), who was duly adopted by the Buena Vista Rancheria, and who properly has been recognized as the Chairperson of the Rancheria, in the face of numerous challenges, ever since the Rancheria was organized in 1994.

5. Conclusion.

In reality, this Appeal is not about the reorganization of the Rancheria. It is about an attempt to seize the Rancheria and its property by a person who has no legal and historical connection there. If the Bureau of Indian Affairs now chooses to alter its long-established course of dealing, rather than maintaining the position that Ms. Potts should apply for membership to the

² Indeed, a search of a variety of official records and directories of Indian organizations in the United States and in California failed to disclose any reference whatever to a Northeastern Maidu Tribe, and tribal leaders and officials who were consulted by Buena Vista representatives, after receipt of the materials sent by the Bureau of Indian Affairs yielded no information whatever concerning such an organization.

Rancheria, the harm that will be worked will be incalculable. If the Bureau permits the Rancheria's government to be disrupted by a challenge, first raised after the Rancheria decides to pursue gaming, by a person who never has had a connection with the Rancheria or its people, the United States will have utterly failed in its responsibilities to Buena Vista, to the people who have lived at Buena Vista for the last ninety years, and to all Indian tribal governments in the United States.

For all of the historical and legal reasons discussed above, and in the principal Memorandum filed by the Buena Vista Rancheria on October 17, the Bureau of Indian Affairs should reaffirm its conclusion that Rhonda Pope has no legal authority to reorganize the Rancheria under the Indian Reorganization Act.

October 31, 2001



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1. The earliest written record that I am aware of reflecting the occupancy of the Buena Vista Rancheria is a letter sent by Johnny and Louie Oliver to the Bureau of Indian Affairs on January 31, 1917. A transcribed copy of the letter, together with a copy of the response from the Bureau of Indian Affairs, both of which were obtained from the National Archives, are attached as Exhibit 2. The Olivers' letter said, in part "...we have home here at Buena Vista rased here and worked out all out life...we want to know if we could baro money from government to ranche with...". Ten years later, the land which forms the Buena Vista Rancheria was purchased by the United States "as a home for the present Indian occupants". See Exhibit 3 (Emphasis added).

4. When the Buena Vista Rancheria voted on the question of whether to reject the provisions of the Indian Reorganization Act, on June 12, 1935, the list of eligible voters was: Louie Oliver, Annie Oliver, Johnnie Oliver, and Josie Ray, all of whom resided on the Buena Vista Rancheria at that time. The records reflecting the election are attached hereto as Exhibit 4.

5. During the years from 1927, when the Buena Vista Rancheria was acquired by the United States, through 1959 when its lands were deeded to Louie and Annie Oliver under the provisions of the California Rancheria Act, the Indian Service, and later the Bureau of Indian Affairs, dealt with the Rancheria they dealt only with the persons who were living there at the time, and not with persons who were absent from the Rancheria. The documents attached hereto as Exhibits 5, 6, 7, 8, 9, 10, and 11 reflect this unvarying pattern.

6. The Indian Service and the Bureau of Indian Affairs did not impose any requirement relating to affiliation with a particular tribe upon any Indian persons who sought to acquire rights

on the Buena Vista Rancheria. Instead, they explicitly treated the Rancheria as a home for landless Indians. The single requirement which was imposed upon any Indian person who sought to move to the Rancheria was that the people already living on the Rancheria give their consent. This history is illustrated by correspondence in 1935, attached hereto as Exhibit 12, relating to a request by a Mrs. Esther B. Keeler to acquire a homesite at Buena Vista. The correspondence includes a letter from the Superintendent of the Sacramento Indian Agency to Louie Oliver, which reflect Louie Oliver's view that the Rancheria was only for his family, and which contains this rebuttal from the Superintendent:

"Kindly be advised that this property was purchased several years ago by former Superintendent Dorrington for the Indian Service, and the title rests in the U.S. Indian Service. The land was purchased for homeless Indians, and the Indian Service has the right to settle any homeless family on the tract. However, it is not our desire to have families settle on the same tract, who could not be neighborly..."

(Emphasis added).

7. Notwithstanding the Indian Service's view that it had the legal power to allow homeless Indians from any tribe to settle on the Buena Vista Rancheria, in fact, from the 1940's onward, only Louie Oliver's family resided on the Buena Vista Rancheria. Therefore, the Indian Service formally assigned the Rancheria to him in 1948. The assignment was explicitly conditioned on his continuing to occupy the land:

Dear Mr. Oliver:

...

While our records show that at one time other Indians lived on the property, you and your family have been the only residents for a number of years. In 1942 you were loaned a sum of \$760.00 by the United States of America, as evidenced by loan agreement no. 25, contract I-84-Ind-2974. This loan was based upon the assumption that the land had been assigned to you, as you were the

sole occupant. However, a search of our records fail [sic] to disclose any information concerning such an assignment.

You may consider this letter as an assignment to the land in section 19, T. 5 N., R 10 E., M.D.M. know as the Buena Vista rancheria, containing 70 acres more or less, to be used as your home and for agriculture purposes.

It is understood that this assignment may be revoked at any time you move, or if the land is not beneficially used by you or your family.

See Exhibit 13 (Emphasis added).

8. The records of the Buena Vista Rancheria indicate that when the Indian Service, and later the Bureau of Indian Affairs, dealt with the Buena Vista Rancheria, the only persons dealt with were the persons who actually were occupying the Rancheria at any particular time. If a member of the Louie Oliver family was not residing on the Rancheria at the time a particular time, that member of the family was not considered relevant to the Federal government's dealings with the Rancheria. Illustrations of that pattern of dealing are as follows:

A. Enos Oliver. Enos Oliver was Louie Oliver's only son. He was born in 1923, was raised on the Buena Vista Rancheria, and except for a period of time when he served in the United States Armed Forces, he lived on the Buena Vista Rancheria his entire life. He had no children, but his wife Lydia, also an Indian, had one son from a prior marriage, John Louis Fielder, who lived on the Rancheria until he became an adult. In all reports of the Bureau of Indian Affairs, Enos Oliver and his family are identified and discussed. See e.g., Exhibits 14 and 15.

B. Elinor Oliver. Elinor Oliver was born in 1921, was raised on the Rancheria, but left the Rancheria as a young adult and never returned to live on the Rancheria again.

Elinor had three children: Jesse Pope, Iris Pope, and Jeanie Pope. Elinor and Jeanie died in a trailer-house fire, and Jesse and Iris moved with their father to Nevada, where they were raised. Following Elinor Oliver's departure from the Rancheria, she is never identified or discussed in any Bureau of Indian Affairs document, nor is any of her children.

C. Lucille Oliver Lucero. Lucille Oliver was born in 1919, was raised on the Buena Vista Rancheria, and left the Rancheria as a young woman, in the early 1940's, to find work, and then to marry. She married Donald Lucero in the 1940's. Donald Lucero was in the United States Armed Forces in the 1940's and early 1950's, stationed first in Texas, briefly in Arizona and California, and then in Korea; and during that period, Lucille lived in Texas. In the mid-1950's, Lucille moved back to the Buena Vista Rancheria, where she lived the rest of her life. In the Bureau of Indian Affairs reports dating from the early 1950's, Lucille is not named; but after she returned and resumed residency, her name thereafter appears in the Bureau of Indian Affairs records. Compare Exhibit 14 with Exhibit 15.

D. Marie Oliver. Marie Oliver died in early childhood. Lucille Lucero told me, when I was growing up, that Marie died from having drunk poisoned tea at an Indian function. Lucille also told me that the Oliver family believed that the poisoned tea had actually been intended to kill either Louie or Annie Oliver, by persons who did not want the Olivers living on the Buena Vista Rancheria. As a consequence of this belief, and from other threats that had been made to the Oliver family over many years, Lucille Lucero told me that the family had concluded that my life would be safer if it was

generally believed I was not a biological member of the Oliver family.

9. In the mid-1950's, when the United States Congress was considering legislation to "terminate" many California rancherías, the residents of the Buena Vista Rancheria sent a letter to the Bureau of Indian Affairs saying--

...
We Indians living on the Buena Vista Rancheria in Amador County feel we should be given a fee patent to this place, as we have built our homes, and put in all improvements ourselves.
....

The letter is signed Louie Oliver, Annie Oliver, Lucille E. Lucero, and Enos Oliver. Neither Elinor Oliver nor her children are mentioned in the letter. Exhibit 16.

10. After the passage of the California Rancheria Act, 72 Stat. 619, as amended by 78 Stat. 390, the Bureau of Indian Affairs consulted with the residents of the Buena Vista Rancheria to ascertain what distribution of the Rancheria's assets was deemed appropriate. The conclusion was that the Rancheria should be distributed to Louie and Annie Oliver. Exhibit 10. The correspondence records of the Bureau of Indian Affairs indicates that, thereafter, the Federal government deemed it appropriate and necessary to give formal notice of the distribution plan to both Enos Oliver and Lucille Lucero who were residing on the Rancheria. See Exhibits 8, 9, and 11. Thereafter, in accordance with the Rancheria Act distribution plan, the real property lying within the Buena Vista Rancheria was deeded, in 1959, to Louie and Annie Oliver. See Exhibit 17.

11. Louie Oliver died intestate on January 5, 1973, Annie Oliver having predeceased him. Probate proceedings in Louie's estate, in the California Superior Court for Amador County, File No. 4874, were commenced by Enos Oliver. On September 12, 1975, the Court

entered judgment that awarded the real property of the Buena Vista Rancheria to Enos Oliver and Lucille Lucero, as joint tenants. See Exhibit 18. The Court found that Jesse Pope, as the sole surviving child of Elinor Oliver, was also an heir of Louie Oliver, but that he had assigned all of his interest to Enos Oliver and Lucille Lucero. Id. The manner in which Jesse Pope assigned his interest in the real property of the Rancheria was by a Grant Deed, executed on January 15, 1975, conveying "all of his right, title, and interest in and to" the real property in Louie Oliver's estate to Enos Oliver and Lucille Lucero as joint tenants. Exhibit 19. Subsequently, Barbara Hatfield, the mother and guardian of Rhonda Pope, sought to re-open the Louie Oliver probate proceedings, alleging that Jesse Pope's assignment of his interests had been without any consideration, but the Superior Court refused to reopen the proceedings or to modify the September 12, 1975 decree. Exhibit 20.

12. Enos Oliver died testate on August 31, 1978, and left one-half of his interest in the real property of the Buena Vista Rancheria to his wife, Lydia Oliver, and the other half to Lucille Lucero. See Exhibit 21. Thereafter, Lydia Oliver died leaving her entire estate to her son, John Fielder. See Exhibit 22. Consequently, after Lydia Oliver's death, an undivided three-fourths fee interest in the Rancheria lands was owned by Lucille Lucero, and an undivided one-fourth was owned by John Fielder.

13. In 1983, in the Federal litigation captioned Tillie Hardwick v. United States, No. C-79-1710 (N.D. Cal.), the government of the United States of America agreed to restore recognition to the Buena Vista Rancheria as an Indian reservation "...with the same status as they possessed prior to distribution of the assets of these Rancherias under the California Rancheria Act." Exhibit 23. And in 1987, the "subclass" of plaintiffs for the Buena Vista

Rancheria was established as being Lucille Lucero and Enos Oliver. Since Enos Oliver was deceased, Lucille Lucero was the only surviving subclass member in the litigation. See Exhibit 24.

14. For reasons relating to my family relationship with the Oliver family, and my lifelong connection to the Buena Vista Rancheria, which I discuss and document in detail below in paragraphs 21 - 28 of this affidavit, Lucille Lucero executed a Last Will and Testament on November 27, 1978, making me her sole heir. See Exhibit 25. For the same reasons, and because Lucille Lucero was apprehensive lest claims to the Buena Vista Rancheria might be made by persons who had no legal or historical connection with the Rancheria, on May 27, 1986 Lucille Lucero deeded to me all of her right, title and interest in the real property of the Buena Vista Rancheria. See Exhibit 26.

15. Again prompted by her concerns that improper claims might be made to membership in the Buena Vista Rancheria, and to control over the Buena Vista government, on August 4, 1994 Lucille Lucero adopted a Constitution for the Buena Vista Rancheria. The Constitution listed a number of "Historical Members", including me. See Exhibit 27. Once again, the reasons for my appearance on that list are discussed in detail, beginning in paragraph 21 of this affidavit. Those reasons have to do both with the fact that I have been connected with the Buena Vista Rancheria since I was born; that I was raised by Lucille Oliver and her husband Donald; that Lucille Oliver told me (and others) that I am the daughter of her husband Donald and her sister Elinor; and that I and my family worked on the Buena Vista Rancheria, and cared for Lucille Oliver, in her later years. In making these arrangements, Lucille Lucero took Bureau of Indian Affairs Superintendent Harold Brafford into her confidence concerning my relationship

with the Rancheria; and Superintendent Brafford supported and assisted Lucille Lucero's adoption of the 1994 Buena Vista Constitution. After having prepared and signed a Constitution document, Lucille and I travelled to the Bureau of Indian Affairs offices on August 4, 1994 and met with Superintendent Brafford. Photographs were taken to commemorate the signing ceremony, some of which I have attached as part of Exhibit 28. Working with Superintendent Brafford, Lucille made changes to the list of Historical Members, which changes are reflected on page number three of the Constitution. See Exhibit 27. The changes were made because Superintendent Brafford informed us that certain persons on the original list of Historical Members had, in fact, been members of other Rancherias.

16. The kinds of claims, with respect to rights on the Buena Vista Rancheria, that worried Lucille Lucero and that prompted her to make the arrangements I have described in paragraph 14 of this affidavit, are illustrated in the correspondence attached hereto as Exhibit 29.

17. Following the adoption of the 1994 Buena Vista Constitution, the Bureau of Indian Affairs has continuously recognized me as Chairperson of the Buena Vista Rancheria. See the documents at Exhibit 30.

18. On February 16, 1996, using my own monies, I purchased from John Fielder the undivided one-fourth interest in the real property of the Buena Vista Rancheria which he had acquired through the estate of his mother, Lydia Oliver. See Exhibit 31. When that purchase was completed, I was the sole owner, in fee, of all of the real property lying within the boundaries of the Buena Vista Rancheria.

19. In order to protect the property of the Buena Vista Rancheria, for a number of years

I paid, from my own funds, County property taxes, and penalties and interest. Those payments are illustrated by the documents attached as Exhibit 32.

20. On July 31, 1996, I contributed all of the interests described in paragraph 17 of this affidavit to the Buena Vista Tribe. See Exhibit 33.

My own history.

21. I am frankly uncertain about the circumstances of my birth. The birth certificate filed in the records of the State of California, attached hereto as Exhibit 34, states that I was born on October 30, 1943, and that my father was Leonard Robert Potts, who is identified on the birth certificate as an "Indian", and Margaret Mary Lucero, who is identified as "Spanish". But I was raised by Lucille Lucero and Donald Lucero, and spent my childhood, when I was not in boarding school, on the Buena Vista Rancheria. Nothing in my family life would have suggested to me that I was a child of Leonard Potts and Margaret Lucero.

22. When I was a young adult, Lucille Lucero told me that my name, Donnamarie, was given to me in honor of my father, Donald Lucero, and in memory of Marie Oliver, Lucille and Elinor's sister. Lucille also told me that, in fact, I was the biological daughter of Donald Lucero and Elinor Oliver. Late in her life, Lucille made that same representation, privately and in confidence, to William J. Pink, a friend and confidant of Lucille's. Exhibit 35 is an affidavit of William J. Pink, describing his friendship with Lucille and the circumstances under which Lucille confided to him.

23. I lived with Lucille and Donald Lucero throughout all of my youth, except when I was in boarding school. My relationship with them, and with Louie and Annie Oliver and the Buena Vista Rancheria, is illustrated by many documents from Lucille Lucero's private papers,

and from my own papers, a sampling of which are as follows:

A. Exhibits 36 - 40 are copies of letters written between Lucille Lucero and Donald Lucero, written when Donald was in the armed forces in Korea, which illustrate that Lucille and Donald raised me, arranged for my schooling and care, treated me as their child, and that I called Donald "Dad" and that I called Lucille both "Mom" and "Aunt".

B. Exhibit 41 is a copy of a letter dated June 19, 1951, written by Annie Oliver to her daughter Lucille, which shows the relationship that Louie and Annie Oliver had with me when I was a young girl; and Exhibit 42 is a copy of a letter that Lucille Lucero wrote Donald Lucero on January 26, 1951, in which Lucille writes that "mama said she wished Donna & I would come home until you came back".

C. Exhibit 43 is a copy of a letter I wrote to Donald Lucero when he was in Korea, which begins with "Dear Dad", and describes my new school; and Exhibit 44 is a copy of a valentine I sent to Donald Lucero on February 12, 1951, which says "To Dad from Donna".

D. Exhibit 45 is a copy of a United States Air Force Certificate, dated January 23, 1951, stating that, when Donald Lucero was in the Korean War, Lucille Lucero and I were joint beneficiaries of his insurance policies; and Exhibit 46 is a notice from the Superintendent of my school, relating to immunizations, identifying me as Donnamarie Lucero, "Parent, overseas duty".

24. Because I have been connected with the Buena Vista Rancheria since I was a young child, and because my children have been connected with the Rancheria since they were born,

I have many photographs which illustrate the history of the Buena Vista Rancheria and my connection to it and to the people who lived there. In addition, as the custodian of the records of the Rancheria, I have many very old photographs illustrating life as it was lived on the Rancheria before I was born. Some of those photographs, with typed explanatory captions, are attached hereto as Exhibit 47.

25. While Donald Lucero was in the military, I attended school on or near the bases where Donald was stationed; and I attended high school at Hayfork, a private Indian boarding school in Trinity County, California. However, in the summers, when school was recessed, and often on weekends and on vacations, I regularly returned to the Buena Vista Rancheria to help with the work and to visit my family.

26. When I was a young adult, I married my first husband and lived away from the Rancheria. However, I continued to visit the Rancheria regularly and participate in workdays, ceremonies, and weekly family life; and after my daughter, Renee, and my son Frank, were born, in 1963 and 1964, respectively, they also visited the Rancheria on a regular basis. That pattern of connection continued during years that I was married and while I was working in various places in Central California.

27. By the early 1980's, Donald Lucero had died, as had Louie and Annie Oliver, and Enos and Lydia Oliver. Lucille Lucero had developed crippling arthritis, and it was extremely difficult for her to work on the Rancheria and care for herself. Therefore, in the early 1980's I moved a house trailer on to the Rancheria, and although I have had apartments in Sacramento on occasion to facilitate my attending college and to care for Lucille during a period that she was receiving medical treatment in Sacramento, the Rancheria has continuously been my

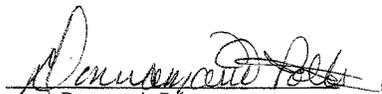
principal residence since that time.

28. Until Lucille Lucero died, in the Autumn of 1995, my family and I cared for her, protected her, looked to her needs, and worked the Rancheria. We have maintained and improved the Rancheria, built a tribal office building and a new home, and brought electricity and running water to the buildings. My family and I have been committed to building a future for the Rancheria that would make all of the Rancheria's previous residents proud.

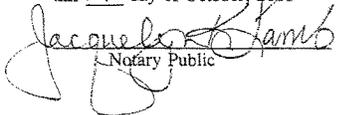
29. To my knowledge, Rhonda Pope never lived on the Buena Vista Rancheria, has never worked on the Buena Vista Rancheria, has never contributed any money or assistance to the Rancheria or the people who have lived there, has never had any personal contact with the residents of the Rancheria, never took part in any ceremonies or holidays on the Rancheria, and in short has had no connection whatever with the Rancheria or its people. However, on May 22, 2000, after plans to develop a casino on the Buena Vista Rancheria were publicly announced in California newspapers, I received from Rhonda Pope the letter attached hereto as Exhibit 48, asserting that she and only she was a member of the Rancheria, and demanding that I immediately vacate the Rancheria's lands.

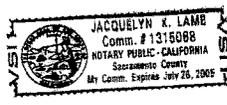
Further your affiant sayeth not.

Date: Oct. 17, 01


Donnamarie Potts
Chairperson Buena Vista Rancheria

Subscribed and sworn to before me
this 17 day of October, 2001


Notary Public



FIFTY-NINTH CONGRESS. Sess. I. Ch. 3504. 1906.

333

For the construction of an irrigation system necessary for developing and furnishing a water supply for the irrigation of the lands of the Pima Indians in the vicinity of Sasaton, on the Gila River Indian Reservation, two hundred and fifty thousand dollars, to be expended under the direction of the Secretary of the Interior: *Provided* *further*, That when said irrigation system is in successful operation, and the Indians have become self-supporting, the cost of operating the said system shall be equitably apportioned upon the lands irrigated, and to the annual charge shall be added an amount sufficient to pay back into the Treasury the cost of the work within thirty years, suitable deduction being made for the amounts received from disposal of lands which now form a part of said reservation.

Gila River Reservation,
Irrigation,
Pub. L. 1322.Proviso
Annual charge.

CALIFORNIA.

California.

For support and civilization of the Mission Indians in California, including pay of employees, five thousand dollars.
For support and civilization of the Northern Indians, California, ten thousand dollars.

Mission Indians,
Support, etc.Northern Indians,
Support, etc.

SHERMAN INSTITUTE.

For support and education of five hundred Indian pupils at the Sherman Institute, Riverside, California, eighty-three thousand five hundred dollars;

Sherman Institute,
Riverside.

For pay of superintendent, two thousand two hundred and fifty dollars;

For additional water and sewer system, three thousand dollars;

For addition to dining hall and kitchen, twelve thousand dollars;

For stable, four thousand dollars;

For coal house, two thousand dollars;

For ice and cold storage, six thousand dollars;

For general repairs and improvements, five thousand dollars;

In all, one hundred and seventeen thousand seven hundred and fifty dollars.

For general incidental expenses of the Indian service in California, including traveling expenses of agents, and support and civilization of Indians at the Round Valley, Hoopa Valley, and Tule River agencies, four thousand dollars;

Incidental.

And pay of employees at same agencies, seven thousand dollars;

In all, eleven thousand dollars.

For the purpose of removing obstructions from the bed of the stream which drains into the Eel River in the Round Valley Reservation, Mendocino County, California, eight thousand dollars.

Round Valley Res-
ervation,
Improvement,
Pub. L. 1322.

That the Secretary of the Interior be, and he is hereby, authorized to expend not to exceed one hundred thousand dollars to purchase for the use of the Indians in California now residing on reservations which do not contain land suitable for cultivation, and for Indians who are not now upon reservations in said State, suitable tracts or parcels of land, water, and water rights in said State of California, and have constructed the necessary ditches, flumes, and reservoirs for the purpose of irrigating said lands, and the irrigation of any lands now occupied by Indians in said State, and to construct suitable buildings upon said lands, and to fence the tracts of land so purchased, and fence, survey, and mark the boundaries of such Indian reservations in the State of California as the Secretary of the Interior may deem proper. One hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, for the purpose of carrying out the provisions of this Act.

Lands, etc., for In-
dians.

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SIXTIETH CONGRESS. Sess. I. Ch. 183. 1908.

reservations in Arizona and New Mexico, three hundred thousand dollars: *Provided*, That the unexpended balance for the fiscal year nineteen hundred and eight is hereby appropriated and made available for nineteen hundred and nine.

Indian Service.
Support, etc., of Indians.
 For support and civilization of the Indians of Pima Agency, Arizona, forty thousand dollars, to be expended for their benefit in such manner as the Secretary of the Interior, in his discretion, may deem best.

Fort Mojave School.

Fort Mojave School.
For support and education of two hundred Indian pupils at the Indian school at Fort Mojave, Arizona, and for pay of superintendent of said school, thirty-five thousand dollars;
For general repairs and improvements, three thousand dollars;
For repair of water system, three thousand dollars;
For purchase of steam boiler, two thousand dollars;
In all, forty-three thousand dollars.

Phoenix School.

Phoenix School.
For support and education of seven hundred Indian pupils at the Indian school at Phoenix, Arizona, and for pay of superintendent, one hundred and nineteen thousand four hundred dollars;
For improvement of power and heating plant, to be immediately available, nine thousand dollars;
For general repairs and improvements, eight thousand dollars;
In all, one hundred and thirty-six thousand four hundred dollars.

Truxton Canyon School.

Truxton Canyon School.
For support and education of one hundred pupils at the Indian school at Truxton Canyon, Arizona, and for pay of superintendent, eighteen thousand two hundred dollars;
General repairs and improvements, one thousand dollars;
In all, nineteen thousand two hundred dollars.

Indians.
For general incidental expenses of the Indian Service in Arizona, including traveling expenses of agents, one thousand five hundred dollars.

California.
CALIFORNIA.

Mission Indians.
Support, etc.
 For support and civilization of the Mission Indians in California, including pay of employees, fifteen thousand dollars, part of which may be used for making improvements on lands in the use and occupation of Indians in southern California.

Northern Indians.
Support, etc.
 For support and civilization of the northern Indians, California, twenty thousand dollars, part of which may be used for making improvements on lands in the use and occupation of Indians in northern California.

Purchase of State Land for Settling Indians.
That the Secretary of the Interior be, and he is hereby, authorized to expend not to exceed fifty thousand dollars to purchase for the use of the Indians in California now residing on reservations which do not contain land suitable for cultivation and for Indians who are not now upon reservations in said State suitable tracts or parcels of land, water, and water rights in said State of California, and have constructed the necessary ditches, flumes, and reservoirs for the purpose of irrigating said lands and the irrigation of any lands now occupied by Indians in said State, and to construct suitable buildings upon said lands and to fence the tracts so purchased, and to locate, survey, and mark the boundaries of such Indian reservations to the State of California as

SIXTIETH CONGRESS. Sess. I. Ch. 163. 1908.

77

the Secretary of the Interior may deem proper. And there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of fifty thousand dollars, or so much thereof as may be necessary, for the purpose of carrying out the provisions of this Act: *Provided*, That this appropriation shall be so expended as to make further appropriation for this purpose unnecessary.

Amount

Proviso.

Restriction.

SHERMAN INSTITUTE.

For support and education of five hundred Indian pupils at the Sherman Institute, Riverside, California, and for pay of superintendent, eighty-six thousand dollars;

Sherman Institute.

For general repairs and improvements, ten thousand dollars;
For additional water and sewer system, three thousand dollars;
For addition to storehouse, four thousand dollars;

In all, one hundred and three thousand dollars.

For general incidental expenses of the Indian Service in California, including traveling expenses of agents, and support and civilization of Indians at the Round Valley, Hoopa Valley, and Tule River agencies, four thousand dollars;

Incidentals.

And pay of employees at same agencies, seven thousand dollars;
In all, eleven thousand dollars.

That one thousand dollars of the unexpended balance of eight thousand dollars appropriated by the Act of June twenty-first, nineteen hundred and six (Thirty-fourth Statutes, page three hundred and thirty-three), and March first, nineteen hundred and seven (Thirty-fourth Statutes, page one thousand and twenty-two), for the purpose of removing obstructions both within and without the reservation from the bed of the stream which flows through the Round Valley Reservation, Mendocino County, California, and drains into Eel River, be, and the same is hereby, reappropriated and made available for use during the fiscal year ending June thirtieth, nineteen hundred and nine.

Round Valley Reservation.
Removal of obstructions.
Balance available.

Vol. 94, pp. 883, 1022.

That the sum of ten thousand dollars, or so much thereof as may be necessary, be, and the same hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, for the construction of a wagon road on the Hoopa Valley Indian Reservation, in the State of California, including necessary surveys, transportation, purchase of materials and tools, and for the subsistence of Indians furnishing labor, including forage for their animals, the labor for said construction to be performed as far as practicable by the Indians for the reservation: *Provided*, That no part of this appropriation shall be available until the proper officer of the Indian Bureau shall investigate and report that the work contemplated can be completed for the amount herein appropriated.

Hoopa Valley Indian Reservation, Cal.
Wagon road to be constructed on.

Proven investigation and report.

There is hereby appropriated the sum of ten thousand dollars for the Indians of the Yuma Reservation, to be expended for their benefit in such manner and for such purposes as the Secretary of the Interior may prescribe, said sum to be reimbursable out of the proceeds derived from the sale of their lands; there is also appropriated out of any money in the Treasury not otherwise appropriated, the further sum of five thousand dollars, or so much thereof as may be necessary, to enable the Secretary of the Interior to reserve and set apart lands for town-site purposes in the Yuma Indian Reservation, California, and the Colorado River Indian Reservation in California and Arizona, and to survey, plat, and sell the tracts so set apart in such manner as he may prescribe, the net proceeds to be deposited in the Treasury of the United States to the credit of the Indians of the reservations, respectively, to be reimbursed out of the funds arising from the sale of the lands.

Yuma Reservation Indians.

Town sites, Yuma and Colorado River reservations.

28710. 5-1100 (Ione-Indians.) (Amador Co., Calif.)
Land-Allot. DEPARTMENT OF THE INTERIOR
108466-14 UNITED STATES INDIAN SERVICE
Part 8
P. M.

Los Angeles, Calif., Feb. 3, 1917.

Mr. John Oliver, (Indian)
Ione, Amador Co., Calif.



Dear Sir:

Answering your letter of January 24, 1917, telling

me that you and some of your people desire help from the Govern-
ment in way of a loan for a number of years, this is to suggest
that you take the matter up with your Superintendent.

The Congress of the United States has made a limited appro-
priation of money, called a Reimbursable Fund, to be loaned to
such Indians as have proven themselves to be good, sober and
industrious, for a period of four years with ^{out} interest, payable
back to the Government annually and semi-annually.

Will suggest that you take this matter up with your local
Indian Superintendent who will, I am sure, look into your cases
and for all who are every way worthy take same up with the Indian
Office at Washington and ~~likely~~ ^{surely} secure you good, hard-working and
sober Indians some little assistance.

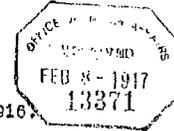
I am very glad indeed to learn from your letter that you and
your people are growing ambitious and desire to better your con-
dition in life. It is likely that I will reach your place as
early in the spring as roads will permit of me reaching there by
auto, among other things, having in view the allotment of the 40
acres of land at your Suna Vista ancient village home among your
people, the purchase of which now seems almost an assured fact.
I shall be glad to meet you when I reach there, as well as all
your people.

(For information Commissioner Indian Affairs.)

5-1100

(Ione-Indians) (Amador Co., Calif.)
DEPARTMENT OF THE INTERIORCopies of
letters from
Ione Indians: UNITED STATES INDIAN SERVICE

(COPIES)

"Ione City;
December 28, 1916.Mr. J.J. Terrell,
Dear Sir.

I am writing you a few lines to ask you if our land was purchased at Ione. We are all getting anxious to know the real circumstances:

We heard once that we got the land and that we had to go ahead and measure it off. This was told to a few of the people and lots of us wasn't sure whether it could be so or not because we only heard a part of it and it seemed as though it wasn't explained as it should have been.

There have been a number of the people ask me to write you and find out the real facts. Especially those which doesn't understand English or writing. So being that we are entitled to some of the land providing we are to have it.

We thought it would be a good policy to write and find out for ourselves:

Well as I have spoke of all that is necessary I must close my letter hoping to receive an early reply from you I remain as your truly.

Mr. Albert Clifford,
Box 25. Ione City, Amador Co.
California."

"Indians Johny Oliver, Ione Calif.
1/31/17.

Mr. John J. Terrell,
Dear Sir:

this
AMI writing you letter for a information for we have home here at Buna Vista raised here and worked out all out life and we see that we can not make money by working out, make good living ite all. for we want to know if we could baro money from government to ranche with, to rent place here at Jackson Valley for government wants to help out Indians here at Ione.

So we want help from government this way.

I hope you write me a letter rightaway for I want to know ho to write to, to get this money from governmant

ho do I have to ask if you are write me letter right away then I will tell you how much I want we want it for five year if he want intrest to be pay on we will pay it an we can give report ever month if you want us to, we to ranche and do right we know how to do it but know money to do with.

Very respectfully

Indian
Johny Oliver Louie Oliver

R.F.D.1 (Box 59) Amador Co. California.

File No. Sacramento 1926 33457

L - A
15250-27

Department of the Interior,
Office of Indian Affairs,
Washington.

April 20, 1927.

Mr. LaFayette A. Dorrington,
Supt., Sacramento Agency.

My dear Mr. Dorrington:

Referring to your letter of March 22, this is to inform you that on April 13, last, the Department approved the proposal of Louis Alpers to sell to the United States approximately 70 acres of his land located in Section 19, Township 6 North, Range 10 East of the M. D. M., California, for \$3,000. This land is to be purchased as a home for the present Indian occupants.

You may proceed to obtain from the grantor deed and abstract of title or title insurance policy. The deed must be of a date not later than June 30, 1927. The instrument of conveyance and title insurance policy must run to the United States of America.

Enclosed is a copy of the form of policy accepted by the Department in the Gobbi purchase which has just been completed. If this form is followed it is believed that such policy would be accepted in this case.

Please give this matter your prompt attention and submit the necessary papers at an early date for examination.

Mr. Alpers' policy of title insurance is returned herewith.

Very truly yours,

(Signed) E.B. MERITT.

Assistant Commissioner.

APPROVED LIST OF VOTERS FOR INDIAN REORGANIZATION ACT
BUENA VISTA RANCHARIA:
(Amador County)

Name:

1. Oliver, Louis
2. Oliver, Annie
3. Oliver, Jemmie
4. Ray, Josis.

A p p r o v e d:

O. H. Lips,
Superintendent,
Sacramento Indian Agency.

June 4, 1935.

AUG-09-2000 WED 10:18 AM CASCADE GROUP

FAX NO. 1 415 7898968

P. 17

REFER IN REPLY TO THE FOLLOWING:

ADDRESS ONLY THE
COMMISSIONER OF INDIAN AFFAIRS

Miac. UNITED STATES
 DEPARTMENT OF THE INTERIOR
 OFFICE OF INDIAN AFFAIRS
 WASHINGTON

MAY -4 1935

Mr. Roy Nash,
 23 Appraisers Bldg.,
 San Francisco, Calif.

Dear Mr. Nash:

In accordance with your night telegram of May 2, we are recommending to the Secretary of the Interior that elections be called for Indians under the jurisdiction of the Sacramento Agency to vote on the Indian Reorganization Act of June 18, 1934, as follows:

	<u>1935</u>
Strathmore	June 8
Santa Rosa	" 8
Big Sandy	" 8
Table Mountain	" 8
Cold Springs	" 8
Upper Lake	" 8
East Lake	" 8
Middletown	" 8
Scotts Valley	" 8
Big Valley	" 8
Sulphur Banks	" 8
CACHE CREEK	" 8
Cedarville	" 8
Alturas	" 8
Likely	" 8
Lookout	" 8
Fort Bidwell	" 8
Millerton	June 10
Picayune	" 10
Northfork	" 10
Hopland	" 10
Laytonville	" 10
Quideville	" 10
Coyote Valley	" 10
Potter Valley	" 10
Redwood Valley	" 10
Sherwood	" 10

Pitt River	June 10
Montgomery Creek	" 10
Big Bend	" 10
Toulumna	June 11
Jamestown	" 11
Manchester	" 11
Stewarts Point	" 11
Alexander Valley	" 11
Cloverdale	" 11
Dry Creek	" 11
Redding	" 11
Peskenta	" 11
Lytton	" 11
Sebastopol	" 11
Buena Vista	June 12
Sheep Ranch	" 12
Jackson	" 12
Rumsey	" 12
Cortina	" 12
Calusa	" 12
Susanville	" 12
Taylorville	" 12
Shingle Springs	June 13
Mooretown	" 13
Enterprise	" 13
Berry Creek	" 13
Auburn	June 14
Colfax	" 14
Nevada City	" 14
Grindstone	" 14
Strawberry Valley	" 14
Wilton	June 15

We will advise you when the recommendation has been approved.

As you are aware, Section 1B requires 30 days' notice of such election. You and Superintendent Lipka should therefore make immediate preparations for the elections, and see that notices are posted at least thirty days in advance of the date of election. Additional notices can, of course, be posted subsequently so as to assist in getting information to all entitled to vote. Other details can also

be worked out between the original posting of the notices and the holding of the election. It will not be necessary to wait until after you receive notice of the Secretary's approval of the election before posting notices.

There is enclosed, herewith, a copy of the February 19, 1935 edition of Instructions and Regulations to govern elections under said Section 18 of said Act. There is also enclosed a copy of Indian Office letter of October 25, 1934 referred to therein.

There have been sent you heretofore supplies of the Act, a bulletin of Facts about the Act, and a bulletin of Questions and Answers about the Act. If you need more, please advise the number of copies of each wanted.

Please acknowledge receipt of this letter.

Sincerely yours,

John Collier
Commissioner

Enclosure 641110.

Carbon and copy of Regulations and letter of October 25, 1934 to Supt., Sacramento Agency.

SACRAMENTO INDIAN AGENCY
 Sacramento, California
 May 4, 1938.

Pursuant to the Act of June 18, 1934 (Public No. 280), hereafter to be known as the INDIAN REORGANIZATION ACT, a special election will be held on the Indian Rancherias or Reservations listed herein, as between the hours of 8:00 A.M. and 1:00 P.M., on Wednesday, June 18, 1938, to determine whether the duly enrolled Indians of the hereinafter listed rancherias or reservations desire the said Indian Reorganization Act to apply to them:

FURNA VISTA
 SHEEP RANGE
 JACKSON
 HERBEN
 OKETA
 SOLITA
 SUDANVILLE
 TAYLORVILLE

Information will be posted later as to qualifications of voters, place and method of voting.

By order of the COMMISSIONER OF INDIAN AFFAIRS.

A. H. LIPP, Jr.
 Superintendent.

ME

AUG-09-2000 WED 10:23 AM CASCADE GROUP

FAX NO. 1 415 7896968

P. 25

025 Rancharias

COPY

SACRAMENTO INDIAN AGENCY
Sacramento, Calif.
June 17, 1935.

RECEIVED

JUN 18 1935

The Honorable
Commissioner of Indian Affairs,
Washington, D. C.

Via Air Mail:

Sir:

There is transmitted herewith tabulated statement of the election returns received at this office showing the results of the referendum under the Reorganization Act held under this jurisdiction between the dates June 8 to 15, inclusive.

It will be noted that had all these rancherias been grouped on a single large reservation, the total vote would be almost two to one in favor of the Act. Segregated in 49 different groups the election resulted in 17 groups opposing the Act and 32 favoring it. No returns have been received from 11 of the groups, on most of which no election was held, the Indians either refusing to vote or the rancheria not being occupied.

It is interesting to note that on the Rancherias where we have been able to conduct worthwhile work and improvement projects the Indians have largely voted in favor of the Act. On such rancherias we have been able to demonstrate to the Indians what our intentions toward them are and thus get them to see that the whole program is designed for their betterment. On most of the rancherias voting strongly against acceptance, we have had very little in the way of a program for the reason that on these rancherias conditions were such as to make it practically impossible to devise road construction and IECW projects, and therefore the Indians in those groups have not been convinced that our intentions toward them are really to help them.

This is only one of the reasons they rejected the Act, the main reason being the influence of the organization

AUG-09-2000 WED 10:24 AM CASCADE GROUP

FAX NO. 1 415 7895988

P. 26

Commissioner.

2.

6/17/35

known as the "Indians of California, Incorporated". This was particularly in evidence on the rancheries in Fresno, Madera and Butte Counties as well as on some of the others.

On the whole, considering the limited time available for contacting the Indians immediately prior to the elections, it is believed the results are quite satisfactory.

Very respectfully,

(Signed) O. H. LIPPS

OHL:MR

O. H. Lipps,
Superintendent.

Encl

CC: Mr. Nash

TABULATION OF ELECTION RETURNS ON THE INDIAN
REORGANIZATION ACT, FROM THE RANCHERIAS
UNDER THE JURISDICTION OF THE SACRAMENTO INDIAN
AGENCY, CALIFORNIA, LISTED IN THE ORDER IN
WHICH SUCH RETURNS WERE RECEIVED AT THE
SACRAMENTO OFFICE:

No.	Rancheria	Date	Number		In Favor	Against
			Eligible Voters	%		
✓ 1.	Lookout	June 8	12	3%	8 ✓	2
✓ 2.	Fort Bidwell	" 8	41	✓	27 ✓	2
✓ 3.	Alturas	" 8	13	✓	8 ✓	5
✓ 4.	Likely	" 8	30	✓	19 ✓	1
✓ 5.	Table Mountain	" 8	16	✓	2	10 ✓
✓ 6.	Big Valley	" 8	46	✓	23 ✓	4
✓ 7.	Cold Springs	" 8	47	✓	0	23 ✓
✓ 8.	Lower Lake (Sutter)	" 8	20	✓	11 ✓	7
✓ 9.	Scotts Valley	" 8	27	✓	0	10 ✓
✓ 10.	Cache Creek	" 8	15	✓	7 ✓	3
✓ 11.	Hardisty	" 8	38	10.8 ✓	7 ✓	4
✓ 12.	Middletown	" 8	15	✓	10 ✓	0
✓ 13.	Rocinson	" 8	48	✓	29 ✓	15
✓ 14.	Coyote Valley	" 10	8	(2.4) ✓	0	1 ✓
✓ 15.	Pinoleville	" 10	51	✓	29 ✓	1
✓ 16.	Porter Valley	" 10	26	✓	10 ✓	3
✓ 17.	Redwood Valley	" 10	18	✓	14 ✓	0

2 - Tabulation Reorganization Election Returns (Cont'd):

No.	Wards	Date:	Number of		In Favor:	Against:
			Eligible Voters:	<u>30%</u>		
- ✓ 18.	North Fork	June 10	8	✓	0	4 ✓
- ✓ 19.	Piggymc	" 10	11	✓	3	7 ✓
- ✓ 20.	Guidiville	" 10	25	✓	14 ✓	1
- ✓ 21.	Shorwood	" 10	35	✓	10	12 ✓
- ✓ 22.	Hopland	" 10	55	✓	28 ✓	8
- ✓ 23.	Cloverdale	" 11	20	✓	10 ✓	0
- ✓ 24.	Laytonville	" 10	29	✓	7	11 ✓
- ✓ 25.	Alexander Valley	" 11	14	✓	14 ✓	0
- ✓ 26.	Jackson	" 12	3	✓	3 ✓	0
- ✓ 27.	Tualuma	" 11	40	✓	37 ✓	0
- ✓ 28.	Jamestown	" 11	5	✓	0	5 ✓
- ✓ 29.	Geyserville <i>South Creek</i>	" 11	28	✓	8	17 ✓
- ✓ 30.	Colusa	" 12	36	✓	25 ✓	1
- ✓ 31.	Big Sandy	" 8	52	✓	1	25 ✓
- ✓ 32.	Lanchester	" 11	46	✓	30 ✓	0
- ✓ 33.	Sheep Ranch	" 12	1	✓	1 ✓	0
- ✓ 34.	Stewarts Point	" 11	70	✓	51 ✓	10
- ✓ 35.	Buena Vista	" 12	4	✓	2 ✓	0
- ✓ 36.	Humsey	" 12	11	✓	10 ✓	0
- ✓ 37.	Taylorville	" 12	4	✓	2 ✓	0
- ✓ 38.	Susanville	" 12	9	✓	6 ✓	0

3 - Tabulation Reorganization Election Returns (Cont'd):

No.	Rancheria:	Date:	Number of		In Favor:	Against:
			Eligible	Voters:		
- ✓ 39.	Berry Creek	June 13	48	<i>30 70</i>	0	28 -
- ✓ 40.	Auburn	" 14	36	✓	5	16 -
- ✓ 41.	Nevada City	" 14	28	✓	6 -	2
- ✓ 42.	Grindstone	" 14	27	✓	11 -	0
- ✓ 43.	Wilton	" 15	14	✓	12 -	0
- ✓ 44.	Redding	" 11	12	✓	<i>24 2</i>	4 -
- ✓ 45.	Montgomery Creek	" 10	7	✓	5 -	2
- ✓ 46.	Pit River	" 10	2	✓	0	2 -
- ✓ 47.	Packanta	" 21	26	✓	17 -	0
- ✓ 48.	Moorstown	" 13	43	✓	0	34 -
- ✓ 49.	Enterprise	" 13	29	✓	7	17 -

Number of Rancheries in Favor of Act - 32
 " " Opposed to " - 17
 Total voters in favor of Act - 517
 " " opposed to Act - 282

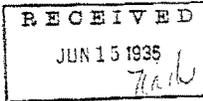
No Returns from:	Reason:
- Cedarville-	No Indians living there.
- ✓ Big Bend- <i>Red</i>	No returns received
- Lytton-	No Indians living there.
- Sebastapol-	" " " "
- Cortina -	No returns received.
- ✓ Strawberry Valley - <i>Red</i>	" " " "
- Stratmore-	No Indians Living There.
- Santa Rosa -	Election probably not held.
- Millerton-	No Indians living there.
- Shinghe Springs-	No returns received
- Colfax -	No Indians Living There.

O. Ranch

UNITED STATES
DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS
FIELD SERVICE

SACRAMENTO INDIAN AGENCY
Sacramento, Calif.
June 14, 1935.



Mr. Roy Nash,
U. S. Indian Field Service
25 Appraisers Building
San Francisco, California.

Dear Mr. Nash:

Following is the summary of election returns
this day received in the mail:

Rancheria:	Eligible		For: Against:	
	Voters:			
Sheep Ranch	1	1	✓	0
Stewarts Point	70	51	✓	10
Buena Vista	4	2	✓	0
Rumsey	11	10	✓	0
Taylorville	4	2	✓	0
Susanville	9	6	✓	0

Sincerely,

G. H. Lipps,
Superintendent.

Date October 10, 1955

Reservation Buena Vista County Amador

Acreage 67.5 Date Acquired 1926 Title Held Deed to U.S.

Assigned Acreage 67.5 Unassigned Acreage None

No. of Assignees 2 No. of People on Reservation 5

Liens Against Reservation \$ None

Government Buildings on Reservation: No. - Type

Community Property on Reservation:

(a) Community Buildings - (b) Cemetery Yes

(c) Playgrounds (d) Domestic Water System No

(e) Mountain or Unassigned Lands

(f) Irrigation System No

Improvements Completed:

Roads - Improvements made since 1950	Costs \$	0
Irrigation	Costs \$	-
Domestic Water System	Costs \$	0

Work Required to Complete B.I.A. Responsibilities and Estimated Cost:

1. Roads	Est. Costs \$	0
2. Land Surveys	Est. Costs \$	1,000.00
3. Water Systems (Domestic)	Est. Costs \$	1,500.00
4. Irrigation System	Est. Costs \$	0
5. Establish Water Rights	Est. Costs \$	0
6. Other Legal Assistance	Est. Costs \$	0
7. Appraisal of Properties	Est. Costs \$	200.00
8. Programming & Planning	Est. Costs \$	200.00
9. Soil and Moisture Conservation		1,600.
Total Estimated Cost to Complete		\$4,700.00

Disposition Requested by Group:

T. E. Williamson visited the Buena Vista Reservation on October 10, 1955, and spoke with Mrs. Enos Oliver who was the only resident at home. There are four other residents who are Mr. Oliver, his father and mother, and his son who attends high school.

The purpose of the visit was to discuss the proposed terminal legislation and the disposition of the trust status of the Buena Vista Reservation. Mrs. Oliver expressed the opinion, as supported later by a letter sent to the Sacramento Area Office and signed by reservation adult residents that the fee patents should be issued to the two families who live on the Reservation.

Rte 1, Box 59
Iona, California
January 5, 1956

Mr. Leonard M. Hill, Area Director
Sacramento Area Office
Bureau of Indian Affairs
P. O. Box 749
Sacramento, California

Dear Mr. Hill:

The termination of the California Indians and the Government will soon take place.

We Indians living on the Esena Vista Rancharia in Amador County feel we should be given a fee patent to this place, as we have built our homes, and put in all improvements ourselves.

The Mineral Rights on this place are a problem, as they belong to some one else. On one occasion a coal mine was allowed to come in and dig for coal. Your office is familiar with this case. We feel the Mineral Rights should be given us along with the place.

Sincerely yours,

Louis Oliver
Louis Oliver
Luella E. Luser
Ess Oliver

09/06/2001 11:13 9164412089
 List of assignees, members of their families and others who reside on
 the BUENA VISTA Rancheria or Reservation

AMADOR County, State of California. Date January 5, 1954

Lot or A ssgnt No	Name of Assignee, Members of Family and others	Relationship to Assignee	Age	Remarks
	Louis Oliver	Head	46	
	Annie Oliver	wife	38	
	Rose Oliver	son	18	
	Eydia Oliver	daur-Andrew	15	
	John Louis Fielder	grandson	17	
	Lucille E. Lenzert	daughter	16	

09/06/2001 11:01 9154412889

PAGE 10



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
WASHINGTON 25, D. C.

[Handwritten signature]

Mr. Leonard M. Hill
Area Director, Sacramento

Dear Mr. Hill:

The enclosed plan for the distribution of the assets of the Buena Vista Rancheria under the terms of Public Law 85-671 is hereby conditionally approved. Final approval to this plan or to a revision of it will be given after the 30-day period during which appeals may be filed. Will you please give general notice with a dated copy to this office. Since Lucille E. Lucero and Enos Oliver also signed the request along with the distributees named in the plan for a distribution of the assets, we think it would be well to send them a copy of the plan.

In order to establish a criterion for participation, please insert a date in the blank space in paragraph three of the plan. We have added a concluding paragraph designating who prepared the plan.

Sincerely yours,

[Handwritten signature]

Assistant Commissioner

Enclosure

CERTIFICATE OF POSTING

I, Maurice H. Rassy hereby certify
 (Name)
 that on April 24 1959 I posted a General
 (Date)
 Notice of the plan for the distribution of the assets of
 the Buena Vista Rancheria pursuant to
 Section 2(b) of Public Law 85-671 together with a copy of
 such plan ~~at~~ on the west wall of the
 (Where on the Rancheria)
Home of Louis Oliver
 and on the bulletin board of the United States Post Office
 at Yuma, California.
 (City)

Maurice H. Rassy
 (Signature)

April 24 1959
 (Date)

I also delivered copies ^{with} to
 Mr. & Mrs. Louis Oliver
 Mrs. Erno Oliver
 Mrs. Lucille Oliver
MHR

A PLAN FOR THE DISTRIBUTION OF THE ASSETS OF THE BUENA VISTA
RANCHERIA ACCORDING TO THE PROVISIONS OF PUBLIC LAW 85-671

AUGUST 12, 1958

The Buena Vista Rancheria is located in Amador County, California, and consists of approximately 67.9 acres of good grazing land which is also suitable for homesite purposes. The outer boundaries of the rancheria have been surveyed and 1 1/2 inch iron pipe markers set at all four corners.

Mineral rights to the land, the title to which is in the name of the United States of America, were sold prior to the acquisition of the property by the United States and cannot be conveyed with the property.

The rancheria is served by a county road adequate for the needs of the residents. There is a domestic water system serving all the family dwellings which is owned by the United States. All buildings on the rancheria belong to the Louis Oliver family. Mr. Oliver is the only assignee and he and his family are the only Indians who have lived on the rancheria since 1935. Mr. Oliver's children are all adults and earn their own living.

The rancheria is not organized under the Indian Reorganization Act and does not have a constitution or charter. There are no funds belonging to the rancheria in the custody of the United States.

Public Law 85-671 has been read and discussed by Louie Oliver, his wife Annie and their adult children, and it is their desire that the Buena Vista Rancheria and all property on the rancheria now owned by the United States of America be conveyed to:

Louie Oliver and his wife, Annie Oliver
Route 1, Box 59
Ione, California

subject to any existing right-of way, easements or valid leases and subject to the following conditions:

1. Any lien against the rancheria for construction, operation and maintenance of the water system owing to the United States shall be cancelled.
2. All existing water rights, riparian or other, that pertain to the property shall be conveyed with the property and ownership of the present domestic water system as it is presently operating shall be transferred to Louie Oliver and his wife, Annie Oliver.
3. An appraisal showing the approximate value of the rancheria at the time of conveyance shall be furnished the individuals to whom title is conveyed.

4. Louie Oliver and his wife, Annie Oliver, do not need assistance in conducting their affairs and are not interested in any of the educational provisions of Public Law 85-671.

Upon approval of this plan, or a revision thereof, by the Secretary of the Interior, as provided in Section 2(b) of Public Law 85-671, distributees shall be the final list of Indians entitled to participate in the distribution of the assets of the Buena Vista Rancheria and the rights and beneficial interest in the property of each person whose name appears on this list shall constitute personal property which may be inherited or bequeathed but shall not otherwise be subject to alienation or encumbrance before the transfer of title to such property.

General notice of the contents of this plan shall be given by posting a copy in the Post Office at Ione, Amador County, California, by posting a copy in a prominent place on the Buena Vista Rancheria, by mailing a copy to each family head participating in the plan and by mailing a copy to any person who advises the Sacramento Area Office that he feels that he may have a material interest in the plan.

After the assets of the Buena Vista Rancheria have been distributed pursuant to Public Law 85-671, and the provisions of this plan, any Indian who receives any part of such assets and the dependent

members of his immediate family shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians. All statutes of the United States which affect Indians because of their status as Indians shall not apply to them and the laws of the several states shall apply to them in the same manner as they apply to other citizens or persons within their jurisdiction. Nothing in the act, however, shall affect the status of such persons as citizens of the United States.

All provisions of Public Law 85-671 shall be applicable in the execution of this plan.

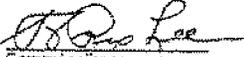
There are no dependent members of the immediate family of Louie Oliver and Annie Oliver.

This plan was prepared by the Area Director, Bureau of Indian Affairs, Sacramento Area Office pursuant to authority delegated on February 26, 1959, after consultation with the Indians named herein.

Approved, with authority retained to revise or change if appeals are received within 30 days after general notice to this plan is given.

Final Approval given by Acting Commissioner R. Rex Lee in letter dated June 22, 1959.

Referendum was held July 15, 1959, results were 3 accept, 0 reject, plan is effective as of July 15, 1959.


Commissioner

Date: _____

85/85/2881 11:01 8154412898

PAGE 88
Tribal Programs
103.2 Buena Vista

Sacramento Area Office
P. O. Box 749
Sacramento 4, California

Mr. Kenneth Oliver
Buena Vista Indian Reservation
Yuba, California

APR 24 1958

Dear Mr. Oliver:

Inasmuch as you were consulted when Public Law 85-671 was read and discussed with Mr. and Mrs. Louie Oliver, a copy of the conditionally approved plan and a copy of the general notice are enclosed for your information.

This plan is in accordance with the wishes of Mr. and Mrs. Louie Oliver who are the proposed distributees and in compliance with the provisions of Public Law 85-671.

Sincerely yours,

(SGC) Leonard M. Hill

Area Director

Enclosures

WNBabby/co

09/06/2021 11:57 9154412055

PAGE 14

107.2.14
*[Handwritten signature]*Sacramento Indian Agency
Sacramento, California

July 19, 1935

Mr. Louis Oliver
Buena Vista Rancheria
Iowa, California

Dear Mr. Oliver:

We are in receipt of a letter from a Mrs. Reaser, in which she says she made inquiry of you relative to moving on the Buena Vista Rancheria, that you advised her that the place was purchased only for your family, that it was your own property, and that you did not want anyone except your family.

Kindly be advised that this property was purchased several years ago by former Superintendent Lorington for the Indian Service, and the title rests in the U. S. Indian Service. The land was purchased for homeless Indians, and the Indian Service has the right to settle any homeless family on the tract. However, it is not our desire to have families settle on the same tract, who could not be neighborly, and if you have any objections to Mrs. Reaser, you are requested to advise us what the objection may be.

Very truly yours,

G. E. Lipps
Superintendent

EHE:CC

Sacramento Indian Agency
Sacramento, California

July 19, 1938

Mrs. Esther E. Keeler
Ione, California

Dear Mrs. Keeler:

This will acknowledge receipt of your letter regarding Mr. Cliver refusing to give you permission to reside on the Emma Vista Hamberia. Kindly be advised the matter has been taken up with Mr. Cliver, and when a reply is received from him, you will be further advised.

Very truly yours,

O. E. Lipps
Superintendent

YHE:GG

Jane Day
July 1, 1935

Dear Mr. [unclear]

I will write to you again today and tell you I was over to Bro. A. Victor Rankins, and Mr. Oliver, ^{was} refused to sign, and I am asking what can be done about it. He also said the place was only for his family, he said it is his own property and he said he doesn't want anybody on that place except his own family. He didn't believe the letter unless you, he said he won't believe it until he see you with his own eyes.

Well, my husband is an Cherokee Indian.

I would like for you to come out and explain the matter with him because I can't make him understand. And please let me know when you can come out, and if you don't know write please answer.

I will be awaiting your reply,

Love
June 23, 1935

Dear Mr. Lippin

I am going to ask you
if I can build the house at the
Reservation at Buena Vista. I have
no home because my house burned
down, and I have been camping
nearly all winter. As you know
I am an Indian. And I am one
of the Black girls but I am married,
my father is Red Black, which is staying
at the Jackson Indian Reservation.

This will be all, I will be
waiting your answer.

Sincerely,

Mrs. Esther Baker

Love

California

SACRAMENTO INDIAN AGENCY
 Sacramento, Calif.
 June 28, 1935.

Mrs. Esther Keebler
 Loma, California

Dear Mrs. Keebler:

This will acknowledge the receipt of your letter of June 22 with reference to establishing yourself on the Buena Vista Rancharia.

If your husband is located else, and the other adult bona fide residents of the Buena Vista Rancharia are willing that you should establish yourself and build a home thereon, we would have no objection to your doing so.

If you still desire to move on the Buena Vista Rancharia, it is suggested you have the adult residents there sign the enclosed form and return same to this office. We will then send you formal authorization to move on the rancharia.

Your friend,

C. H. Liggs,
 Superintendent.

r
 Encl

California Indian Agency
Box 310 Sacramento 2, California
October 19, 1948

Mr. Louis Oliver,
Ione, California

Dear Mr. Oliver:

I am in receipt of a letter from Mr. Henry Miller of Ione, California, who is extremely anxious to have the Buena Vista rancharia allotted and perhaps deeded to you, as this has been your home for many years, and you and your family are the only Indians living on the rancharia.

As explained to you when you were in the office of the agency on October 7, 1948, it is not possible at this time to either make allotments or deed such lands to any individuals. This may be done only after suitable legislation has been passed by Congress.

Our records show that title to the land in question passed from the United States to private ownership in the 1860's. From that date until May 9, 1927, the Indian inhabitants lived on the land only by permission of the white owners. In 1926, the Indians were requested to vacate the land. Directly after that an agreement was entered into whereby the United States again procured title to the land for homeless Indians.

While our records show that at one time other Indians lived on the property, you and your family have been the only residents for a number of years. In 1942 you were loaned a sum of \$750.00 by the United States of America, as evidenced by loan agreement no. 25, contract T-Sk-Ind-2774. This loan was based upon the assumption that the land had been assigned to you, as you were the sole occupant. However a search of our records fail to disclose any information concerning such an assignment.

You may consider this letter as an assignment to the land in section 17, T. 5 N., R. 10 E., N.E. 1/4, known as the Buena Vista rancharia, containing 70 acres more or less, to be used as your home and for agriculture purposes. Mineral rights are not included as they were not procured when the land was purchased by the United States in 1927.

It is understood that this assignment may be revoked at any time you move, or if the land is not beneficially used by you or your family.

09/06/2001 11:45 9154412069

PAGE 13
LEW 2/9/ 1951

LOCATION: Areador County

MAILING ADDRESS: R. F. D. Ione

POPULATION AS OF 1945: 5

LAND: 70 acres

ACQUISITION: Purchase Price: \$3000
L.O. File No. 19751-26
15250-27
70 acres

OWNERSHIP: No. acres per capita - 14
Tribal Trust Patent - 70

LAND USE: Agricultural - Dry 15 acres
Grazing - 55 acres
Crops - Veg. gardens - .5
Forage crops - 19.5
Indian Operated - 70 acres

EST. TAX REVENUE WHEN

PROPERTY BECOMES TAXABLE: 70 acres @ \$10.00 - \$700
2 houses @ \$100 - 200
\$900 @ 4.00 - \$36

EUENA VISTA RANCHERIA. Hill and Brodhead visited the reservation on 4-25-51.
L.M.H. 4-25-51.

OCCUPANCY: The reservation is occupied by two families, father and son. The father's name is Louie Oliver and the son's name is Enoc Oliver. The old man is 63 years of age and has a wife. The son is married and has one small child. The son is also taking care of a young nephew temporarily. The Olivers also have a daughter married to a soldier and now living in Texas.

RESOURCES: The reservation is a narrow strip one mile long located south of Ione, a mile or two distant. A road runs along the west side of the place for about 1/4 mile to the houses. Across the lane from the houses is an operating coal mine. The northern 3/4 of the tract is suitable for grazing and perhaps about 1/4 is suitable for cultivation. None is now cultivated but has a good cover of grass and a few trees. The Olivers have two head of cattle, a few chickens and a few rabbits, but no other livestock. It was reported that a part of the ranch was leased for grazing. A few head of cattle were inside the reservation. There are two houses on the place. One where the son lives is a shack and the other is in poor condition but is in a somewhat better state of repair. There is also a shed which at present houses a house trailer belonging to the son.

There is a flowing spring to the south of the house located on a fairly high hill which is brush covered and rocky. The water from the spring runs through an open ditch to a small settling basin from which it is piped to an overhead tank near the houses. Hydrants are located beside the houses for domestic water supply. The supply is adequate for a garden.

20/20/2000 11:05 216417900
20000 Florida Reservation
Page 22

PAGE 10

In the past Mr. Oliver had milk cows, raised chickens and turkeys and had hogs at various times. He has obtained loans in the past and has repaid them. Mr. Bradford knows him well and indicates that he is competent and has a good reputation. He works at seasonal farm labor. The son is driving a tractor for a neighboring rancher.

COMMUNITY SERVICES: Community services are adequate and no problems were encountered.

INTERVIEW: Neither Mr. Oliver was at home, but we talked to the younger Mrs. Oliver. She stated that the Oliver family wanted to retain the land.

RECOMMENDATION: 1. That the land be fee patented to the Oliver family and divided as they wish (because of Mr. Bradford's previous acquaintance there's little question of competency)
2. That no improvements be undertaken on the reservation.

22/06/2021 11:13 8154412889

PAGE 18

List of assignees, members of their families and others who reside on
the SHONA WISHA Rancheria or Reservation

IMPERIAL County, State of California. Date January 5, 1954

Lot or Assign No	Name of Assignee, Members of Family and others	Relationship to Assignee	Age	Remarks
	Louis Oliver Ardie Oliver Dora Oliver Lydia Oliver John Louis Wheeler Lanille S. Senaro	Head wife son daughter grandson daughter	44 38 18 16 17 14	

Box 1, Box 59
 Jones, California
 January 5, 1956

Mr. Leonard M. Hill, Area Director
 Sacramento Area Office
 Bureau of Indian Affairs
 P. O. Box 749
 Sacramento, California

Dear Mr. Hill:

The termination of the California Indians and the Government will soon take place.

We Indians living on the Esena Vista Banderia in Amador County feel we should be given a fee patent to this place, as we have built our homes, and put in all improvements ourselves.

The Mineral Rights on this place are a problem, as they belong to some one else. On one occasion a coal mine was allowed to come in and dig for coal. Your office is familiar with this case. We feel the Mineral Rights should be given us along with the place.

Sincerely yours,

Louis Oliver
James Oliver
Luella C. Oliver
Esena Oliver

Realty - Acq. & Disp. B-
~~306 - Buena Vista Ranch~~

Sacramento Area Office
 P. O. Box 742
 Sacramento 4, California

Mr. and Mrs. Louis Oliver
 Ione, California

Dear Mr. and Mrs. Oliver:

Pursuant to the Act of August 18, 1958 (72 Stat. 619), there is enclosed a deed which conveys title from the United States of America to you, as Grantees and Distributees, the Buena Vista Rancharia, described as

Commencing at the N. E. corner of Section 19, Township 5 North, Range 10 East, M.D.R. 4M, and thence running west along section line 578 feet; thence at right angles south 5280 feet; thence at right angles east 578 feet; thence at right angles north 5280 feet to place of beginning;

The requirements in disposal of the rancharia in accordance with the Act of August 18, 1958, have been complied with and the enclosed deed transfers title to this property to you in an unrestricted status (fee). It was recorded on October 5, 1959, in the Recorder's Office of Amador County, Jackson, California, and is now subject to the same taxes, state and Federal, assessed on property owned by non-Indians.

There are indications that the mineral rights to this property were not purchased by the United States of America, but there is a possibility that due to a breach of mining contract may have reverted to the land and become the property of the United States. Should this be the case, you would now own any right that the United States may have acquired. The water system installed on the property by the Government was conveyed to you and your wife by the enclosed deed.

In accordance with Section 2 (d) of the Act of August 18, 1958, your property has been appraised by the Bureau of Indian Affairs. The total appraised value as of August 27, 1959 was \$7,500.

You now own unrestricted title to this property and are at liberty to lease, mortgage or dispose of it as you desire. We hope, however, you will keep and use it as a home for yourself and for your family for a long time. We wish you the best of success and trust you will take the maximum benefit from your property which has been conveyed to you in accordance with the enclosed deed.

Sincerely yours,

REGINA M. HARRIS
Area Director

Enclosure

Copy to: Tribal Programs, for information

CRCardNo:123

D E D

This indenture made this 5th day of October 19 30 between the United States of America, Department of the Interior, acting by and through the Area Director of the Sacramento Area Office, Bureau of Indian Affairs, pursuant to the authority vested in him by the Act of August 18, 1928 (45 Stat. 619); Secretarial Order No. 3500, Amendment No. 27 (24 F. R. 272); Order 351, Amendment No. 47, of the Commissioner of Indian Affairs (24 F. R. 1429) as grantor and Louis Oliver and his wife, Annie Oliver, as joint tenants, Lane, California, the grantees:

WITNESSETH: That the said grantor, for good and sufficient consideration, the receipt of which is hereby acknowledged, and in accordance with the authority of the Act of August 18, 1928, supra, by these presents DOES GIVE AND GRANT unto the said grantee and to their heirs and assigns, all that certain lot or parcel of land situated in the County of AMADOR State of California, and more particularly described as follows, to wit:

Commencing at the N. E. corner of Section 19,
Township 5 North, Range 10 East, N.D.B. & N., and
thence running west along section line 578 feet;
thence at right angles south 5250 feet; thence at
right angles east 578 feet; thence at right
angles north 5250 feet to place of beginning.

Title to the above described property is conveyed subject to any valid reservation or exception; existing easements for public roads and highways; public utilities, and for railroads and pipelines and any other easements or rights of way:

TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatever nature, thereto belonging, unto the said grantee and to their heirs, and assigns of the said grantee forever:

IN WITNESS WHEREOF, the United States of America, Department of the Interior, acting by and through the Area Director of the Sacramento Area Office of the Bureau of Indian Affairs has caused these presents to be executed by said Area Director, the day and year first above written.

BY: [Signature]
Area Director, Sacramento Area Office

State of California)
County of Sacramento) ss.

I, Regina H. Ellston, a Notary Public in and for the State of California, do hereby certify that before me personally appeared Leonard A. Hill, known to me to be the Area Director of the Sacramento Area Office of the Bureau of Indian Affairs, Department of the Interior, and the person who subscribed the foregoing instrument, and acknowledged to me that he executed the same in behalf of the United States of America, acting in his official capacity as the Area Director of the Sacramento Area Office of the Bureau of Indian Affairs.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this day of October, 1959.



(Sgd.) Regina H. Ellston
Notary Public, in and for the County of Sacramento, State of California

DEED
From
United States of America
acting by and through the Area
Director, Sacramento Area Office
Bureau of Indian Affairs
To
Louis and Annie Oliver
Leona, California
County of Butte
State of California
Instrument was filed for record this
22 day of October, 1959
at 11:25 o'clock P. M. and
daily recorded in book No. 24,
at page 22
Register of Deeds

Amador County

OFFICIAL RECORDS
AMADOR COUNTY, CALIF.
RECORD REQUESTED BY
CHISHOLM & CHASTAIN
Sep 12 3 28 PM 1975
ENDORSED
FILED
ANTHONY SUTTON
COUNTY RECORDER
SEP 12 1975
NEWSPAPER, CITY CLK
HELEN E. ROBERTSON

1 Law Office of
2 Chisholm and Chastain
3 19 Summit Street
4 Jackson, California 95642
5 Telephone: 223-2862

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF AMADOR

11 In the Matter of the Estate) No. 4874
12 of)
13 LOUIS OLIVER,) JUDGMENT SETTLING FIRST AND
14 Deceased.) FINAL ACCOUNT AND REPORT OF
15) ADMINISTRATOR AND OF FINAL
16) DISTRIBUTION.

17 ERNE OLIVER, as Administrator of the estate of LOUIS
18 OLIVER, deceased, having heretofore filed his first and final ac-
19 count and report and petition for its settlement and for final
20 distribution, and the account and report and petition coming on
21 this day regularly for hearing, the Court finds:
22 Due notice of the hearing of the petition has been reg-
23 ularly given as required by law.
24 All the allegations of the petition are true.
25 LOUIS OLIVER died intestate on January 8, 1973, in the
26 County of Amador, State of California, being at the time of his

-1-

EX 273 RE 245

THIS OFFICE IS
OPENED & CLOSED
BY LARRY CROOK
AMADOR COUNTY CLERK
100 W. STATE ST.
JACKSON, CALIF. 95642

Amador County

1 death a resident thereof.

2 On February 15, 1973, ENOS OLIVER was appointed Administra-
3 trator of the decedent's estate. He qualified as Administrator
4 of the decedent's estate on February 23, 1973, and ever since has
5 been and now is the Administrator of the decedent's estate.

6 Notice to creditors has been duly given as required by
7 law, the time for filing or presenting claims has expired, and
8 the estate now is in a condition to be closed.

9 No claims have been filed or presented against the estate.

10 Since the rendition of the final accounting herein,
11 attorney's fees and expenses of administration advanced by the
12 attorney for the Administrator have been paid, and all debts of
13 the decedent and of the estate and all expenses of administration
14 thereof, except closing expenses, have been paid in full.

15 A written report of the inheritance tax referee appointed
16 herein is on file, and an order fixing the inheritance tax due
17 the State of California from this estate has been made by this
18 Court. The tax has been paid in full as evidenced by the receipts
19 of the County Treasurer of the County of Amador on file herein.

20 All personal property taxes due and payable by this
21 estate have been paid.

22 No federal estate tax return has been made or filed for
23 this estate for the reason that the estate was not sufficient to
24 require such a return and no federal estate tax is due.

25 The payment of the sum of \$697.00 GARD CHISROLM as payment
26 in full of his statutory fees for his services rendered in the ad-

Amador County

1 ministration of this estate should be approved; payment to the
 2 attorney for the Administrator of the sum of \$103.15 for expenses
 3 of administration advanced by the attorney should be approved.

4 The Administrator has waived his right to compensation
 5 for his services rendered in the administration of this estate.

6 The estimated expenses of closing the estate are \$10.00,
 7 and the Administrator should be authorized to withhold that sum
 8 from distribution.

9 All the assets of the estate are the separate property
 10 of the decedent.

11 JESSE POPE, one of the heirs of the decedent, assigned
 12 all of his interest in the cattle of this estate to LUCILLE LUCERO,
 13 and his interest in said cattle should be distributed to LUCILLE
 14 LUCERO; the said JESSE POPE assigned all of his interest in the
 15 real property of this estate to LUCILLE LUCERO and ENOS OLIVER,
 16 and his interest in said real property should be distributed to
 17 LUCILLE LUCERO and ENOS OLIVER. The Assignment of Interest of
 18 JESSE POPE is on file in these proceedings. Subsequent to the
 19 execution of said Assignment of Interest, the said JESSE POPE died.
 20 Distribution should be ordered as prayed for.

21 IT IS ORDERED AND ADJUDGED that:

22 Notice to creditors has been duly given as required by
 23 law and that said Administrator has in his possession belonging
 24 said estate the following described real and personal property;
 25 that said account be allowed and settled accordingly; that the
 26 payment to GARD CHISECLM of attorney's fees and expenses advanced

Amador County

1 is hereby approved; that all inheritance taxes have been paid; that
 2 the Administrator withhold from distribution the sum of \$10.00 to
 3 be used for closing expenses; that the following described property
 4 be and the same hereby is distributed in the following manner:

5 To LUCILLE LUCERO and ENOS OLIVER, the following described
 6 real property, in equal shares:

7 Real property situated in the County of Amador, State of
 8 California, described as:

9 Commencing at the Northeast corner of Section 19, Township
 10 5 North, Range 10 East, M.D.S. & M., and thence running
 11 West along Section line 578 feet; thence at right angles
 12 south 5280 feet; thence at right angles East 578 feet;
 13 thence at right angles North 5280 feet to the place of
 14 beginning, being the same property described in deed
 15 recorded in Book 86, page 198, Official Records of Amador
 16 County, California.

17 To LUCILLE LUCERO an undivided two-thirds of the following
 18 described personal property; to ENOS OLIVER an undivided
 19 one-third of the following described personal property:

- 20 5 Breeding Cows
- 21 4 Heifers
- 22 1 Young Bull
- 23 Together with increase on above-described cattle

24 and that all other property of said estate, whether described here-
 25 in or not, be and the same hereby is distributed as follows:

26 To LUCILLE LUCERO, an undivided one-third

To ENOS OLIVER, an undivided one-third

To the Estate of JESSE POPE, an undivided one-third

Dated: September 12, 1975.

THE FOREGOING INSTRUMENT IS A
 CORRECT COPY OF THE ORIGINAL ON
 FILE IN THIS OFFICE.

RALPH MCGEE
 Judge of the Superior Court.

WITNESSE:
 I, _____, County Clerk and Ex-Officio
 Clerk of the Superior Court of the State of
 California, in and for the County of Amador,
 do hereby certify that the foregoing is a true and
 correct copy of the original on file in this office.

Law Offices of
 CHARLES A. CHAFFIN
 25 BROADWAY STREET
 JACKSONVILLE, CALIF. 95621
 Tel. Area 433-8844

Chisholm and Chastain

RECORD REQUESTED BY
Chisholm & Chastain
FEB 21 10 47 AM 1979

AND WHEN RECORDED MAIL TO

NAME Law Office of
TAKER Chisholm and Chastain
39 Summit Street
CITY & STATE Jackson, California 95642

ANTHONY SUTTON
COUNTY RECORDER
\$3.00

MAIL TAX STATEMENTS TO

NAME Lucille Lucero & Enos
Oliver
ADDRESS Route 1, Box 231A
Ione, California 95640
CITY & STATE

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Documentary transfer tax \$ NONE
 Computed on full value of property transferred, or
 Computed on full value less liens & encumbrances remaining thereon at time of sale.
Chisholm & Chastain, Inc.
 Signature of deponent or agent determining tax - firm or name
 Unincorporated area City of _____

Grant Deed

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, JESSE POPE, a single person,

hereby GRANT(S) to LUCILLE LUCERO and ENOS OLIVER

all of his right, title, and interest in and to

the following described real property in the county of Amador, state of California:

Commencing at the Northeast corner of Section 19, Township 5 North, Range 10 East, M.D.B. & M., and thence running West along Section Line 578 feet; thence at right angles South 5280 feet; thence at right angles East 578 feet; thence at right angles North 5280 feet to the place of beginning, being the same property described in deed recorded in Book 86, page 198, Official Records of Amador County, California.

Date: *January 15, 1975*

Jesse Pope
Jesse Pope

STATE OF CALIFORNIA
COUNTY OF AMADOR
I, _____, before me, the undersigned a Notary Public in and for said County and State, personally appeared JESSE POPE

FOR NOTARY SEAL OR STAMP

1 Law Office of
2 Chisholm and Chastain
3 39 Summit Street
4 Jackson, California 95642
5 Telephone: (209) 223-0862

FILED

FEB 18 1977

JOHN W. PATRICK, County Clerk

John W. Patrick
COUNTY CLERK

6
7
8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF AMADOR**

10
11 In the Matter of the Estate of) No. 4874

12 LOUIE OLIVER,)

13 Deceased.)

14 -----)

**ORDER DENYING MOTION
TO VACATE JUDGMENT OF
FINAL DISTRIBUTION.**

15
16 The motion of Petitioner BARBARA JEAN HATHFIELD, as Admin-
17 istratrix of the Estate of JESSIE POPE, deceased, and Guardian of
18 the Estate of RHONDA LYNN POPE, a Minor, for an order vacating
19 judgment of final distribution in the Estate of LOUIE OLIVER,
20 deceased, came on regularly for hearing by the Court on March 12,
21 1976, the Honorable JOSEPH S. HUBERTY, Judge presiding. Petitioner
22 appeared by counsel, JAMES L. BEAVER. Respondents, ENOS OLIVER,
23 Administrator of the estate of the above-named decedent, and LUCILLE
24 LUCERO, an heir of the above-named decedent, appeared by counsel,
MICHAEL H. CHISHOLM.

25 The Court having considered the declarations of JAMES L.

26
1000
1000
1000

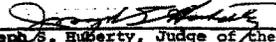
1 BEAVER, counsel for Petitioner BARBARA JEAN HATFIELD; the declaration
2 of PETER W. SLY, attorney at law; the declaration of Petitioner
3 BARBARA JEAN HATFIELD; and other documents in support of and in
4 opposition to said motion, and having heard the arguments of
5 counsel, and being fully advised in the premises, finds as follows:
6
7 1. Notice of the time and place of hearing was duly
8 given to all persons entitled thereto.
9
10 2. No request for notice in the Estate of LOUIE OLIVER,
11 deceased, was made by Petitioner or her attorney on the Administra-
12 tor of the Estate of LOUIE OLIVER, deceased, or his counsel, GARD
13 CHISHOLM.
14
15 3. The petition for final distribution in the Estate of
16 LOUIE OLIVER, deceased, was filed on September 2, 1975, notice of the
17 hearing on said petition having been given in accordance with Section
18 1200 of the Probate Code of the State of California.
19
20 4. Judgment of final distribution in the Estate of LOUIE
21 OLIVER, deceased, was made and filed on September 12, 1975.
22
23 5. There is no showing of fraud or mistake on the part
24 of ENOS OLIVER, as Administrator of the Estate of LOUIE OLIVER,
deceased, the attorney for the estate, GARD CHISHOLM, or the heirs
of LOUIE OLIVER, deceased, ENOS OLIVER and LUCILLE LUCERC.
6
7 6. The request by Attorney PETER W. SLY on behalf of
8 Petitioner BARBARA JEAN HATFIELD was made upon the Clerk of the
9 Court and not the Administrator of the Estate of LOUIE OLIVER,
10 deceased, or his attorney, as required by law.
11
12 7. From and after July 8, 1975, Attorney PETER W. SLY was

1 aware of the Assignment of the interest of JESSIE POPE in the
2 Estate of LOUIE OLIVER, deceased, to ENOS OLIVER and LUCILLE LUCERO,
3 and did nothing to attack said Assignment although provision is made
4 therefor under Section 1020.1 of the Probate Code of the State of
5 California.

6 IT IS ORDERED that the Motion to Vacate Judgment of
7 Final Distribution in the Estate of LOUIE OLIVER, deceased, be, and
8 the same is hereby denied.

9 Dated: February 15, 1977.

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Joseph S. Huberty, Judge of the
Superior Court.

26
" 5001
ST
0002
"

Address and telephone number attorney(s)
 CHISHOLM & CHASTAIN
 39 Summit St.
 Jackson, CA 95642
 (209) 223-0862

Name and address of representative/petitioner
 LYDIA E. OLIVER
 Rt. 1 Box 231-A
 Ione, CA 95640

FILED

DEC 27 1979

SHELDON B. JOHNSON, County Clerk
 AMADOR COUNTY
Sheldon B. Johnson
 DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF AMADOR

In the Matter of the Estate of ENOS OLIVER, Deceased.	Case Number 5 2 7 6
	AMENDED REPORT OF INHERITANCE TAX REFEREE
Date of Death: August 31, 1978	Amount of Tax \$ 694.24
	Additional Tax, Revenue and Taxation Code Sections 15441-2 \$
	Total Tax Due State \$ 694.24

The undersigned Inheritance Tax Referee reports to the Court as follows:

The above-named decedent died testate on the date stated above, a resident of the County of Amador, State of California.

By reason of such death the property hereinafter referred to is subject to taxation under the Inheritance Tax Law in the above-entitled proceeding.

That at the date of death of said decedent the fair market value of said property was the sum of:

Described in inventory and appraisalment on file herein: \$ 31,500.97

Not in inventory, described as follows:

J/T Assets	200.00
less attorney fees	14.00
less contribution	93.00
	<u>93.00</u>
	93.00
Death benefits	779.00

Brought forward \$ 31,500.07

DEDUCTIONS should be made therefrom as follows:

Expenses of funeral and of last illness	\$ 2,682.00	
Debts of deceased	\$ 477.50	
Taxes due at decedent's death	\$	
Executor's or administrator's commissions	\$	
Fees of attorney for same	\$ 1,075.03	
Expenses of administration	\$ 125.00	
Other deductions	\$	
Total deductions	\$ 4,359.53	
Net J/T		27,141.44
Death benefits		93.00
		779.00
The CLEAR MARKET VALUE of said property is therefore		\$ 28,013.44

That said property passed to the following named persons, whose relationship to decedent, the character and clear market value of whose respective interests at the time of death of decedent and the inheritance or transfer tax due thereon are as hereinafter shown:

Name	Relationship to deceased	Exemptions and rates	Tax
Character and value of interest			
LYDIA OLIVER - Spouse	14,442.72	60,000 spec. exemp.	-0-
LUCILE LUCERO - Sister	13,570.72	.2,000 spec. exemp. 11,570.72 @ 6%	594.24
TOTALS	28,013.44		594.24

Dated 10/5/79

James J. ...
Inheritance/Tax Referee

June 25 1981
ELQCO

Licensed
and insured

GENERAL BUILDING CONTRACTORS
California License No. 22700
Dependable and Quality Work
Complete Services

LLOYD QUANMEN
(209) 533-1313

19882 Highway 108
Sonora, CA 95370

State of California
Department of Housing and
Community Development
Division of Community Affairs
521 10th Street
Sacramento 95814



Patricia Celli
Native American Affairs Coordinator II

(916) 445-4666

**PROBATE DEATH OF
LYDIA OLIVER AND OF
PETITION TO
ADMINISTER THE ESTATE
OF THE DECEASED**
To all heirs, beneficiaries,
creditors, contingent
creditors and persons who
may be otherwise interested in
the will estate of LYDIA
OLIVER whose name is also
written LYDIA ELIZABETH
OLIVER
A petition has been filed by
JOHN FIELDER of the
Superior Court of Amador
County requesting that John
Fielder be appointed as per-
sonal representative to ad-
minister the estate of the dec-
edent.
A hearing on the petition
will be held on June 19, 1981,
in the courtroom located at
108 Court St., Jackson, Ca.
IF YOU OBJECT to the
granting of the petition, you
should either appear at the
hearing and state your objec-
tions or file written objections
with the court before the hear-
ing. Your appearance may be
in person or by your attorney.
**IF YOU ARE A
CREDITOR** of a contingent
creditor of the deceased, you
must file your claim with the
court or present it to the per-
sonal representative ap-
pointed by the court within
four months from the date of
first issuance of letters as pro-
vided in section 700 of the
California Probate Code. The
time for filing claims will not
expire prior to four months
from the date of the hearing
notified above.
YOU MAY EXAMINE the
inventory of the estate and
are a person interested in the
estate, you may file a request
with the court to receive
special notice of the filing of
the inventory of estate assets
and of the petition, accounts
and reports described in sec-
tion 1200 of the California
Probate Code.
Michael H. Chisholm, Jr.
38441 Street Jackson, Ca.
95644 Attorney for Pet-
itioner.
This notice was mailed on

OHA-15
1974

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
HEARINGS DIVISION

PROBATE NO.:
IP SA 282N 85

IN THE MATTER OF THE ESTATE OF:
LYDIA OLIVER

NOTICE OF HEARING

Deceased. Miwok

Issued: November 26, 1985

NOTICE IS HEREBY GIVEN That on Wednesday, December 18, 1985, at 10:00 a.m.
U.S. Department of the Interior, Office of Hearings & Appeals,
at 2020 Hurley Way, Suite 150, Sacramento, CA 95825
testimony will be taken and evidence received for the purpose of considering the claims of creditors, determining the
heirs, and probating the will dated April 23, 1979

of Lydia Oliver, deceased.

If sufficient reason appears, the Administrative Law Judge, in his discretion, may continue the hearing another
time and place to be announced.

All persons having an interest in the estate including all creditors having claims against the estate are hereby
notified to be present at the hearing in person or by attorney and furnish such evidence as they desire.

This hearing is to be held pursuant to the act of June 25, 1910, 25 USC 372 (1970) as amended, and the
Probate Regulations of the Department of the Interior, 43 CFR, part 4.

PARTICULAR NOTICE IS GIVEN TO THE PARTIES HERE NAMED: (EACH person herein named as witness
shall appear at the hearing or make prior arrangements as to the giving of testimony.)

John L. Fielder, 1808 Hummingbird Way, Costa Mesa, CA 92626
Mildred Callahan, 6306 Cheltenham Way, Citrus Heights, CA 95610 (witness)

WITNESSES TO WILL:

~~Michael N. Chisholm, 39 Summit Street, Jackson, CA 95642~~
Joan Dal Porto, 39 Summit Street, Jackson, CA 95642

RECEIVED

NOV 27 1985

MICHAEL M. GRANNING

NOTICES POSTED AT:

Supt., Central Calif. Agency
Sacramento Co. Courthouse
Sacramento Area Office, BIA
of Rural Indian Health Board
Indian Health Service
P.O. Sacramento 95825
P.O. Ione, CA 95640

William E. Hammett

Administrative Law Judge
2020 Hurley Way, Suite 150
Sacramento, CA 95825
1916

LAST WILL AND TESTAMENT
OF
LYDIA OLIVER

I, LYDIA OLIVER, a resident of Amador County, California, declare that this is my Will.

FIRST: I revoke all Wills and Codicils to Wills that I have previously made.

SECOND: I declare that I am a widow and that I have one child, namely, JOHN FIELDER.

THIRD: I direct my Executor, hereinafter named, to pay all of my just debts, the expenses of my last illness, funeral expenses, and the expense of administration of my estate as soon after my death as may be practicable.

FOURTH: I give, devise and bequeath all the rest, residue and remainder of my estate, both real and personal, of whatsoever kind and character and wheresoever situated, to my son, JOHN FIELDER. In the event my son should predecease me, I give, devise and bequeath the share of my estate he would take under this Will to his issue, or the survivor of them, by right of representation.

FIFTH: I have purposely made no provision for any other person, whether claiming to be an heir of mine or not, and if any person, whether a beneficiary under this Will or mentioned in this Will or not mentioned in this Will shall contest this Will or object to any of the provisions hereof, having established in a Court of competent jurisdiction a right to participate in my estate in any degree whatsoever, I hereby give and bequeath to such person or persons the sum of One Dollar (\$1.00) and no more, in lieu of the provisions which I have made or which I might have made herein for such person or persons as contesting or objecting.

SIXTH: I hereby nominate and appoint my son, JOHN FIELDER, Executor of this, my Last Will and Testament, to serve in such capacity without bond. In the event he predeceases me or fails to qualify for any reason, I nominate and appoint MICHAEL H. CHISHOLM Executor of this Will.

I subscribe my name to this Will this 27 day of April 1972

Lydia Oliver
 Lydia Oliver

The foregoing instrument, consisting of two (2) pages, including the page signed by the Testator, was on the date hereof, by the said LYDIA OLIVER, subscribed, published and declared to be her last Will, in the presence of us, who at her request and in her presence, and in the presence of each other, sign our names as witnesses thereto; and we further declare that at the time of signing this Will the said LYDIA OLIVER appeared to be of sound and disposing mind and memory and not acting under duress, menace, fraud or the undue influence of any person whatsoever.

Donald H. Platt residing at *Golden* California
Michael H. Chisholm residing at *St. C. L.* California

The foregoing instrument, consisting of two (2) pages, including this page, was at the date hereof, by LYDIA OLIVER, signed as and declared to be her last Will in the presence of us, who, at her request and in her presence, and in the presence of each other, have subscribed our names as witnesses thereto. Each of us observed the signing of this Will by LYDIA OLIVER and by each other subscribing witness and knows that each signature is the true signature of the person whose name was signed.

Each of us is now more than 21 years of age and a competent witness and resides at the address set forth after his name.

We are acquainted with LYDIA OLIVER. At this time she is over
the age of 18 years, and to the best of our knowledge, she is of sound
mind and is not acting under duress, menace, fraud, misrepresentation,
or undue influence.

We declare, under penalty of perjury that the foregoing is true
and correct.
Presented on this 5 day of _____ 1975
California.

Jean, Alice Paul residing at Fullerton California
Michael H. Clark residing at Los Angeles California

1 DAVID J. RAPPORT
LESTER J. MARSTON
2 California Indian Legal Services
200 West Henry Street
3 Post Office Box 488
Ukiah, California 95482
4 Telephone: (707) 462-3825

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JUL 21 1983

5 Attorneys for Plaintiffs
6 JOSEPH P. RUSSONIELLO
United States Attorney
7 RODNEY H. HANBLIN
Assistant United States Attorney
8 PAUL E. LOCKE
Assistant United States Attorney
9 450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
10 Telephone: (415) 556-5134

WILLIAM L. WHITTAKER
CLERK, U. S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ORIGINAL
FILED

AUG - 2 1983

WILLIAM L. WHITTAKER
CLERK, U. S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

11 Attorneys for Federal Defendants
12
13

14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE NORTHERN DISTRICT OF CALIFORNIA

16 TILLIE HARDWICK, et al.,) No. C-79-1710-SW
17 Plaintiffs)
18))
19 UNITED STATES OF AMERICA, et al.,)
20 Defendants.)
21)

22 The parties to the above-entitled action, recognizing
23 the uncertainties in law and the burden of further litigation,
24 and in order to make mutually beneficial settlement of these
25 actions, subject to approval of the Court pursuant to Federal
26 Rules of Civil Procedure, Rule 23(c), stipulate that the Court
27 may enter judgment as follows:

28 / / / / / / /

1 1. That the seventeen Rancharias which are the subject
2 of the provisions of paragraphs 2 through 11 inclusive, of this
3 stipulation, are as follows:

- 4 Big Valley
- 5 Blue Lake
- 6 Buena Vista
- 7 Chicken Ranch
- 8 Cleverdale
- 9 Elk Valley
- 10 Greenville
- 11 Horttown
- 12 North Fork
- 13 Piscayune
- 14 Pineville
- 15 Potter Valley
- 16 Quartz Valley
- 17 Redding
- 18 Redwood Valley
- 19 Rohnerville
- 20 Smith River

21 These rancherias are more fully described in the
22 attached Exhibit "A", which is incorporated herein by reference
23 as though set forth in full.

24 2. The Court shall certify a class consisting of all
25 those persons who received any of the assets of the rancherias
26 listed and described in paragraph 1 pursuant to the California
27 //////////

1 Rancheria Act 1/ and any Indian heirs, legatees or successors in
 2 interest of such persons with respect to any real property they
 3 received as a result of the implementation of the California
 4 Rancheria Act.

5 3. The status of the named individual plaintiffs and
 6 other class members of the seventeen rancherias named and
 7 described in paragraph 1 as Indians under the laws of the United
 8 States shall be restored and confirmed. In restoring and
 9 confirming their status as Indians, said class members shall be
 10 relieved from the application of Sections 2(d) and 10(b) of the
 11 California Rancheria Act and shall be deemed entitled to any of
 12 the benefits or services provided or performed by the United States
 13 for Indians because of their status as Indians, if otherwise quali-
 14 fied under applicable laws and regulations.

15 4. The Secretary of the Interior shall recognize the
 16 Indian Tribes, Bands, Communities or groups of the seventeen
 17 rancherias listed in paragraph 1 as Indian entities with the same
 18 status as they possessed prior to distribution of the assets
 19 of these Rancherias under the California Rancheria Act, and said
 20 Tribes, Bands, Communities and groups shall be included on the
 21 Bureau of Indian Affairs' Federal Register list of recognized
 22 tribal entities pursuant to 25 CFR, Section 83.6(b). Said Tribes,
 23 Bands, Communities or groups of Indians shall be relieved from
 24 the application of section 11 of the California Rancheria Act and
 25 shall be deemed entitled to any of the benefits or services
 26 provided or performed by the United States for Indian Tribes,

27
 28 1/ Act of August 18, 1958, P.L. 85-671, 72 Stat. 69, as
 amended by the Act of August 11, 1954, 78 Stat. 195.

1 Bands, Communities or groups because of their status as Indian
2 Tribes, Bands, Communities or groups.

3 5. The Court shall not include in any judgment entered
4 pursuant to this stipulation any determination of whether or to
5 what extent the boundaries of the rancherias listed and described
6 in paragraph 1 shall be restored and shall retain jurisdiction to
7 resolve this issue in further proceedings herein.

8 6. Any named individual plaintiff or class member who
9 received or presently owns fee title to an interest in any former
10 trust allotment by reason of the distribution of the assets of
11 any of the Rancherias listed in paragraph 1 shall be entitled to
12 elect to restore any such interest to trust status, to be held by
13 the United States for the benefit of such Indian person(s).

14 7. Within two years of date of notice of this
15 judgment, as provided in paragraph 9, the Indian Tribes,
16 Bands, Communities or groups of the seventeen rancherias listed
17 in paragraph 1 that are recognized by the Secretary of the
18 Interior pursuant to paragraph 4 herein may arrange to convey
19 to the United States all community-owned lands within their
20 respective rancherias to which the United States issued fee
21 title in connection with or as the result of the distribution
22 of the assets of said rancherias, to be held in trust by the
23 United States for the benefit of said Tribes, Bands, Communities
24 or groups, authority for the acceptance of said conveyances
25 being vested in the Secretary of Interior under section 5 of
26 the Act of June 18, 1934, "The Indian Reorganization Act," 48
27 Stat. 985, 25 U.S.C. §465 as amended by section 201 of the
28 ///////

--4--

EXH. A PG 4 OF 13 PGS

1 Indian Land Consolidation Act, Pub. L. 97-459, Title II, 96 Stat.
 2 2515 and/or the equitable powers of this court.

3 8. Any named plaintiff or other class member herein may
 4 elect to convey to the United States any land for which the United
 5 States issued fee title in connection with or as the result of the
 6 distribution of assets of said rancherias to be held in trust for
 7 his/her individual benefit or the benefit of any other member or
 8 members of the rancheria, authority for the acceptance of said
 9 conveyances being vested in the Secretary of the Interior under
 0 section 5 of the Act of June 18, 1934, "The Indian Reorganization
 1 Act," 48 Stat. 985, 25 U.S.C. §465 as amended by section 203 of the
 2 Indian Land Consolidation Act, Pub. L. 97-459, Title II, 96 Stat.
 3 1512 and/or the equitable powers of this court.

4 9. Upon entry of judgment herein the United States shall
 5 give personal mail notice to each individual plaintiff and other
 6 class members (to the extent such persons can be identified and
 7 located through the exercise of reasonable efforts) that said indi-
 8 viduals may elect to return their lands to trust pursuant to the
 9 judgment entered pursuant to this stipulation. Said notice shall
 0 advise that the Bureau of Indian Affairs will assist those indivi-
 1 duals desiring to convey lands to the United States, including pro-
 2 viding for forms and instructions. In addition, the United States
 3 shall aid and assist class members in perfecting said conveyances
 4 by obtaining any necessary policies of title insurance or taking any
 5 other actions administratively required to complete such conveyances.
 6 Nothing in this Stipulation shall require the United States to pro-
 7 vide funds for the payment of real property taxes which may have

8 //

1 accrued in the past or may accrue in the future with respect to
2 lands located on any Rancheria as described in Exhibit A; provided,
3 however, that this Stipulation does not represent a concession by
4 any party hereto that any of said property is subject to real
5 property taxes.

6 The United States shall also give general notice of the
7 rights provided by this paragraph 9 by publishing notice once each
8 week for one month in newspapers of general circulation most likely
9 to be read by class members, and by posting notice in a conspicuous
10 location on or near each of the seventeen rancherias named in
11 paragraph 1.

12 10. The Secretary of the Interior, named individual
13 plaintiffs, and other class members agree that the distribution
14 plans for these Rancherias shall be of no further force and effect
15 and shall not be further implemented; however, this provision shall
16 not affect any vested rights created thereunder.

17 11. All claims whatsoever for money damages against the
18 United States resulting from the distribution of the assets of the
19 seventeen rancherias named in paragraph 1 under the Rancheria Act
20 and arising out of the implementation of said Act shall be dismissed
21 with prejudice, plaintiffs having specifically considered the poten-
22 tial value of said claims, the probability of the success thereof,
23 and the value of the relief to be obtained under this settlement
24 agreement.

25 12. For the purpose of resolving any disputes which arise
26 among the parties in the course of implementing the judgment to be
27 entered pursuant to this stipulation, or for extending the time
28 //

1 within which any act may or must be performed under this Stipulation,
2 the Court shall retain jurisdiction over this matter for a period
3 of two(2) years from entry of judgment, or for such longer time as
4 may be shown to be necessary on a duly-noticed motion by any party.

5 13. Entry of judgment pursuant to this stipulation shall
6 constitute a final settlement of all claims which named plaintiffs
7 and plaintiff class members have or may have against the United
8 States and its officers and employees arising out of the implementa-
9 tion of the California Rancheria Act at the seventeen Rancherias
10 listed in paragraph 1.

11 14. Except as hereafter specifically provided in paragraphs
12 15-19, the claims asserted in this action by or on behalf of any
13 persons who received any of the assets of the Graton, Scotts Valley,
14 Guideville, Strawberry Valley, Cache Creek, Paskenta, Ruffeys, Mark
15 West, Wilton, El Dorado, Chico or Mission Creek Rancherias are
16 dismissed without prejudice to their being refiled in another action
17 and defendants shall not assert any laches defense to any such
18 subsequent action they could not have asserted prior to the date
19 this action was filed.

20 15. The claims of Ethel Whiterock, Minerva Pike, Jesse
21 Elliott, Nora Cooper and Irene Young who received assets from the
22 termination of the Guideville Rancheria under the California
23 Rancheria Act shall be dismissed on grounds of res judicata based
24 on the stipulation and judgment entered in Whiterock et al. v.
25 Udall, Fed. Dist. Ct. N.D. Cal. No. 50584 SAW.

26 16. The claims of all the named and unnamed class members
27 represented in Taylor et al. v. Hickel, C-70-719 SAW (N.D. Cal.)
28 //

1 from the Auburn Rancheria shall be dismissed on grounds of res
2 judicata.

3 17. The claims asserted in this action against the United
4 States on behalf of Frank Truvido and Gloria Truvido of Graton
5 Rancheria who were parties to Frank Truvido and Gloria Truvido
6 v. Morton, C-72-181 GBH (N.D. Cal.), shall be dismissed on grounds
7 of res judicata.

8 18. The claims asserted in this action on behalf of Teresa
9 Boggs of the Scotts Valley Rancheria who was a party to Teresa Boggs
10 and Bessie Ray v. Rogers C.B. Morton, C-71-1714 RFP (N.D. Cal.),
11 shall be dismissed on the grounds of res judicata.

12 19. The claims asserted in this action by any person who
13 received any of the assets of the Robinson or Table Bluff Rancherias
14 pursuant to the California Rancheria Act shall be dismissed from this
15 action since prior to filing of this action those persons had filed
16 independent actions in Duncan et al., v. Andrus, Fed. Dist. Ct.,
17 N.D. Cal. No's C-71-1572 WWS, C-71-1713 WWS and Duncan et al., v.
18 U.S., (Ct. Cls.) No 19-75 and Table Bluff Band et al., v. Andrus,
19 No. C-75-2525 WWS, which actions are still pending.

20 ENTERED IN CIVIL DOCKET 3 AUG 1983
21 Dated: July 19, 1983 CALIFORNIA INDIAN LEGAL SERVICES

22
23 By: David J. Rapport
24 DAVID J. RAPPORT
Attorneys for Plaintiffs

25 Dated: July 15, 1983 JOSEPH P. RUSSONIELLO
United States Attorney

26 IT IS SO ORDERED
27 SPENCER WILLIAMS By: Paul E. Locke
28 U. S. DISTRICT JUDGE PAUL E. LOCKE
Assistant United States Attorney
Attorneys for Federal Defendants

RANCHERIA DESCRIPTIONS

BIG VALLEY

The Big Valley Rancheria, 118.45 acres, is located on the south shore of Clear Lake near Finley in Lake County, California.

Tract 1: SE1/4NW1/4, NE1/4SW1/4 and Lot 3 (being the fractional NE1/4NW1/4), Section 32, T. 14 N., R. 9 W., Mount Diablo Meridian, California.

Tract 2: That portion of the SE1/4SW1/4 Section 29 and NE1/4NW1/4 Section 32, T. 14 N., R. 9 W., Mount Diablo Meridian, which is north of the United States Meander Line for Clear Lake and which is above the low water line of Clear Lake, subject to a flowage easement.

BLUE LAKE

The Blue Lake Rancheria, 30.92 acres, is located adjacent to the city of Blue Lake, Humboldt County, California.

A tract of land situate in a portion of the SE1/4SW1/4 Section 19 and in a portion of the NE1/4NW1/4 Section 30, T. 6 N., R. 2 E., Humboldt Meridian and more particularly described in a Warranty Deed recorded in Volume 107 of Deeds, page 224 in the records of Humboldt County, California.

BUENA VISTA

The Buena Vista Rancheria, 67.5 acres, is located in Amador County, California.

Commencing at the NE corner of Section 19, T. 5 N., R. 10 E., Mount Diablo Meridian, California, thence running west along section line 578 feet, thence at right angles south 5280 feet, thence at right angles east 578 feet, thence at right angles north 5280 feet to place of beginning.

CHICKEN RANCH

The Chicken Ranch Rancheria, 40 acres, is located in Tuolumne County, California.

E1/2E1/2NE1/4 Section 20, T. 1 N., R. 14 E., Mount Diablo Meridian, California.

CLOVERDALECLOVERDALE

The Cloverdale Rancheria, 27.50 acres, is located adjacent to and south of the town of Cloverdale, Sonoma County, California.

All these certain lots, pieces or parcels of land, situate, lying and being in the Township of Cloverdale, County of Sonoma, State of California, and bounded and particularly described as follows, to wit: Beginning at a point in the center of the main public road leading from Cloverdale to Healdsburg and at the northwesterly corner of the land formerly owned by Louis Bee, which is an iron pipe two (2) inches in diameter, two (2) feet long, driven below the surface of the ground, from which a fir tree five (5) feet in diameter marked "R.M.", and known as station 8 on the Muscalacon Grant Line bears south 47° W., 39.38 chains distant; thence N. 47° 40' E., along the northerly line of the land formerly owned by Louis Bee, 49.25 chains; thence north 59° 15' W., 6.07 1/2 chains to the southerly line of the land of Helena M. Woolsey, thence S. 47° 28' W., along the southerly line of the land of Helena M. Woolsey, 46.68 chains to the center line of the hereinbefore mentioned public road; thence S. 34° 15' E., along the center line of said road 5.71 chains to the place of beginning, containing 27.50 acres. (Note - above area included Northwestern Pacific Railroad right of way.)

ELK VALLEY

The Elk Valley Rancheria, 100 acres, is located near the town of Crescent City, Del Norte County, California.

SE1/4SE1/4, S1/2S1/2NE1/4SE1/4 Section 22; SW1/4SW1/4, S1/2S1/2NW1/4SW1/4 Section 23, T. 16 N., R. 1 W., Humboldt Meridian, California.

GREENVILLE

The Greenville Rancheria, 275 acres, is located approximately three miles east of Greenville, Plumas County, California.

Parcel 1: N1/2 Lot 4, Section 5; N1/2 Lot 1, Section 6, T. 26 N., R. 10 E., Mount Diablo Meridian, California.

Parcel 1A: SE1/4 Section 31, T. 17 N., R. 10 E., Mount Diablo Meridian, California.

Parcel 2: Beginning at the S.E. corner of Plumas County Swamp and Overflowed Land Survey No. 37, N. 31 1/4° E., 3.72 chains from the 1/4 Section corner on the South line of Section 6, T. 26 N., R. 10 E., M.D.M., and running thence N

72 1/2 W., 15.80 chains; thence N. 4 E., 42.00 chains, thence E. 2.06 chains; thence N. 14.03 chains; thence E. 7.97 chains to the North and South centerline of said Section 6; thence S. 23.85 chains to the center of said Section 6; thence E. 5.00 chains; thence S. 4 1/2 W., 36.88 chains to the place of beginning, containing 75 acres.

MOORETOWN

The Mooretown Rancheria, 160 acres, is comprised of two parcels, one-half mile apart. It is located in Butte County, California.

Parcel 1: N1/2NE1/4 Section 22 T. 20 N., R. 6 E., Mount Diablo Meridian, California.

Parcel 2: N1/2NE1/4 Section 23, T. 20 N., R. 6 E., Mount Diablo Meridian, California.

NORTH FORK

The North Fork Rancheria, 80 acres, is located about two miles from the town of North Fork, Madera County, California.

SE1/4NE1/4 Section 20, and SW1/4NW1/4 Section 21, T. 8 S., R. 23 E., Mount Diablo Meridian.

PICAYUNE

The Picayune Rancheria, 80 acres, is located three miles south of Coarsegold in Madera County, California.

N1/2NE1/4 Section 29, T. 8 S., R. 21 E., Mount Diablo Meridian.

PINOLEVILLE

The Pinoleville Rancheria, 99.53 acres, is located in Mendocino County, California.

Tract 1: A portion of Lot 142 of Healey's Survey and Map of the Yokayo Rancho containing 3 acres and more particularly described in deed filed in Book 123 of Deeds, page 148, Recorder's Office, County of Mendocino.

Tract 2: A portion of Lots 141 and 142 of the Yokayo Rancho containing 96.53 acres and more particularly described in deed filed in Book 133 of Deeds, page 283, Recorder's Office, County of Mendocino.

POTTER VALLEY

The Potter Valley Rancheria, 96 acres, is located near the town of Potter Valley, Mendocino County, California.

Tract 1: A metes and bounds description in Section 19, T. 17 N., R. 11 W., Mount Diablo Meridian and more particularly described in Deed recorded in Book 116 of Deeds, Page 197, Mendocino County, containing 16 acres.

Tract 2: NW1/4SE1/4, SE1/4NW1/4 Section 35, T. 18 N., R. 12 W., Mount Diablo Meridian, containing 80 acres.

QUARTZ VALLEY

The Quartz Valley Indian Reservation, 604 acres, is located in Siskiyou County, California.

Tract 1: NW1/4, W1/2SW1/4 Section 2, T. 43 N., R. 10 W., E1/2SE1/4 Section 3 and a fractional portion of the NE1/4NE1/4 Section 3, T. 43 N., R. 10 W., Mount Diablo Meridian, containing 364 acres.

Tract 2: E1/2SE1/4 Section 34 and SW1/4 Section 35, T. 44 N., R. 10 W., Mount Diablo Meridian, containing 240 acres.

REDDING

The Redding Rancheria, 30.89 acres, is located south of Redding in Shasta County, California.

Tract No. 8 of the Anderson Valley Farms, situate, lying and being on the Rancho Buena Ventura or Reading Grant, in the County of Shasta, State of California.

REDWOOD VALLEY

The Redwood Valley Rancheria, 80 acres, is located north of the town of Redwood Valley, Mendocino County, California.

NE1/4SW1/4, fractional part of SE1/4NW1/4 Section 32, T. 17 N., R. 12 W., Mount Diablo Meridian and fractional part of Lot 131 of Healey's Survey and Map of Yokayo Rancho.

ROHNERVILLE

The Rohnerville Rancheria, 15.22 acres, is located near Fortuna, Humboldt County, California, and overlooks the village of Rohnerville.

Tract 1: A parcel of land situate in the E1/2SE1/4 Section 1, T. 2 N., R. 1 W., Humboldt Meridian containing 15 acres and more particularly described in a deed recorded in Volume 116 of Deeds, page 93 in the records of Humboldt County, California.

Tract 2: Commencing at the NW corner of the above tract and running thence N. 37 20' W. 215.5 feet; thence S. 10.6 feet; thence W. 40 feet; thence N. 60 feet; thence E. 40 feet; thence S. 37 20' E. 277 feet; thence S. 89 W. 37.5 feet to place of beginning, containing 0.22 acres, together with a spring.

SMITH RIVER

The Smith River Rancheria, 163.96 acres, and an unsurveyed island known as Prince Island, 14.25 acres, are located in Del Norte County, California.

Tract 1: Frac. W1/2, N1/2NW1/4NE1/4, NE1/4NE1/4 Section 17, T. 18 N., R. 1 W., Humboldt Meridian, California, containing 163.96 acres.

Tract 2: Unsurveyed island in the Pacific Ocean about 3/4 mile north of Smith River in Section 17, T. 18 N., R. 1 W., Humboldt Meridian, designated on the official plat of survey as Hunters Rock and on the U.S.C. & G. Chart No. 5900 as Prince Island, 14.25 acres.

1 DAVID J. RAPPORT
2 CALIFORNIA INDIAN LEGAL SERVICES
3 P.O. Box 488
4 200 W. Henry Street
5 Ukiah, California 95482
6 Telephone: (707) 462-3825
7 Attorneys for Plaintiffs

FILED

AUG 4 1987

WILLIAM L. WHITTAKER
Clerk, U.S. District Court
Northern District of California
SAN JOSE

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

219
W

10	TILLIE HARDWICK, et al.,	)	NO. C-79-1710 SW
11	Plaintiffs,)	
12	vs.	)	STIPULATION TO ORDER
13	UNITED STATES OF AMERICA, et al.,	)	PRESCRIBING NOTICE OF
14	Defendants.	)	PROPOSED CLASS ACTION
15		)	SETTLEMENT AND HEARING
		)	ON APPROVAL OF SETTLEMENT
		)	AND ORDER
		)	(AMADOR COUNTY)

16 Through their respective attorneys of record, plaintiffs and
17 defendant County of Amador hereby stipulate as follows:

18 1. On April 21, 1987, plaintiffs and defendants Amador
19 County, the Tax Collector for Amador County, the Assessor for
20 Amador County, and the Board of Supervisors of Amador County, en-
21 tered a Stipulation for Entry of Judgment which would certify a
22 subclass consisting of class members from the Buena Vista Ranch-
23 eria in Amador County.

24 2. Under Federal Rule of Civil Procedure 23(e), before this
25 action can be compromised as proposed in the above-referenced
26 Stipulation for Entry of Judgment notice of the proposed settle-
27 ment must be given to all members of the subclass in such manner
28 as the Court directs and the Court must determine after hearing

1 whether the proposed settlement shall be approved as fair, just
2 and equitable to the class.

3 3. Plaintiffs shall give notice to the subclass entirely at
4 their expense as provided in this paragraph. A copy of the
5 notice that plaintiffs shall give is attached hereto as Exhibit A
6 and is incorporated herein by reference as though set forth in
7 full. Within fifteen (15) days after the Court issues its Order
8 approving this Stipulation the plaintiffs shall:

9 (1) Mail a copy of Exhibit A to each subclass member
10 listed in the attached Exhibit B, postage pre-paid, using
11 California Indian Legal Services, Attention: David Rapport, P.O.
12 Box 488, Ukiah, California 95482 as the return address; and

13 (2) Publish Exhibit A as a legal notice once in the
14 Amador Dispatch, P.O. Box 907, Jackson, California 95642.

15 4. Fifteen days following mailing and publication of the
16 notice required by paragraph 3 plaintiffs shall file a return
17 showing what they have done to comply with paragraph 3.

18 5. On or about forty-five days following mailing and publi-
19 cation of the notice required by paragraph 3 plaintiffs shall
20 prepare a report of those persons who have elected to be excluded
21 from the class, those whose notices were returned as undelivered,
22 those who object to the settlement, summarizing the substance of
23 the objections, and those who have requested a hearing on the
24 settlement. If one or more timely hearing requests have been
25 received, plaintiffs shall obtain a hearing date from the Court
26 and send 15 days advance written notice of the time, date and
27 location of the hearing to the persons and in the manner as
28 specified in paragraph 3. Prior to the hearing plaintiffs shall

EXHIBIT A**NOTICE OF RIGHT TO HEARING ON APPROVAL
OF PROPOSED CLASS ACTION SETTLEMENT**

Hardwick v. United States, C-79-1710 SW, is a class action lawsuit brought in the United States District Court for the Northern District of California to set aside the termination of thirty-four (34) California Indian Rancherias under the California Rancheria Act. On December 22, 1983, the Court approved a settlement of the claims against the federal government and entered a judgment against the federal government.

On April 21, 1987, plaintiffs and the defendant Amador County entered a written agreement to compromise and settle the remaining claims asserted against Amador County on behalf of class members from the BUENA VISTA RANCHERIA.

YOU ARE A MEMBER OF THE CLASS REPRESENTED IN THIS LAWSUIT, AND YOUR LEGAL RIGHTS WILL BE AFFECTED BY THIS SETTLEMENT, IF YOU ARE AN INDIAN PERSON FROM THE BUENA VISTA RANCHERIA AND YOU:

1. Received a property interest in your Rancheria when deeds to rancheria property were distributed under the Rancheria Act; or

2. Have acquired title to any such Rancheria property by inheritance, gift purchase or other means after deeds to Rancheria property were distributed under the Rancheria Act.

THE GENERAL TERMS OF THE SETTLEMENT ARE AS FOLLOWS:

1. The original rancheria boundaries will be restored as "Indian Country" to clarify the respective jurisdictions of the

1 file with the Court a copy of the notice together with a proof
2 of service. If no timely hearing requests are received, plain-
3 tiffs shall submit a proposed judgment for the Court's approv-
4 al.

5 Dated: 7/24/87

CALIFORNIA INDIAN LEGAL SERVICES

6
7 By: 
8 DAVID J. RAPPOFF
Attorneys for Plaintiffs

9 Dated: July 21, 1987

JOHN F. BAHN, Amador County Counsel

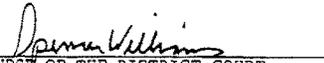
10
11 By: 
12 PATRICK M. KEENE
13 Deputy County Counsel
Attorneys for Defendant
COUNTY OF AMADOR

14 O R D E R

15 Having read the foregoing stipulation and good cause ap-
16 pearing therefor,

17 IT IS SO ORDERED.

18 Dated: AUG 4 1987

19 
20 JUDGE OF THE DISTRICT COURT

tribal, county, state and federal governments.

2. Liens to secure unpaid county property taxes will be cancelled.

3. Property taxes for the 1979 and any subsequent tax year on rancheria property owned by class members and which class members have paid to Amador County will be refunded to class members who return their property to federal trust status no later than December 31, 1988.

4. Property located on the rancherias that is owned by class members will not be taxable or subject to assessment.

5. All county maintained roads crossing the Buena Vista Rancheria shall continue to be owned and maintained by Amador County.

NOTICE OF RIGHT TO HEARING

PLEASE TAKE NOTICE that you can request a hearing on approval of this settlement at which the Court will review the matter to decide whether to approve the settlement and to enter judgment against Amador County as agreed.

Any class member may request a hearing before the Honorable Spencer Williams, Judge of the Federal District Court and may appear personally or through legal counsel at the hearing to oppose or otherwise question the settlement. Requests for a hearing must be addressed to the attention of David Rapport, CILS, P.O. Box 488, Ukiah, California 95482 and be post marked by no later than _____ [30 days after notice is mailed and

published]. If a hearing is requested, notice of the time and place of the hearing will be given by newspaper and/or first class mail at least fifteen (15) days prior to the hearing date. If no hearing is requested, the Court will approve the settlement without conducting a hearing in open court.

YOUR RIGHTS

To protect your legal rights you may do any of the following:

1. You may give notice that you wish to be excluded from the settlement by sending a letter containing (1) your name and address, (2) a statement that you wish to be excluded from the settlement, and (3) a reference on the outside of the envelope to Hardwick v. U.S., C-79-1710 SW, to the Attention of David Rapport, California Indian Legal Services (CILS) Post Office Box 488, Ukiah, CA 95482. The letter must be received by CILS no later than midnight, _____ [30 days after notice is mailed and published]. If you give notice under this paragraph, you will not receive the benefits provided by the settlement.

2. Any class member may submit written objections to the settlement. Objections must be addressed to the Attention of David Rapport, CILS, Post Office Box 488, Ukiah, CA 95482 and contain on the outside of the envelope a reference to Hardwick v. U.S., C-79-1710 SW. Objections must be received by CILS no later than midnight, _____ [30 days after notice is mailed and published].

3. You may seek to intervene in the action. Motions to intervene must be filed in accordance and otherwise comply with the Federal Rules of Civil Procedure and applicable Local Rules of the Federal District Court for the Northern District of California.

4. You may request a hearing as described previously.

5. If you have questions about the settlement, you may consult your own attorney or call or write plaintiffs' attorneys as follows:

David J. Rapport
California Indian Legal Services
P.O. Box 488
200 W. Henry Street
Ukiah, CA 95482
7070-462-3825

DO NOT CALL OR WRITE THE COURT WITH QUESTIONS.

CLASS MEMBERS WHO DO NOTHING IN RESPONSE TO THIS NOTICE will be bound by the judgment and will receive the tax refunds and other benefits provided by the judgment.

BUENA VISTA RANCHERIA

<u>Distributee</u>	<u>Date of Birth</u>	<u>Last Known Address</u>
1. Louie Oliver	04-30-09	Deceased
2. Annie Oliver	<u>12-18-97</u>	Deceased 7-11-72
<u>Present Indian Landowner</u>		
3. Eros Oliver	09-08-23	Route 1, Box 237A, Ione, CA 95640
4. Lucille Lucero	01-29-19	Route 1, Box 231, Ione, CA 95640

Last Will and Testament

OF

LUCILLE LUCERO

I, LUCILLE LUCERO, a resident of the County of Amador, State of California, declare that this is my Will.

FIRST: I revoke all Wills and Codicils that I have previously made.

SECOND: I declare that I am not married and that I have no children.

THIRD: I give all of my property, whether real or personal, and wherever situate, to DONNAMARIE GROVE.

FOURTH: If any beneficiary under this Will in any manner, directly or indirectly, contests or attacks this Will or any of its provisions, any share or interest in my estate given that contesting beneficiary under this Will is revoked and shall be disposed of in the same manner herein as if that contesting beneficiary had predeceased me without issue.

FIFTH: I nominate and appoint DONNAMARIE GROVE to serve as Executrix of this Will, without bond.

The term "my Executrix" as used in this Will, shall include any personal representative of my estate.

I authorize my Executrix, as aforesaid, to sell, with or without notice, at either public or private sale, or to lease any property belonging to my estate, subject only to such confirmation of Court

as may be required by law.

SIXTH: I am making and executing this Will in duplicate originals, one of the executed copies to be retained by my attorney, ROY J. VAN DEN HEUVEL, 604 B Street, Suite 1, Yuba City, California, the other to be retained by me, and I direct that either of these instruments be admitted to probate as my Will without the other. So that there may be no presumption of revocation of this Will by me in the event that either copy cannot be found after my death, I do hereby declare that I will not revoke this Will except by a later Will expressly revoking this Will or by destruction of both executed copies hereof. The production after my death of either copy of the duplicate originals of this Will shall be prima facie evidence that this Will was in full force and effect at the time of my death unless a Will is produced executed by me at a date subsequent hereto.

IN WITNESS WHEREOF, I hereby subscribe my name to this Will this 27 day of November, 1978 at Yuba City, California.

Lucille Lucero
LUCILLE LUCERO

The foregoing instrument, consisting of two (2) pages, including this page, signed by us as witnesses, was on the day it bears date, by the said LUCILLE LUCERO, signed and published as and declared to be her Will in the presence of each other, who, at her request and in her presence, have subscribed our names as witnesses thereto.

Roy J. Van Den Heuvel residing at 360 S. 2nd St.
Yuba City, Calif.

"OWNERSHIP CHANGE RECEIVED"

RECORDING REQUESTED BY AND
 WHEN RECORDED MAIL TO:

OFFICIAL RECORDS
 AMADOR COUNTY, CALIF.
 RECORD REQUESTED BY
Donnamarie Potts
 1985 JUL 24 PM 2:33

Ms. Donnamarie Potts
 Post Office Box 1999
 Marysville, CA 95901

SHELDON D. JOHNSON
 COUNTY RECORDER

\$7.00 pd.

(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

MAIL TAX STATEMENTS TO ADDRESS SHOWN ABOVE

THE UNDERSIGNED GRANTOR(S) DECLARE:

DOCUMENTARY TRANSFER TAX is \$-0- -- No consideration.
 Unincorporated area City of
 Assessor's Parcel No.: 12-10-005
 Computed on full value of property conveyed; or
 Computed on full value less liens or encumbrances remaining at time
 of sale.

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, LUCILLE LUCERO, a widow, hereby grants to DONNAMARIE POTTS, a single woman, all of the grantor's right, title, and interest in the real property situated in the County of Amador, State of California, described as follows:

Commencing at the Northeast corner of Section 19, Township 5 North, Range 10 East, M.D.B. & M., and thence running West along Section line 578 feet; thence at right angles East 578 feet; thence at right angles North 5280 feet to the place of beginning, being the same property described in deed recorded in Book 86, page 198, Official Records of Amador County, California.

EXCEPTING THEREFROM the following:

All that portion of the Northeast quarter of Section 19, Township 5 North, Range 10 East, M.D.M., described as follows:

Beginning at a 3 inch iron pipe fence end post at the Southerly end of a new road fence, from which point a 1-1/2 inch capped iron pipe stamped "U.S. I.S. 1953 17, 18, 19 & 20" found marking the Northeast corner of said Section 19, bears North 30°08'30" East 1099.38 feet distant; thence, from said point of beginning, along the Southerly prolongation of said new road fence, South 00°39'30" East 65.11 feet to a 3/4 inch steel reinforcing rod tagged R.C.E. 10761; thence South 01°58'50" West 385.29 feet to a similar steel rod; thence South 19°02'00" West 186.24 feet to a 2 iron fence post; thence South 62°22'50" West 6.19 feet to a 3/4 inch steel reinforcing rod tagged R.C.E. 10761 set on the Westerly line of that certain parcel of land conveyed by the United States of America, Department of the Interior to Louis Oliver and his wife, Annie Oliver, by instrument dated October 5, 1959, and recorded in the

4846

office of the Recorder of Amador County on October 8, 1959, in Book 86 of Official Records at page 198; thence along the Westerly line of said Oliver parcel of land, North 01°58'50" East 481.11 feet to a similar steel rod, from which point the Northwest corner of said Oliver parcel of land, bears North 01°58'50" East 1100.00 feet distant; thence South 88°01'10" East 40.00 feet to a similar steel rod; thence North 08°26'00" East 151.30 feet to the point of beginning; containing 0.584 acres of land, more or less.

Dated: May 27, 1986.

Lucille Lucero
LUCILLE LUCERO

State of California)
)ss
County of Amador)

On May 27, 1986, before me, the undersigned, a Notary Public in and for the State of California, personally appeared LUCILLE LUCERO, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed it.

Patrick M. Gene
Notary Public



CONSTITUTION

OF THE BUENA VISTA RANCHERIA BAND OF MEWUK INDIANS

PREAMBLE

We, the members of the Buena Vista Rancheria Band of Mewuk Indians ("Tribe") do hereby establish and adopt this Constitution to govern under our own laws and customs for the common good and well-being of the Tribe, and its members, to maintain and foster our tribal culture, language and identity, to protect and conserve our land and natural resources, to promote the social, economic and general welfare of our people, to insure our political integrity, to protect the individual rights of our members, to maintain peace and order through the establishment and administration of a justice system, and to preserve, secure and exercise all of the rights and powers inherent in our sovereign status, or guaranteed to us by the laws of the United States. This document shall govern the Tribe from the date of its ratification.

This Constitution shall supersede the existing Constitution of the Tribe, and shall govern the Tribe from its effective date.

ARTICLE I

Name

The name of this Tribe shall be the Buena Vista Rancheria Band of Mewuk Indians. Throughout this Constitution, where the words "Tribal Council" are used, they refer to the Tribe's governing legislative body. The

term "Tribe" as used in the Constitution denotes the Buena Vista Rancheria Band of Mewuk Indians.

ARTICLE II

Territory and Jurisdiction

The jurisdiction of the Tribe shall extend to any and all lands, water and resources held by the Tribe, and to such other additional lands, water and resources acquired by the Tribe or by the United States for the benefit of the Tribe.

Except as expressly prohibited by federal law, the Tribe shall have jurisdiction over all persons, property, lands, water, air space, resources and all activities occurring within the boundaries of the Reservation or on other lands within the jurisdiction of the Tribe, notwithstanding the issuance of any right-of-way. Nothing in this Article shall be construed to limit the ability of the Tribe to exercise its jurisdiction based upon its inherent sovereignty.

ARTICLE III

Membership

Membership in the Tribe shall consist of the following classes of members:

Section 1. Historical Members

Historical members consist of the following individuals:

<u>Names:</u>	<u>Dates of Births:</u>
Louie Oliver	04/30/1889
John Oliver	08/28/1883

*Revised - Corrected
Verbally
by Lucille
&
Shannon
which
Herald Books
Closed
Session*

Eleanor Oliver	01/23/1921
Enos Oliver	09/08/1923
Marie Oliver	08/07/1925
Lucille Oliver (Lucero)	01/29/1919
Annie Howdy (Oliver)	12/18/1897
Lulu Howdy (Clifford)	05/19/1891
Richard Howdy	09/10/1921
James Howdy	05/13/1911

Donald David Lucero	09/04/1915
Donna Marie Potts	10/30/1948

Date: 8/4/94

Lucille
Lucille E. Lucero
Lucille Oliver (Lucero)

ATTEST:
Date: 8/4/94

[Signature]
Witness

Date: 8/4/94

[Signature]
Witness

Lester Oliver	02/12/1914
Lovelyn Oliver	Circa 01/01/1886
Eleanor Oliver	01/23/1921
Enos Oliver	09/08/1923
Marie Oliver	08/07/1925
Lucille Oliver (Lucero)	01/29/1919
Annie Howdy (Oliver)	12/18/1897
Lulu Howdy (Clifford)	05/19/1891
Minerva Howdy	06/22/1909
Richard Howdy	09/10/1921
James Howdy	05/13/1911
Rachel Lucero	04/15/1896
Margaret Lucero	01/10/1922
Donald David Lucero	09/04/1915
Donna Marie Potts	10/30/1948

Date: 8/4/94

Lucille E. Lucero
Lucille Oliver (Lucero)

ATTEST:

Date: 8/4/94

Sharon Lynn
Witness

Date: 8/4/94

Charles J.
Witness

Section 2. Lineal Members

Lineal members consist of all persons who are lineal descendants of any person designated in Section 1. above, and who make an application and are approved for membership under the enrollment ordinance adopted by a two-thirds (2/3) majority vote of the Tribal Council. Lineal members cannot be a member of another Indian tribe.

Section 3. Membership and Enrollment Ordinance

Enrollment of members after ratification of this Constitution shall be prepared under the purview of the enrollment ordinance. This ordinance may include, but shall not be limited to, provisions for enrollment procedures, an enrollment committee, application forms, approval and disapproval of applications, rejection notices, appeals, corrections, adoptions, disenrollment procedures and provisions for keeping the roll current.

ARTICLE IV**Governing Body****Section 1. Division of Power**

The powers of the government of the Tribe shall be divided into three distinct branches: the General Council, the Tribal Council and the Tribal Judiciary. No branch, group or person charged with the exercise of powers properly belonging to one of these branches shall exercise any powers belonging to one of the other branches, except as otherwise specified in this Constitution.

Section 2. Tribal Council

a. The governing body of the Tribe shall be the Tribal Council, except for

the powers specifically retained by the General Council. The Tribal Council shall consist of five (5) tribal members eighteen (18) years of age or older each of whom has received at minimum a two (2) year Associate of Arts degree or seventy-five (75) college units from an accredited educational institution. The five (5) member Tribal Council shall be composed of four (4) officers: the Chairperson, Vice-Chairperson, Secretary and Treasurer, plus one (1) At-Large Council member. The five (5) Tribal Council members shall be elected by the General Council on an at-large basis to serve staggered terms of two (2) years, or until such time as their successors are duly elected and installed.

b. All members of the Tribal Council shall be able to vote at all Tribal Council meetings, at all tribal elections, and on all referenda, initiatives, recalls and repeals.

c. Compensation of Tribal Council members for services rendered while conducting tribal business may be established by ordinance or resolution. Unless so established, there shall be no compensation or reimbursement for costs sustained while conducting tribal business.

d. In the event that there are not enough persons eligible to fill all positions on the Tribal Council, the existing Tribal Council members shall retain present authority, rights and duties of the full Tribal Council until new Tribal Council members can be elected or appointed at a future time.

Section 3. General Council

a. The General Council shall consist of all duly enrolled members eighteen (18) years of age or older who are enrolled under the terms and

conditions of this Constitution.

b. All members of the General Council shall be able to vote at all General Council meetings, at all tribal elections, and on all referenda, initiatives, recalls and repeals.

ARTICLE V

Powers

Section 1. General Council

a. All powers of the Tribe shall be vested in the General Council.

b. The General Council shall exercise its powers of self-government through the initiative, referendum, repeal and recall powers as set forth in this Constitution.

c. The following powers shall be exclusively reserved to the General Council. No exercise of these powers by the Tribal Council or by any other agency or officer of the Tribe shall be effective unless the General Council has given its consent to such action under this Article:

1. The power to sell or dispose of tribal interests in land or other Tribal assets.
2. The power to regulate any Tribal hunting or fishing rights.
3. The power to revoke, terminate or diminish any right reserved or delegated to the Tribe by federal law.
4. The power to grant or relinquish any Tribal jurisdiction to any other government, political subdivision of a government agency, organization, association or person, excluding decisions under 25

U.S.C. §1911.

5. The power to waive the Tribe's immunity from suit except the waiver of sovereign immunity in the context of a specific business venture or joint government venture when the waiver relates specifically and exclusively to contract liability under the venture.
6. The power to set salaries for Tribal Council members, officers and committee members.
7. The power to assert jurisdiction over juvenile matters under 25 U.S.C. §1918.

d. All powers that are not expressly mentioned in this Constitution or which are not expressly delegated in this Constitution by the General Council to the Tribal Council or any other officer or agency of the Tribe, shall not be abridged but shall be reserved to the General Council.

Section 2. Tribal Council

a. The Tribal Council shall possess the following enumerated powers subject only to those limitations imposed by this Constitution and the laws of the United States:

1. To consult, negotiate, contract or conclude agreements with federal, state, local and tribal governments and with private persons and organizations.
2. To intervene in juvenile dependency proceedings under 25 U.S.C. §1911 on behalf of the Tribe.
3. To employ legal counsel of its choice on behalf of the Tribe or for the benefit of Tribal members and to fix the fees for such counsel in accordance

with federal law;

4. To make recommendations with regard to all appropriations or appropriation estimates for all projects which are for the benefit of the members of the tribe, as part of the tribe's government-to-government relationship with the United States of America;

5. To borrow money from public and private sources and to pledge, mortgage or assign Tribal assets;

6. To set aside and to spend Tribal funds for Tribal purposes;

7. To enact ordinances upon a two thirds (2/3) majority vote of the Tribal Council, which will impose taxes on all persons, property and business activities located or conducted within tribal jurisdiction, or on real property held in trust by the United States of America for the Tribe;

8. To enact ordinances upon a two-thirds (2/3) majority vote of the Tribal Council regulating the use and development of all Tribal lands, whether assigned or unassigned, and to manage, lease or otherwise use all unassigned Tribal lands;

9. To enact ordinances upon a two-thirds (2/3) majority vote of the Tribal Council for the chartering and regulation of corporations, cooperatives, associations, special districts, housing authorities, educational and charitable institutions, political subdivisions and other entities;

10. To enact ordinances upon a two-thirds (2/3) majority vote of the Tribal Council licensing and regulating the conduct of all business activities within Tribal jurisdiction;

11. To establish business enterprises as branches or agencies of the Tribal government and otherwise to engage in business activities and projects which promote the economic well-being of the Tribe and its members;

12. To purchase, acquire, encumber, or exchange land in any manner subject to prior approval by a two-thirds (2/3) majority vote of the Tribal Council and the limiting provisions of this Article;

13. To purchase and acquire other property in any manner, subject to prior approval by a two-thirds (2/3) majority vote of the Tribal Council;

14. To condemn for Tribal purposes real property or interest in real property within Tribal jurisdiction by a two-third's (2/3) majority vote of the Tribal Council subject to approval by a majority vote of the General Council provided that:

a) the owners of assignments or property condemned by the Tribal Council shall be paid reasonable fair market value as compensation for the improvements made thereon by the assignee or owner;

b) an assignee of condemned Tribal lands shall be assigned alternative Tribal lands of comparable condition and value;

15. To enact ordinances upon a two-thirds (2/3) majority vote of the Tribal Council providing for the management, development, protection and regulation of the use of water, minerals and all other natural resources within Tribal jurisdiction;

16. To enact ordinances, or law and order codes, upon a two-thirds (2/3) majority vote of the Tribal Council governing the conduct of individuals, and to

proscribe offenses against the Tribe relating to the maintenance of order, the protection of the health, safety and welfare of all persons within Tribal jurisdiction, and to provide for the enforcement of the ordinance or law and order code of the Tribe;

17. To enact ordinances upon a two-thirds (2/3) majority vote of the Tribal Council providing for the establishment of Tribal courts or courts of Indian offenses or dispute resolution processes, and to establish procedures and methods for the selection of judges;

18. To enact ordinances upon a two-thirds (2/3) majority vote of the Tribal Council prescribing conditions under which non-Tribal members may enter and remain on Tribal land, and to establish procedures for the exclusion or removal of non-members from any land within the Tribe's jurisdiction;

19. To assert as a defense to lawsuits against the Tribe, the sovereign immunity of the Tribe. No waiver of sovereign immunity can be made by the Tribal Council without prior approval by majority vote of the General Council provided thirty percent (30%) of eligible voters are present at the General Council meeting. However, the Tribal Council can waive sovereign immunity from suit in the context of a specific business venture or joint government venture when the waiver relates specifically and exclusively to contract liability under the venture, provided that a two-thirds (2/3) majority of the five (5) Tribal Council members votes in support of the waiver;

20. To enact ordinances upon a two-thirds (2/3) majority vote of the Tribal Council regulating the domestic relations of members of the Tribe,

including paternity and child support matters, and to provide for the guardianship of minors and incompetent persons within Tribal jurisdiction, which shall include a plan of services to ensure the peace, safety, health, education and general welfare of the members of the Tribe;

21. To enact ordinances upon a two-thirds (2/3) majority vote of the Tribal Council regulating the inheritance of all lands and all property owned by persons within Tribal jurisdiction and to provide for escheat of property to the Tribe subject to approval by a majority vote of the General Council;

22. To enact ordinances upon a two-thirds (2/3) majority vote of the Tribal Council establishing procedures for the nomination, election, removal and recall of members and officers of the Tribal Council;

23. To establish Tribal employee positions, including appointment, supervision, and compensation, and to establish policies and procedures for the employment and management of all Tribal personnel;

24. To enact ordinances for the assignment of Tribal land upon approval by a two-thirds (2/3) majority vote of the Tribal Council;

25. Until such time as the General Council establishes a dispute resolution mechanism, the dispute resolution authority of the Tribe shall be vested in the Tribal Council;

26. To delegate any powers vested in the Tribal Council to subordinate Tribal officers, Tribal employees or other appropriate persons;

27. To take all actions which are necessary and proper for the exercise of the powers enumerated in this Constitution; and

28. To establish its own rules of procedure except as otherwise provided in this Constitution.

Section 3. Reserved Powers of General Council

The Tribal Council shall have all the appropriate powers necessary to implement specific provisions of this Constitution and to effectively govern Tribal affairs. All powers vested in the Tribe, but not specifically referred to in this Constitution, shall not be abridged, but shall be reserved to the General Council.

Section 4. Limited Power of the Tribal Council to Transfer Tribal Land Held In Trust By the United States of America Out of Tribal Ownership

The Tribal Council shall not exchange or transfer out of Tribal ownership any land or interests therein that is held in trust for the Tribe by the United States, unless prior to any such exchange or transfer taking effect, the proposed exchange or transfer is first approved by a majority vote of the General Council.

ARTICLE VI

Elections

Section 1. Election Ordinance

All Tribal elections shall be conducted under an election ordinance enacted by the Tribal Council. The election ordinance shall provide for voter registration, validation of election petitions, vote counting, secret balloting, absentee voting, nomination of candidates before the election date, an impartial election board selected from outside the Tribal Council that shall be responsible for conducting all Tribal elections, a procedure for resolving election disputes

and challenges to the election process, and the seating of Tribal Council members immediately after the certification of the election results. The election ordinance shall also include provisions for the conduct of recalls, referenda, amendments, repeals and vacancy elections.

Section 2. Election Committee

An Election Committee, consisting of three (3) Tribal members eighteen (18) years of age or older appointed by the General Council shall supervise and administer all elections in accordance with the election ordinance enacted by the Tribal Council. No member of the Tribal Council or candidate for a position on the Tribal Council may sit on the Election Committee.

Section 3. Tribal Council Balloting

Members of the Tribal Council shall be chosen on an at-large basis by secret ballot, the form of which shall be established by the election ordinance enacted by the Tribal Council and administered by the Election Committee.

Section 4. Voter Eligibility

Any member of the Tribe who is at least eighteen (18) years of age on the date of the election shall be eligible to vote, provided that the Tribal member is duly registered and qualified to vote.

Section 5. Qualification of Candidates

Any Tribal member qualified to vote who has completed at minimum a two (2) year Associate of Arts degree or seventy-five (75) college units from an accredited educational institution can stand for election to the Tribal Council if he or she complies with established election procedures. Tribal Council officers

shall be elected by a full majority of the Tribal Council.

Section 6. Term of Office: Present Tribal Council Members And First Election Procedures

a. All present Tribal Council officials shall continue to hold office until the first general election date following the adoption and ratification of this Constitution. The first election of Tribal Council members and officers of the Tribe under this Constitution shall be held on the first general election date following the effective date of this Constitution. Procedures for the first election shall be consistent with the provisions of this Article and the election ordinance, which shall be enacted by the Tribal Council within six (6) months after the effective date of this Constitution.

b. At the first at-large election held under this Article, the five (5) Tribal members receiving the highest number of votes shall be elected to the Tribal Council for staggered terms. Two (2) members elected by the Tribal Council as Chairperson and Secretary shall be elected for a term of two (2) years; two (2) members elected by the Tribal Council as Vice-Chairperson and Treasurer shall be elected for a term of one (1) year; and the one (1) at-large Council member shall serve a term of one (1) year. Thereafter, all members of the Tribal Council shall serve two (2) year terms of office.

Section 7. Election of Officers

The Tribal Council shall elect four (4) officers designated as:

1. Chairperson;
2. Vice-Chairperson;
3. Secretary;

4. Treasurer;

The officers shall be elected by a full majority vote from among those individuals elected to the Tribal Council.

ARTICLE VII

Duties of Officers

Section 1. Chairperson

The Chairperson shall:

- a. Preside at all meetings of the Tribal Council and the General Council;
- b. Vote at Tribal and General Council meetings only when it is necessary to break a tie vote;
- c. Subject to the approval of the Tribal Council, establish such boards, committees, or sub-committees as the business of the Tribal Council may require and serve as a non-voting member on all such committees and boards;
- d. Subject to the approval of all contracts by the Tribal Council, serve as a contracting officer or agent for the Tribe including the authority to retain legal counsel;
- e. Subject to such regulations and procedures as may be prescribed by ordinance enacted by the Tribal Council, appoint Tribal judges and Tribal law enforcement officials as are from time to time required to assure the administration and enforcement of Tribal laws;
- f. Hold no other Tribal office or engage in private remunerative employment which may pose a conflict of interest with the Tribe's enterprises or business activities during the Chairperson's term of office;

c. Perform such other duties as the Chairperson may direct.

Section 3. Secretary

The Secretary shall:

a. Call the roll, handle all official correspondence of the Tribal Council, keep the minutes of all regular and special meetings of the Tribal and General Councils, and certify the amendments to this Constitution and the enactment of ordinances and resolutions;

b. Be present at all meetings of the Tribal and General Councils unless prevented from doing so by illness or circumstances beyond his/her control;

c. In the absence of the Chairperson and Vice-Chairperson, perform, all duties and assume the responsibilities vested in the Chairperson and vote only under the circumstances the Tribal Council Chairperson can vote;

d. Ensure that copies of all ordinances, resolutions, laws, Council minutes, amendments to such documents, and proposed amendments to such are kept on file in the tribal office and in at least one safe and secure backup location.

Section 4. Treasurer

The Treasurer shall:

a. Accept, keep and safeguard all funds under the exclusive control of the Tribe by depositing them in a bank insured by an agency of the federal government or in an individual account or Tribal trust account with the Bureau of Indian Affairs, as directed by the Tribal Council. The Treasurer shall not pay or otherwise disburse any funds in the custody of the Tribal Council, or

allow such funds to be disbursed, except under procedures for such actions that are properly authorized by the Tribal Council;

b. Keep or cause to be kept an accurate record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his/her custody to the Tribal and General Councils at regular meetings and at such other times as requested by either Council;

c. Have the books and records of the Tribe audited annually by a competent independent auditor employed by the Tribal Council;

d. Be present at all meetings of the Tribal Council and General Council unless prevented from doing so by illness or circumstances beyond his/her control;

e. Provide a surety bond in an amount satisfactory to the Tribal Council. The cost of the surety bond shall be paid by the Tribe;

f. Ensure that all checks, vouchers, and purchases drawn on Tribal funds and all vouchers are signed and approved by at least two officers or designated check-signers of the Tribe under a written procedure approved and adopted by the Tribal Council.

ARTICLE VIII

Meetings

Section 1. General Council

All meetings of the General Council shall be held under the following provisions:

a. The General Council shall hold a minimum of one meeting per year

on a regular and periodic basis.

b. The annual General Council meeting shall be held on a date to be determined by the General Council. The Tribal Council may set more frequent meetings of the General Council as necessary, provided it shall publish a schedule of all such meetings.

c. Special meetings of the General Council may be called by the Tribal Chairperson, or by any member of the General Council who submits a petition containing signatures from ten (10) General Council Members or twenty-five percent (25%) of all General Council members, whichever is greater, to the Tribal Council requesting a special meeting. The petition shall be given to the Tribal Council and the meeting shall be called within thirty (30) days of delivery of a valid petition at a Tribal Council meeting. Notice of the meeting shall be mailed, or personally delivered to every member of the General Council at least five (5) working days prior to the meeting and the notice will specify the purpose of the meeting as described in the petition. The Election Committee shall certify the validity of the signatures of the General Council.

d. No business shall be transacted in the absence of a quorum. Fifteen percent (15%) of the General Council shall constitute a quorum at all General Council meetings.

e. All meetings of the General Council shall be open to all enrolled Tribal members

Section 2. Tribal Council

All meetings of the Tribal Council shall be held under the following

provisions:

a. The Tribal Council shall meet at least once per calendar quarter. The Tribal Council may schedule additional regular meetings as necessary, provided that it publishes the schedule before each such meeting.

b. A majority of the existing members of the Tribal Council shall constitute a quorum at all its meetings. No business shall be conducted in the absence of a quorum.

c. Special meetings of the Tribal Council may be called by the Chairperson or by any three (3) members of the Tribal Council. Notice of a special meeting shall be given to each Tribal Council Member at least forty-eight (48) hours prior to the meeting and shall specify the purpose of the meeting. Additionally, the notice and purpose shall be posted in the Tribal Office in full public view.

d. Each member of the Tribal Council shall have one vote on all matters, and all matters to be acted on at a Tribal Council meeting shall be approved by a majority vote of those present and voting, unless otherwise specified in this Constitution.

e. All meetings of the Tribal Council shall be governed by written rules and procedures established by the Tribal Council provided that such rules and procedures are consistent with this Constitution. These rules and procedures shall be called Tribal Council Bylaws.

f. All meetings of the Tribal Council shall be open to all Tribal members, except that access to meetings dealing with contract negotiations, personnel, or

issues of confidentiality are limited to the Tribal Council members and specifically interested parties to be determined by the Tribal Council.

ARTICLE IX

Enactment of Laws

Section 1. Ordinances

All final decisions on matters of general and permanent interest to members of the Tribe shall be embodied in ordinances. All ordinances shall be available for inspection by members of the General Council during normal office hours. Ordinances require a two-thirds (2/3) majority vote of the Tribal Council for enactment.

Section 2. Resolutions and Motions

All final decisions on matters of a short-term or one-time interest where a formal and official expression is needed shall be embodied in a written resolution and adopted by formal motion. Other official decisions of a temporary nature or relating to particular individuals, officials or committees shall be put in the form of motions and noted in the minutes and shall be available for inspection by members of the General Council during normal business hours.

Section 3. Record Keeping

All ordinances and resolutions shall be dated and numbered and shall include a certification showing the presence of a quorum and the number of members voting for and against the proposed enactment. All motions, seconds to motions, and votes for and against motions shall be noted in the minutes of

the meeting. Such minutes shall be reviewed, amended if necessary, and approved at the next regular Council meeting.

ARTICLE X

Tribal Council Vacancies

Section 1. Vacancy Criteria.

The Tribal Council shall declare a Tribal Council position vacant for any of the following reasons within fourteen (14) days after the vacancy occurs:

- a. When a Tribal Council member dies;
- b. When a Tribal Council member resigns;
- c. When a Tribal Council member is convicted of a crime that is classified as a felony by either state or federal law;
- d. When a Tribal Council member is removed from office; or
- e. When a Tribal Council member is recalled from office.

The Tribal Council shall fill a vacancy by appointment of a General Council member who qualifies for candidacy for the vacant position.

ARTICLE XI

Tribal Council

Removal and Recall

Section 1. Removal

Any member of the Tribal Council may be removed from office for any of the following reasons:

- a. Three (3) successive absences from regularly scheduled Tribal Council meetings;

b. Two (2) successive absences from regularly scheduled General Council meetings;

c. Conviction of a crime involving moral character, which includes dishonesty, misrepresentation, intentional acts arising to felonies or gross misdemeanors;

d. Omission of an act or failure to act or perform a duty of the office involving official misconduct; or

e. Misconduct in office involving a willful and unlawful act related to the performance of the duties of the office.

1. Any member of the Tribe can request removal of any Tribal Council member by submitting a written statement of charges to the Chairperson of the Tribal Council, or in the case of a request for removal of the Chairperson, to the Vice-Chairperson of the Tribal Council. The written statement must be received by the challenged Tribal Council member no later than ten (10) days before the next regular Tribal Council meeting at which he/she is to appear.

2. At the next regular Tribal Council meeting held at least ten (10) days after the submission of such written statement, the charging party shall present his/her allegations and proof against the accused member of the Tribal Council, and the accused member shall be given an opportunity to reply to all charges by presenting his/her allegations and proof to the Tribal Council.

3. After hearing all the charges and proof presented by both sides, the Tribal Council shall take a vote on whether the challenged member shall be

removed from office. The challenged Tribal Council member shall not vote nor serve in his/her capacity as a Tribal Council member in the removal proceedings. If a two-thirds (2/3) majority of the Tribal Council members who are eligible to vote, vote to remove the challenged Tribal Council member, his/her seat shall be declared vacant.

Section 2. Recall

Every person elected to the Tribal Council shall be subject to recall from such office by the General Council as follows:

a. Any member of the Tribe may circulate a petition among the eligible voters of the Tribe requesting a special recall election, which shall contain the name of the Tribal Council member whose recall is sought and shall state the claims against the member in one hundred (100) words or less. If at least one-third (1/3) of the eligible voters sign the petition, it shall be presented to the Tribal Council Chairperson, or if claims are made against the Tribal Council Chairperson, to the Vice-Chairperson of the Tribal Council.

b. The Tribal Council Chairperson, or if claims are made against the Tribal Chairperson, the Tribal Council Vice-Chairperson, shall then request the Election Committee to certify the validity of such signatures of eligible voters maintained by the Tribe. If the required number of valid signatures appears on the recall petition, the Tribal Council, shall establish a date for a recall election, within thirty (30) days from receipt of the petition, by notifying General Council members of the election.

c. At least 21 days before the recall election is held, election notices

must be sent by first class mail to all eligible voters. Notices must be sent to the last known address of each eligible voter according to the most recent voter registration list available and shall include a reprint or photocopy of the claims against the Tribal Council member challenged in the recall petition.

d. Within thirty (30) days after the recall election date has been established, a General Council meeting shall be held. The party seeking the recall shall present his or her allegations and proof against the member of the Tribal Council whose recall is sought, and that Tribal Council member shall be given an opportunity to reply to all charges by presenting his/her allegations and proof to the General Council at that time.

e. The ballot used for a recall election shall contain the question: "Shall [name of member] be recalled from their office on behalf of the Tribe?". The ballot shall contain a space opposite such question in which the words "Yes-No" shall be printed so that the voter may indicate with a mark whether he/she wishes to vote for or against the recall of the member so named. In the case of a recall of two (2) or more Tribal Council members, there shall be a separate ballot for each member.

f. If a majority of the General Council members voting in a recall election vote to recall the Tribal Council member, and if at least one third (1/3) of the General Council vote in the recall election, the General Council shall immediately declare the challenged Tribal Council member recalled from office and his/her seat shall be declared vacant.

g. Persons removed or recalled from Tribal Council positions shall be

permanently barred from standing for Tribal Council elections.

ARTICLE XII

Referendum and Repeal

Section 1. Procedure

Upon receipt by the Secretary of the Tribal Council of a petition signed by three (3) Tribal Council members or at least one-third (1/3) of the General Council members demanding a referendum or a repeal of any proposed or enacted Tribal ordinance, law, or any action undertaken by the Tribal Council, the action(s) of the Tribal Council shall be either modified, repealed or sustained by the General Council in a general or special election to be held within twenty (20) days after receipt of the petition by the Tribal Council Secretary.

The election shall be called by the Tribal Council Chairperson and the vote of a majority of the members of the General Council voting in such referendum or repeal shall be conclusive and binding on the Tribal Council provided that at least one third (1/3) of the members of the General Council are present and cast their ballots. No absentee voting shall be allowed.

Section 2. Limitation on Referendum and Repeal

No referendum or repeal conducted under this Article shall serve to abrogate, modify or amend any properly executed contract or agreement approved by the Tribal Council and entered into with third parties.

ARTICLE XV

Amendments By Election

Section 1. Procedure

This Constitution may be amended by a majority vote of the eligible voters of the Tribe in a special election, provided that at least fifty-one percent (51%) of those entitled to vote shall vote in such election. The Secretary of the Tribe shall direct the Election Committee to conduct an election on a proposed amendment to this Constitution upon receipt of a petition signed by at least one-third (1/3) of the eligible voters of the Tribe or upon receipt of a resolution of the Tribal Council requesting an amendment adopted by at least seventy-five percent (75%) of the quorum present at a duly scheduled Tribal Council meeting. No elections to amend this Constitution may be called except as provided in this Article.

Section 2. Effective Date

Amendments shall become effective when they have been adopted by a majority of the eligible voters of the Tribe consistent with this Article, and after the Tribal Election Committee certifies the results of the election.

ARTICLE XVI

Severability

If any provision of this Constitution is declared invalid by a court of competent jurisdiction, the invalid provision shall be severed and the remaining provisions shall continue in full force and effect.

Certification

I hereby certify that this Constitution was ratified on August 4, 1994
consistent with the terms of Article XIV of this Constitution and that thirty-
five percent (35%) of the eligible voters entitled to vote actually in the election
adopting this Constitution, and that of those so qualified 100 % voted in
favor of its ratification.

Dated: 8/4/94

Tribal Distributee

Lucille E. Lucero

8/4/94

sjpbviate\const2.aug
(Revised 8-1-94)

RECEIVED

NOV 20 1992

TRIBAL OPS CCA

NOV 05 1992

NOV 20 1992

TRIBAL OPS CCA

Mr. Nicolas Villa, Jr.
2915 Jackson Valley Road
Ione, California 95640

Dear Mr. Villa:

On October 16, 1992, we received your letter requesting assistance regarding the attempts of Amador County to obtain injunctive relief to enforce its local ordinances and zoning restrictions on Indian land.

In relation to the assistance mentioned in your letter, you request that, at a minimum, the Bureau of Indian Affairs state the following:

1. That the Buena Vista Rancheria for the Me-Wuk Indians of California/Mokelumne-Locolumne Tribe is a Federally recognized Tribe that is listed on the Secretary's official Federal Register directory of Tribes.

In response, the Buena Vista Rancheria of Me-Wuk Indians appears in the Federal Register/Vol. 53, No. 250/ published Thursday, December 29, 1988, as an Indian tribal entity recognized and eligible to receive services from the United States Bureau of Indian Affairs. The Mokelumne-Locolumne Tribe does not appear in the publication.

2. That the Buena Vista Rancheria for the Me-wuk Indians of California/Mokelumne-Locolumne Tribe is that Tribal entity which has jurisdiction over all of its tribal lands of the Mokelumne-Locolumne Tribe including the Ancient Village.

According to available records, the Buena Vista Rancheria was purchased in 1927 and consisted of 67.5 acres in Amador County. It was one of the groups terminated under the Rancheria Act and according to the Distribution Plan the land was deeded to Louie Oliver and his wife, Annie Oliver, as joint tenants. Currently, the property is in individual ownership, but in fee simple ownership. We understand that a probate of the estate of Lucille Lucero, the sole owner of the Buena Vista Rancheria, may have been initiated. There has been no request from any descendants/heirs to consider accepting the land into trust. Absent "trust" status, it would appear that the subject Rancheria is subject to county regulation.

3. That the undersigned is the Chief/Tappo of Buena Vista Rancheria for the Me-wuk Indians of California/Mokelumne-Loacolumne Tribe's governing body.

The records reveal that only one individual has been identified as being descendant of the original Indian distributees on the Buena Vista Rancheria distribution plan. Since the Tillie Hardwick decision was issued in 1963, the Buena Vista Rancheria has been listed in our records as inactive.

Sincerely,

/s/ Carson G. Fazio
Area Director

cc: Superintendent, Central California Agency, w/copy of incoming
Deputy Regional Solicitor, w/copy of incoming

JACKSON RANCHERIA
P.O.Box 150
Jackson, CA 95642
Phone: (209) 223-1935
FAX: (209) 223-5366

December 14, 1992

U.S. Environmental
Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Dear Ms. Wandres:

This letter is in response to the correspondence from Harold E. Burris, Ione Band of Indians dated 11/22/92, addressed to Ms. Wandres.

The Jackson Rancheria would like to clarify our position in this matter, our Tribal office is located at 16070 Miwuk Drive, Jackson, CA., Phone: (209)223-1935, Tribal Chairperson, Margaret Dalton.

The Jackson Rancheria is a separate Tribal Government that does not have any control over the Governing, Tribal business of the Buena Vista Rancheria or Ione Band of Indians.

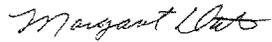
The Jackson Rancheria and Buena Vista Rancheria are the only two Federally recognized Tribal Governments in Amador County. The recognized Chairperson of Buena Vista Rancheria is Ms. Lucille Lucero.

To our knowledge the Ione Band of Indians are not a Federally recognized Government. It has been our understanding that Mr. Harold Burris is the Tribal Chairperson of Ione Band of Indians.

Page 2

If there is further information needed concerning the Jackson Rancheria, please call me at our Tribal office (209) 223-1935.

Sincerely,



Margaret Dalton, Chairperson
Jackson Rancheria

C.C. Mr. Harold E. Burris, Sr.	Ione Band of Indians
Mr. Mitch Constant	Sr. Field Engineer, IHS Sacramento
Mr. Nicolas Villa	Ione Community Resident
Mr. Scott Meyer	Amador County Environmental Health
✓ Ms. Lucille Lucero	Buena Vista Rancheria
Mr. Jaeger	Sacramento Area Director, BIA
Mr. Ferris	Indian Health Service



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240



(IN REPLY REFER TO)

Tribal Government Services - TR
2611 MS/MIB

FEB 04 1994

RECEIVED
CENTRAL CALIF AGENCY
94 FEB 10 PM 2 03

Nicolas and Joan Villa
P.O. Box 1152
Ione, California 95640

Dear Mr. Villa:

During your visit to Washington, D.C. in October of last year, we discussed several issues regarding your involvement with the Buena Vista Rancheria (Rancheria) and the Ione Band of Miwok Indians (Band).

During our meeting you indicated that you represent both groups. In fact, you stated that both groups were now one and the same, comprising the membership of the Rancheria.

A review of the history of the Rancheria shows that it was first organized under the provisions of the Indian Reorganization Act of 1934 and subsequently terminated in the early 1960s. The Rancheria was un-terminated in 1983 pursuant to the Tillie Hardwick Court Case. One of the stipulations of the case required that only original distributees and their descendants be considered as members of possession at the time of restoration of the Federal recognition. Our records show that Ms. Lucille Lucero is the only remaining distributee who meets this criteria. In checking with the Sacramento Area Office, we were advised that Ms. Lucero has initiated discussions with the Central California Agency to express her concerns that, as the last remaining distributee and thus the official representative of the Rancheria, she will not allow any individuals other than herself or persons designated by her to represent the Rancheria in official matters. She has submitted written documentation to that effect.

It now appears that your stated representation of the Rancheria is false and without any basis for support. We have further learned that during the past several years you have actively sought recognition of the Band and the placing of 40 acres of land in trust for the Band. We

1/94 12:04 FAX 010 878 5589

CCA

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do not understand how the Band and the land associated with that group can now be under the jurisdiction of the Rancheria. The land description of the trust land under the Rancheria clearly does not include the 40 acres located at Lone and the original list of distributees does not include the names of Nick or Joan Villa.

This letter will serve as official notification that the Bureau of Indian Affairs recognizes Ms. Lucille Lucero as the official Spokesperson/Chair of the Buena Vista Rancheria.

Should you have any questions regarding this letter, please contact the Superintendent, Central California Agency.

Sincerely,

/s/ Carol A. Bacon
Acting Deputy Commissioner of Indian Affairs

Enclosure

cc: Area Director, Sacramento Area Office
Superintendent, Central California Agency
Ms. Lucille Lucero, 4650 Coal Mine Road, Lone, CA 95640



CALIFORNIA - NEVADA INDIAN GAMING ASSOCIATION

February 15, 1994

Nick and Joan Villa
P.O. Box 1152
Iona, Ca. 95640

Dear Mr. and Ms. Villa:

As chairperson of the California-Nevada Indian Gaming Association, I have responsibility for making sure that, as required by our bylaws, only authorized representatives of federally recognized tribes sit on our Board of Directors and take part in our meetings.

I have received written confirmation from the Bureau of Indian Affairs, Central Office and the Area Office, that the Lone Band is not recognized, that you are not recognized by the Buena Vista Rancheria as it's representative and that the address you use is not the Rancheria's office.

There is only one member of the Buena Vista Band and she has stated, in writing, that you are not authorized to act on the Board's behalf.

The Deputy Commissioner of Indian Affairs concluded in a letter to you dated February 4, 1994, that "you stated representation of the [Buena Vista] Rancheria is false and without any basis for support." That letter and other documentation from the Bureau of Indian Affairs and the Board are enclosed.

For these reasons, you will not be seated at any future California Nevada Indian Gaming Association meetings.

Regards,

Marshall McKay, Chairman
California-Nevada Indian Gaming Association
MM/gh

attachment *

1. Carol Bacon letter 2/4/94
2. Brafford letter 2/10/94 & 10/15/93
3. Lucille Lucero letter 11/10/93

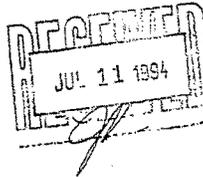


United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Central California Agency
1824 Tribute Road, Suite J
Sacramento, CA 95815-4308

IN REPLY REFER TO:
3783-PJ FY94
Jone

JUL 7 1994



Mr. Nicolas Villa, Jr., Chief
Ione Band of Miwok Indians
P.O. Box 1152
Ione, CA 95640

Dear Mr. Villa:

This letter is sent in response to your correspondence of June 30, 1994, whereby you requested some assistance in gaining access to a cemetery located on the Buena Vista Rancheria.

We have contacted Ms. Donna Marie Potts, spokesperson for the Buena Vista Rancheria. She informs us that the cemetery is located within a fenced off area and is itself fenced off, but that there is no lock on either access gate. She states that there hasn't been a lock on either gate at least as far back as Memorial Day, 1994, and that access to the cemetery is not restricted.

In regards to your letter to Ms. Lucille Lucero, dated June 30, 1994, where you refer to harassment of tribal members by a horse in the surrounding field. Ms. Potts tells us that if you drive to the cemetery access gate, you should not have a problem with it.

Please contact Mr. Raymond Fry, Tribal Operations Officer, at (916) 978-4346 should you have any questions in this matter.

Sincerely,

FOR: Harold M. Brafford
Superintendent



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
 Central California Agency
 1824 Tribute Road, Suite J
 Sacramento, CA 95815-4308

IN REPLY REFER TO

Ms. Donnamarie Potts
 Buena Vista Rancheria
 4650 Coalmine Road
 Ione, California 95640

JUN 26 2000

Dear Ms. Potts:

This letter will serve as a followup to the meeting held at the Central California Agency on June 6, 2000, between Buena Vista Representatives and my staff.

The Bureau of Indian Affairs has recognized a government-to-government relationship with the tribe through its governing body and as such the Agency continues to recognize your constitutionally defined form of government and you as the Chairperson for the governing body of the Buena Vista Rancheria. The Agency has historically been and continues to be supportive of tribes situated within our service area in their efforts to develop tribal laws and structure their governing bodies.

In 1994, for tribal organization purposes, Ms. Lucille Lucero, daughter of Louis and Anne Oliver, the distributees of the Buena Vista Rancheria, did adopt a governing document, which included a historical membership listing which included your name.

The governing document that was adopted by Ms. Lucero was not completed through a Secretarial Election process. As a tribe that voted to organize pursuant to a federal statute, that election process must be completed in order for the federal government to recognize the formal organization of the tribe. However, for tribal purposes the 1994 constitution is recognized by this office until the Secretarial procedure is completed.

If you have any questions in this matter, please contact Raymond Fry, Tribal Operations Officer at (916) 566-7124

Sincerely,

FOR

Dale Rising, Sr.
 Superintendent

JUN-14-2000 10:11

BUENA VISTA RANCHERIA

209 2745514 P.02/02



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
 Central California Agency
 1824 Tribune Road, Suite J
 Sacramento, CA 95813-4308

UNREPLY REFER TO

Ms. Rhonda Pope
 P.O. Box 162183
 Sacramento, California 95816-2283

Dear Ms. Pope:

This letter will serve to acknowledge receipt of your latest correspondence at the Central California Agency dated May 30, 2000, and to respond to your inquiries.

In an attempt to have your issues regarding the Buena Vista Rancheria addressed, the Agency has forwarded your concerns to the tribe.

It is evident by your numerous letters to the Agency and tribe, that you strongly believe that as a lineal descendent of the tribe that you belong on the membership roll.

To date, the Bureau of Indian Affairs has developed and maintained a government-to-government relationship with the tribe and this relationship starts and ends with the governing body of the tribe, led by Donnamarie Potts. In this case that governing body is the elected tribal council.

Based upon the response from the tribe, it appears that you have not exhausted all tribal remedy in this matter. These remedy would include completing an enrollment process with the tribe.

At this time, we would encourage you to work with the Buena Vista Rancheria tribal representatives, to resolve the issues you have raised.

If you have any questions in this matter, please take them to the tribe, as they are internal and need to be resolved at that level.

Sincerely,

Sgd. Dale Rising, Sr.

Dale Rising, Sr.
 Superintendent

CC: Ms. Donnamarie Potts, Chairperson

TOTAL P.02



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Central California Agency
1824 Tribune Road, Suite J
Sacramento, CA 95810-4405

IN REPLY REFER TO

MAY 17 1995

Ms. Donna Marie Potts, Spokesperson
Buena Vista Rancheria
#6 Glynis Falls Ct.
Sacramento, California 95831

Dear Ms. Potts:

This letter will serve to provide you with a formal position that the Central California Agency has in regards to both the status of the Buena Vista Rancheria as well as the status of the tribal government.

As the sole Spokesperson and surviving distributee of the re-recognized Buena Vista Rancheria Ms. Lucilla Lucero did enact and put into affect a governing document. This action by Ms. Lucero did by definition initiate and constitute a formal organization process for the Rancheria. that has been since completed.

Ms. Donna Marie Potts by virtue of this governing document was recognized as having historical tribal member status.

Further, since the untimely passing of Ms. Lucero, the tribal government has been organized and chosen Ms. Potts as the primary spokesperson for the Rancheria.

Additionally, the Central California Agency does recognize Ms. Potts as the formal representative for the Buena Vista Rancheria and that a government-to-government relationship does exist between the federal government and this Rancheria. In this context, formal 636 contracts have been entered into between the Bureau of Indian Affairs and the Buena Vista Rancheria, as well as the agency's continuous provision of other direct federal services to the Rancheria and Tribal Membership.

The Buena Vista Rancheria by virtue of its Federal recognition status and formal organization of the tribe, is entitled to all benefits and services reserved for tribes with this classification.

Hopefully, this correspondence will provide you with the clarification as to the Rancherias status.

UNIT OF 2000 AND 03/03 FOR CHOCMAE GROUP

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P. 61/61

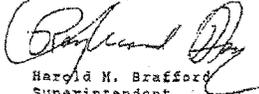
7. 11:24 FAX

21003

Page 2...

If you have any questions in this matter, please contact Mr. Raymond Fry, Tribal Operations Officer, at (916) 566-7124.

Sincerely,

FOR 
Harold M. Brafford
Superintendent



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
 Central California Agency
 1824 Tribute Road, Suite J
 Sacramento, CA 95815-4306

IN REPLY REFER TO:

FEB 10 1994

Marshall McKay, Chairman
 California Nevada Indian Gaming Association
 c/o Rumsey Rancheria
 P. O. Box 18
 Brooks, California 95606

Dear Mr. McKay:

This correspondence is in response to the Freedom of Information Act request, dated February 8, 1994, telefaxed to our office with regard to the Buena Vista Rancheria.

We are offering the following information to your inquiries and requests:

1. Is the Buena Vista Rancheria a federally recognized tribe?

The Buena Vista Rancheria of Me-Wuk Indians of California is listed in the Federal Register, Vol. 58, No. 202, published Thursday, October 21, 1993, under Notices, as an Indian entity recognized and eligible to receive services from the United States Bureau of Indian Affairs (copy enclosed).

2. Is the address listed above correct (4650 Calminle Road, Ione, California 95640)?

According to the official records of the Bureau of Indian Affairs, the correct address is as follows: 4650 Coalmine Road, Ione, California 95640. We are enclosing a copy of page 21, Buena Vista, of the Tribal Information and Directory, a Bureau of Indian Affairs, Sacramento Area Office publication, and a copy of the federally recognized tribal mailing list, under the administrative jurisdiction of the Central California Agency, dated January 27, 1994, maintained by the Bureau of Indian Affairs, Central California Agency.

3. Please advise this Association of the name(s) of Official Distributee(s) and Spokesperson.
4. Please provide this Association with any correspondence that would be relevant to clarify if there is another Federally recognized "Buena Vista Rancheria" at P. O. Box 1152 - 24 E Main Street, Ione, CA 95640 with a Nicolas Villa, Jr., as Chief.

In response to items 3 and 4, in addition to the information contained in the enclosures under item 2 above, we are enclosing a copy of correspondence as follows:

- 1) November 5, 1992, from Acting Area Director, Bureau of Indian Affairs (BIA), Sacramento Area Office, to Mr. Nicolas Villa, Jr., in response to Mr. Villa's request for the Bureau to comply with three statements.*
- 2) October 15, 1993, from Superintendent, BIA, Central California Agency (CCA), to Postmaster, Ione, California, regarding recognition of spokesperson and the correct address of the Buena Vista Rancheria.*
- 3) November 9, 1993, from Nicolas Villa, Jr., Chief/Hiapbo (Captain), to the Superintendent, BIA, CCA, requesting address change for the Buena Vista Rancheria Miwok Indian Tribe.*
- 4) November 10, 1993, from Ms. Lucille E. Lucero, Spokesperson, Buena Vista Rancheria, to Superintendent, BIA, CCA, stating no other person should be recognized, or dealt with, unless they have a valid designation from me.*

Please contact Mr. Raymond Fry, Tribal Operations Officer, at (916) 978-4346 should you require additional information pertaining to this matter.

Sincerely,

Harold M. Brafford
FOR
Harold M. Brafford
Superintendent

Enclosures

497

**BUREAU OF INDIAN AFFAIRS
CENTRAL CALIFORNIA AGENCY
1824 TRIBUTE ROAD, SUITE J
SACRAMENTO, CA 95815-4308**

JAN 26 1994

Ms. Lucille Lucero, Spokesperson
Buena Vista Rancheria
4650 Coal Mine Road
Ione, California 95640-9958

Dear Ms. Lucero:

The Bureau of Indian Affairs would like to take this opportunity to extend an invitation to you and the designated Buena Vista Rancheria representatives to attend a meeting at the Central California Agency. The purpose of this meeting will be to explore tribal government development, criteria for entering into a G38 contract/grant agreement for the Rancheria and to review a draft Enrollment ordinance which will identify current members as well as criteria for determining future members.

Tentative dates that the Central California Agency staff could meet with yourself and the Rancheria representatives would be either February 17th or 18th. If either of these dates is convenient for you, please contact the agency as soon as possible to confirm a date and time.

If you have any questions, please contact Mr. Raymond Fry, Tribal Operations Officer, at (916) 978-4346.--

Sincerely,

/s/ Harold M. Bradford

Harold M. Bradford
Superintendent

cc: Ms. Donna Marie Potts
Ms. Renee Selway
Ms. Margaret Lemley
Mr. Fred Steele
Mr. Frank Vega

John Fielder
Michael R. Chisholm
2/10/88

1 Law Office of
2 MICHAEL R. CHISHOLM CSB#47583
3 39 Summit Street
4 Jackson, CA 95642
5 Telephone: (209) 223-0862

copy

6
7
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF AMADOR

10
11 In the Matter of the Estate } No. 5276
12 of }
13 ENOS OLIVER, } ASSIGNMENT OF INTEREST
14 Deceased. }

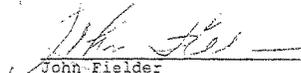
15
16 I, JOHN FIELDER, the Executor of the Will of LYDIA OLIVER,
17 deceased, the son and sole heir at law of LYDIA OLIVER, and the
18 sole beneficiary named in the Will of LYDIA OLIVER, deceased, do
19 hereby assign to DONNAMARIE POTTS all of the right, title and
20 interest of the Estate of LYDIA OLIVER, deceased, in the following
21 described real property situated in the County of Amador, State of
22 California:

23 Commencing at the Northeast corner of Section 19, Township
24 5 North, Range 10 East, M.D.B. & M., and thence running West
25 along Section line 578 feet; thence at right angles South
26 5280 feet; thence at right angles East 578 feet; thence at
right angles North 5280 feet to the place of beginning, being
the same property described in deed recorded in Book 86, page
188, Official Records of Amador County, California.

1099925 07
12 H CHISHOLM
39000 STREET
JACKSON CA 95642
209 223-0862

1 I hereby respectfully request the Superior Court of the State
 2 of California, in and for the County of Amador, to distribute in
 3 its Judgment of Final Distribution, all of the interest of the
 4 Estate of LYDIA OLIVER, deceased, in the above described real
 5 property to DONNAMARIE POTTS.

6 Dated: Feb 14, _____, 1996.

7
 8 
 9 John Fielder

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501

COUNTY OF AMADOR

MICHAEL E. RYAN
TREASURER / TAX COLLECTOR
108 Court Street, Jackson, Ca. 95642
(209) 223-6364

October 11, 1994

Donna Marie Potry
6 Ghymis Falls Ct.
Sacramento, Ca. 95831

RE: 12-100-005-00

Dear Ms. Potry,

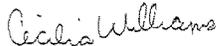
Recently we received your payment of taxes on parcel #12-100-005-00. The amount you sent was \$237.03 was short, this was the amount to pay on or before April 10, 1994. After this time the amount to redeem these taxes on or before October 31, 1994 is: \$299.95.

After April 10th there is a 10% penalty and \$10.00 cost added. After June 30th, there is a 1.5% redemption penalty added per month on the tax amount and a \$15.00 state fee.

Each month the redemption amount will increase by the redemption penalty interest.

We will hold this money order until October 30, 1994, or until we hear from you. After that time we will return your money order to you. The amount needed to redeem these taxes is an additional \$62.92. If you wish to pay these taxes after this point please write or call the number above for the correct redemption amount.

Thank you,



Cecilia Williams, Deputy
Amador County Tax Collector's Office

1985-86 SECURED PROPERTY TAX BILL (7-1-85 TO 6-30-86) - MICHAEL E. RYAN, TAX COLLECTOR

AMADOR COUNTY TAX COLLECTOR, 520 ARDMANVILLE, JACKSON, CA. MAILING ADDRESS: 108 COURT STREET, JACKSON, CA 95824

PARCEL NUMBER 12-100-005-00	ASSESSMENT INFORMATION LAND 43807 IMPROVEMENTS 11865	TAX RATE	TAX DATE	TAXES
PARCEL NO. 5427	IMPROVEMENTS 0	BASIC RATE	1.	\$556.72
TRACT IDENTIFICATION 12-100-005-00	PERSONAL PROPERTY 55672	1ST INSTALLMENT		\$0.00
	GROSS TAXABLE VALUE 7000	12/10/1985		\$0.00
	HOMEGROWER'S EXEMPTION	2ND INSTALLMENT		\$0.00
	MISC. EXEMPTION	04/10/1986		\$0.00
	NET TAXABLE VALUE 48672	EXEMPTION		\$0.00
		1ST INSTALLMENT		\$486.72
		12/10/1985		
		2ND INSTALLMENT		
		04/10/1986		
		NET TAX DUE		\$486.72

YOUR PROPERTY IS BEING SOLD AT PUBLIC AUCTION. IF A REVERSE BID IS REQUIRED, RETURN THIS STUB WITH YOUR PAYMENT TO THE AUCTIONEER'S OFFICE. PHONE (209) 223-6341

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ASSESSMENT APPEALS: Board of Assessors, Board of Appeals, Board of Equalization, Board of Supervisors, Board of Trustees, Board of Directors, Board of Education, Board of Community Development, Board of Planning and Economic Development, Board of Public Works, Board of Parks and Recreation, Board of Cultural Affairs, Board of Arts and Humanities, Board of Historical Resources, Board of Geographic Names, Board of Landmarks and Historic Preservation, Board of Planning and Economic Development, Board of Public Works, Board of Parks and Recreation, Board of Cultural Affairs, Board of Arts and Humanities, Board of Historical Resources, Board of Geographic Names, Board of Landmarks and Historic Preservation.

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AMADOR COUNTY CITIES, COUNTY, SCHOOLS, A. **JOINT CO. UNIFIED TAX BILL**
 IN TAKING AGENCIES IN AMADOR COUNTY

ELMER G. EVANS, TAX COLLECTOR
 THE COUNTY OF AMADOR
 JACKSON, CALIFORNIA 95842
 FOR FISCAL YEAR: 1 JULY 1985
 OWNER OF RECORD TO 30 JUNE 1986

LUCERO LUCILLE & OLIVER ENOS
 CURRENT OWNER
 OLIVER ENOS
 4450 COAL MINE RD
 IONE CALIF 95640

KEEP THIS PORTION FOR YOUR PERSONAL RECORDS

TAX RATES PER \$100 ASSESSED VALUATION	RATE PER \$100	AMOUNT
SERVICE AGENCY	1.0000	353.11
BASIC RATE	1.0300	10.59
TOTAL		363.70

PAID
 NOV 4 1985
 ELMER G. EVANS
 TAX COLLECTOR
 AMADOR COUNTY

PARCEL NUMBER	TAX RATE AREA	DATE	TAX AMOUNT
12-100-005-00	052-040	04310	363.70

LOCALLY ASSESSED PROPERTY IS ASSESSED AT 100% OF FULL VALUE.
 519 15 610 70.00A

LAND VALUE	TAX AMOUNT
37,400	363.70
5,003	51.53
TOTAL	42,403

GENERAL	TAX AMOUNT
SPECIAL ASSESSMENT	435.80
GROSS TOTAL	435.80
LESS - HOMEOWNERS EXEMPTION	72.10
OTHER EXEMPTIONS	
NET TOTAL	363.70

PAID
 TOTAL: APR 7 1986
 363.70
 ELMER G. EVANS
 TAX COLLECTOR
 AMADOR COUNTY

T.P.A.	BRANCH	LOAN IDENTIFICATION

SEE REVERSE SIDE FOR GENERAL AND SENIOR CITIZENS INFORMATION

THIS PROPERTY IS IN JUDICIAL LIEN TO PRIOR YEAR DELINQUENT TAXES.
 * TAX REVISION ATTRIBUTABLE TO THE STATE FINANCIAL SERVICES TAX REFORM PROGRAM.

PURCHASER'S RECEIPT REFERENCE TO THIS NUMBER FOR PROMPT SERVICE

Check Mart
CHECK CASHING CENTERS

107 7846 116

Pay to the order of: Orange County Tax Collector DATE: June 4 91

NON-NEGOTIABLE

AMOUNT: 253.47

PLEASE READ THE TERMS OF THIS MONEY ORDER ON THE REVERSE SIDE

Ronnamore Falls
1933 Bell St # 72 Soc
Ca. 95825

003203 12-05-91 783
003203 12-05-91 712143

PURCHASER'S RECEIPT REFERENCE TO THIS NUMBER FOR PROMPT SERVICE

Check Mart
CHECK CASHING CENTERS

108 9754 833

Pay to the order of: Orange County Tax Collector DATE: 12/05 91

NON-NEGOTIABLE

AMOUNT: 251.46

PLEASE READ THE TERMS OF THIS MONEY ORDER ON THE REVERSE SIDE

Abrahamson & Co
4650 Coal Mine Rd
CA 95640

003203 12-05-91 783
003203 12-05-91 715433

PURCHASER'S RECEIPT REFERENCE TO THIS NUMBER FOR PROMPT SERVICE

Check Mart
CHECK CASHING CENTERS

108 9838 248

Pay to the order of: Orange County Tax Collector DATE: Jan 28 92

NON-NEGOTIABLE

AMOUNT: 251.60

PLEASE READ THE TERMS OF THIS MONEY ORDER ON THE REVERSE SIDE

Ronnamore Falls
4650 Coal Mine Rd
ZONE CA. 95640

003203 12-05-91 783
003203 12-05-91 715433

PURCHASER'S COPY NOT NEGOTIABLE
RETAIN THIS PURCHASER'S COPY. IT MUST BE INCLUDED WITH ALL REFUND REQUESTS. BE SURE TO READ IMPORTANT INFORMATION BELOW AND ON BACK.

A/C # 12-100-005-00 21-267967914
Amador Co. Taxes
Dorcasville Potts
4650 Coal Mine Rd, Tule
Ca, 95640

Issued by American Express Travel Related Services Company, Inc., Englewood, Colorado
PURCHASE AGREEMENT: You, the purchaser, agree that American Express need not stop payment on or replace or refund a lost or stolen American Express® Money Order unless (1) you fill in the "TO THE ORDER OF" line on the front of the Money Order at the time of purchase; and (2) you report the loss or theft to American Express in writing immediately.

PURCHASER'S COPY NOT NEGOTIABLE
RETAIN THIS PURCHASER'S COPY. IT MUST BE INCLUDED WITH ALL REFUND REQUESTS. BE SURE TO READ IMPORTANT INFORMATION BELOW AND ON BACK.

Parcel # 12-100-005-00 21-267066114
County of Amador - Taxes
Dorcasville Potts
4650 Coal Mine Rd, Tule
Ca, 95640

Issued by American Express Travel Related Services Company, Inc., Englewood, Colorado
PURCHASE AGREEMENT: You, the purchaser, agree that American Express need not stop payment on or replace or refund a lost or stolen American Express® Money Order unless (1) you fill in the "TO THE ORDER OF" line on the front of the Money Order at the time of purchase; and (2) you report the loss or theft to American Express in writing immediately.

PURCHASER'S COPY NOT NEGOTIABLE
RETAIN THIS PURCHASER'S COPY. IT MUST BE INCLUDED WITH ALL REFUND REQUESTS. BE SURE TO READ IMPORTANT INFORMATION BELOW AND ON BACK.

12-100-005-00 21-335180275
Amador Tax Collector
Potts, Dorcasville
4650 Coal Mine Rd, Tule
Ca, 95640

Issued by American Express Travel Related Services Company, Inc., Englewood, Colorado
PURCHASE AGREEMENT: You, the purchaser, agree that American Express need not stop payment on or replace or refund a lost or stolen American Express® Money Order unless (1) you fill in the "TO THE ORDER OF" line on the front of the Money Order at the time of purchase; and (2) you report the loss or theft to American Express in writing immediately.

ISSUER
Travelers Express Money Order

238 6795 193
REFER TO THIS NUMBER FOR PROMPT SERVICE

DATE *12-10-05* **PURCHASER'S RECEIPT**

AMOUNT *76.50* **DOLLARS**

NON-NEGOTIABLE

TERMS, PLEASE READ THE REVERSE OF THIS MONEY ORDER ON THE REVERSE SIDE

Office of Accounts

76.50 Coal Mine Rd

05640

GA SEBELAND

ESTABLISHED 1858

PAID TO THE ORDER OF

AMOUNT

DOLLARS

NON-NEGOTIABLE

TERMS, PLEASE READ THE REVERSE OF THIS MONEY ORDER ON THE REVERSE SIDE

10/14/2001 16:29 91644120E7

MONTEAU & PEEBLES

PAGE 81

Order No.
Escrow No. 101504-RC
Loan No.

WHEN RECORDED MAIL TO:

THE BUENA VISTA RANCHERIA OF MEWUK INDIANS
#8 Glynis Falls Ct
Sacramento, CA 95831

SPACE ABOVE THIS LINE FOR RECORDERS USE

MAIL TAX STATEMENTS TO:

THE UNITED STATES DEPARTMENT OF
THE INTERIOR, BUREAU OF INDIAN AFFAIRS

DOCUMENTARY TRANSFER TAX \$NONE

- Computed on the consideration or value of property conveyed; OR
- Computed on the consideration or value less liens or encumbrances remaining at time of sale.

The undersigned Grantor declares

Signature of Declarant or Agent determining tax - Firm Name

GRANT DEED

APN 12-100-005

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

DONNAMARIE POTTS

hereby GRANT(S) to

THE BUENA VISTA RANCHERIA OF MEWUK INDIANS

the real property in the
County of
as

unincorporated area of the
Amador

State of California, described

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Dated July 30, 1996

STATE OF CALIFORNIA
COUNTY OF **AMADOR**

),
)ss.

On July 31, 1996 before
me, Renee Kirk, Notary Public

personally appeared Donnamarie Potts
personally known to me (or proved to me on the basis of satisfactory
evidence) to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s) or the entity upon behalf of
which the person(s) acted, executed the instrument.
WITNESS my hand and official seal.

Donnamarie Potts
DONNAMARIE POTTS

Signature: *Renee Kirk*
Renee Kirk



"EXHIBIT A"
Legal Description

All that real property situated in the State of California, County of Amador, Unincorporated Area, described as follows:

Commencing at the Northeast corner of Section 19, Township 5 North, Range 10 East, M.D.B. & M., and thence running West along Section line 578 feet; thence at right angles South 5280 feet; thence at right angles East 578 feet; thence at right angles North 5280 feet to a place of beginning.

EXCEPTING THEREFROM THE FOLLOWING:

All the portion of the Northeast Quarter of Section 19, Township 5 North, Range 10 East, M.D.B. & M., described as follows:

Beginning at a 3 inch iron pipe fence end post at the Southerly end of a new road fence, from which point a 1 1/2 inch capped iron pipe stamped "U.S.I.S. 1953 17, 18, 19 AND 20" found marking the Northeast corner of said Section 19, bears North 30° 08' 30" East 1099.38 feet distant; thence, from said point of beginning, along the Southerly prolongation of said new road fence, South 00° 39' 30" East 85.11 feet to a 3/4 inch steel reinforcing rod tagged R.C.E. 10761; thence South 01° 58' 50" West 385.29 feet to a similar steel rod; thence South 19° 02' 00" West 186.24 feet to a Z iron fence post; thence South 62° 22' 50" West 6.19 feet to a 3/4 inch steel reinforcing rod tagged R.C.E. 10761 set on the Westerly line of that certain parcel of land conveyed by the United States of America, Department of the Interior to Louis Oliver and his wife, Annie Oliver, by Instrument dated October 6, 1959, and recorded in the Office of the Recorder of Amador County on October 8, 1959, in Book 85 of Official Records at Page 198; thence along the Westerly line of said Oliver Parcel of land, North 01° 58' 50" East 481.11 feet to a similar steel rod, from which point the Northwest corner of said Oliver Parcel of land, bears North 01° 58' 50" East 1100.00 feet distant; thence South 88° 01' 10" East 40.00 feet to a similar steel rod; thence North 08° 28' 00" East 151.30 feet to the point of beginning.

ALSO EXCEPTING therefrom all minerals and metals as reserved by B. Accampo in Deed filed for record October 5, 1925 in Book 45 of Deeds at Page 43, Records of Amador County.

A.P.N. 12-100-005

AFFIDAVIT OF WILLIAM J. PINK

I, William J. Pink, after being first duly sworn upon oath, testifies and states as follows:

1. That I am a resident of San Jacinto, California, over the age of 18 years and this affidavit is based on my personal knowledge.
2. I first came to know of Lucille Lucero in 1982 when I was serving as the Executive Secretary to the State of California, Native American Heritage Commission, Governor's Office, at the time. It was my normal practice to make contact with the leadership or membership of each Indian Reservation or Rancheria within the State regardless of status. In particular, I was asked by William Franklin of the Slough House area, a member of the Native American Heritage Commission, to contact Lucille Lucero because she might have knowledge of sacred sites and burial grounds since her father, Louie Oliver, was a renowned Miwok leader. I visited the Buena Vista Rancheria in hopes of meeting Lucille Lucero on at least two occasions in 1982 but did not make contact with her because of what I learned later was her reluctance to answer the door to strangers.
3. At the 1982 summer meeting of the California Indian Education Association, I met Donnamarie Groves (Potts), who said she was the niece of Lucille Lucero. I asked Donnamarie Potts if she would introduce me to her aunt and she agreed to do this. We arranged to meet at the Buena Vista Rancheria where Donnamarie Potts would introduce me to Lucille Lucero.
4. This meeting took place shortly thereafter. At the meeting with Lucille Lucero I mostly asked questions about her father, Louie Oliver and his role in the community, the Buena Vista roundhouse, the cemetery located on the Rancheria and the current land status of the Rancheria.
5. Lucille Lucero was very traditional in her mannerisms and method of conversation. Most of her answers to my questions were directed to her niece, Donnamarie Potts. In my work, which required that I work with elders from different Native American cultural groups, I found that many of the elders always conversed through someone rather than directly. I was familiar with this as a result of my own upbringing. Often times, my question would be repeated by Donnamarie Potts before Lucille Lucero would even acknowledge it. This mostly had to do with a woman not speaking to a man who was not her husband.
6. Lucille Lucero prepared lunch for us. She was low on stove wood so I offered to cut her more stove wood and did so. I do believe this was the act that allowed me to develop a relationship with Lucille Lucero. She watched me work almost laughingly and with broad smiles. When I was finished stacking the wood, she told her niece, Donnamarie Potts, that she didn't think I could finish the job since most men of today are so soft and lazy.

7. Over the next two (2) years (1982-1985) I performed various tasks for Lucille Lucero. This included cutting firewood and reducing it to stove wood for her. On several occasions, I cleaned the cemetery for her along with her first cousin, Jim Clifford. She would ask me to hunt for the rattlesnakes around her house and to kill the squirrels. Upon her request I tore down the house that belonged to her brother, Enos Oliver and burned all of the materials from the house in accordance with Miwok tradition.
8. During this period, 1982 to June of 1985, I had several occasions to discuss the land status of the Buena Vista Rancheria with Lucille Lucero and often asked her if she would like to petition to have her land restored to Federal Trust. Lucille Lucero stated that she would but that she was very reluctant to give her land back to the Bureau of Indian Affairs (BIA) because of their poor performance and the fact that she did not trust the people at the BIA.
9. Eventually, Lucille Lucero consented to having her lands restored to Federal Trust and in June of 1984, I prepared a letter for her signature, requesting that her lands be restored to trust for the benefit of the Rancheria. This letter was sent to the BIA and is part of the land history file for Buena Vista Rancheria.
10. During that same month, June of 1984, I had an opportunity to speak with Lucille Lucero alone. I do remember this as the only occasion of being alone with Lucille Lucero as she always had someone else present, either her niece Donnamarie Potts or her cousin Jim Clifford.
11. On this occasion, she asked her niece, Donnamarie Potts, to go to the market in Ione and buy some things for her and to pick up her cousin Jim Clifford so he could come out and help with the work. I had just come in from cutting firewood. After Donnamarie Potts left, Lucille Lucero asked me to sit down for lunch. She never sat down herself but moved between her wood stove and the sink.
12. I had picked up a deer that morning, which had been killed by a car, and took it to the Rancheria and dressed it out for Lucille Lucero. I remember this because she had prepared some of the deer for lunch along with boiled potatoes and beans. I especially remember because the impact area on the deer where the vehicle had struck the deer was on the neck and I had told Lucille Lucero that she could save that portion for her dog. Instead she cooked the neck roast and told me that the dog can eat leftovers.
13. She began talking about her father, Louie Oliver, and how he never trusted the BIA. She told me that she had doubts about giving her land back to the BIA.
14. I have to say that Lucille Lucero had a unique way of developing conversation by forcing you to ask questions and rarely volunteering anything. She often spoke in audible whispers to her niece, Donnamarie Potts and then Donnamarie Potts would repeat her aunt's answer or question directly to you. She rarely laughed but loved a good Indian style joke along the lines of a traditional joking relationship.

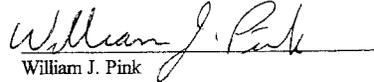
15. It is difficult for me to put into writing the expressions of Lucille Lucero because she had a well-defined cadence in her speaking and upon making a point she would often turn her back. It seemed that when she most wanted to emphasize one of her statements, she would begin with a long "Ohhhh!" almost laughing and then her voice would become angry. A lot of people did think of her as mean, but I never encountered that side of her. Protective, I believe, best described her demeanor. She could be commanding and I did witness her on various occasions tell people to leave her property.
16. Since I had become very familiar with her affairs, it was quite easy to sustain a conversation with her. I was able to ask her about the probate issues involved with the land. She recounted her fights with Johnny Fielder over her interests in the Buena Vista Rancheria. She was thoroughly convinced that Johnny Fielder was attempting to steal her land. Based on my own investigations into this matter, this did seem to be true and that her concerns were valid.
17. In the fall of 1984 I had a conversation with Lucille Lucero. Lucille Lucero said that Johnny Fielder sold his own land (an Indian Allotment located in the Plymouth area) and now he wanted her land. She told me that Johnny Fielder was from over that way, the Plymouth area, and that he should have nothing to do with her property.
18. I asked her who she thought was entitled to live here at the Rancheria? She became very angry and said that there are many people who would like to steal her land. She expressed great enmity towards the Indian People of Ione and Jackson Valley. She told me that these people from Ione and Jackson Valley claim to come around and help out around here, but they only come over hoping that I am gone so they can go through my house. She said, "I don't know what they are looking for or what they think they are going to find, but I do not like them and I wish they would just leave me alone."
19. Lucille Lucero began to talk about her father (Louie Oliver) and how it became necessary for him to protect his family from the other Indians in the area. Lucille Lucero said that someone from the Ione area tried to poison her and her sisters. She claimed that her sister Marie Oliver was poisoned and that there were several attempts to poison her, referring to herself
20. She then said, "My niece, Donnamarie Potts, belongs here, not Johnny Fielder or those people from over at Ione and Jackson Valley."
21. I did ask her how she felt about someone from out-of-territory taking over the Rancheria. She looked at me very hard and then said, "Oh, but she is from here, not from over there."
22. I did tell her that I didn't understand how Donnamarie Potts could be from the Rancheria. Lucille Lucero went on to say, "I raised her, but we still had to protect her because of what these other people had tried to do to us. We knew that if they knew the truth, they would try to kill her too. We had to send her away from time to time."

23. Since I am personally a territorialist, I had some problem with Lucille Lucero's insistence that Donnamarie Potts was entitled to the Buena Vista Rancheria. I told her that I didn't think things worked that way and that the land should go to someone of Miwok descent.
24. Standing near the sink, Lucille Lucero said, "I already told you that my niece is from here. She is my sister's child from my husband. Elinor agreed to have a child for us since I could not have children so we arranged for Donnamarie. She is named for my husband Donald and my sister Marie."
25. I communicated the information set forth in the paragraph numbered 24 I to Harold Bradford, Superintendent of the Central California Agency of the Bureau of Indian Affairs shortly before his death in 1998.
26. She told me that this was no one else's business and that I was to keep it to myself. I agreed that I would not speak of it. The conversation became easier because now I understood why she was fighting so hard for her land and why she insisted that Donnamarie Potts was to be the heir of her estate. We never spoke of it again.
27. I never did tell Donnamarie Potts of the facts of my conversation with Lucille Lucero until the year 2000. Even then, I only alluded to certain facts to see if Donnamarie Potts could reveal the depth of her knowledge about the truth of her ancestry. Donnamarie Potts did concur with the facts and was seemingly angry that her aunt, (Lucille Lucero) would even confide in me such a matter. Finally Donnamarie Potts said, "I know she talked to you, but I never knew she trusted you enough to tell you everything."
28. In the year prior to talking with Donnamarie Potts (1999), I visited William Franklin of whom I spoke earlier, at his home in Slough House. I asked him if he knew anything about Donnamarie Potts' ties to Buena Vista Rancheria. He said, "Lucille Lucero was her aunt."
29. I said, "Yes, but how was she her aunt?"
30. Bill Franklin said, "I never really did understand the story, but I always heard that Donnamarie Potts was her niece."
31. I tried to get Bill Franklin to explain what he had heard but he was slow in volunteering. Finally, I told him what I knew and he concurred that he had heard that Donald Lucero and Lucille Lucero's sister were the parents of Donnamarie Potts. Bill Franklin said, "I do remember hearing that and if Lucille told you that then that is good enough for me."
32. Bill Franklin then pulled out a paper that someone had left with him. It was a picture of Louie Oliver along with a short article. "This person stopped by here the other day and showed me this picture and said that the man was his relative. I didn't remember him as being from this area, but I told them that I would give it some thought."

33. Bill Franklin then handed me the picture and asked me if I would deliver it to Donnamarie Potts for him. He then commented that, "She sure is going to have her hands full." (Referring to Donnamarie Potts) "Seems like everyone is after her land these days."
34. We then talked about how there are so many people coming out of the woodwork trying to make claim to their Indian ancestry. We both talked about how these people think that just because they have a relative buried in a cemetery that gives them the right to that land. We both shared analogies about this recent phenomena and concluded that these people hadn't been Indian long enough to really understand.
35. Bill Franklin then volunteered that Donnamarie Potts would be facing some very tough battles with people from the Ione Band of Miwok Indians. (Bill Franklin was a member of the Ione Band of Miwok Indians) "Especially from those Villas," he added. He then went on to say, "That Joan Villa, she isn't even from here, but they sure listen to her. I know she is out to take away Buena Vista Rancheria from Lucille's niece." He then finished by saying, "That is why I won't go to the Tribal meetings anymore. They don't understand their own history. I fought hard to get them a piece of land years ago and they wouldn't back me up, so we lost it. We could have had our own land. Now they want to go and steal someone else's land. That's wrong but they won't listen to me. I get angry when these things come up."

Further affiant sayeth not.

DATED this 15 day of October, 2000.


William J. Pink

ATTESTATION

STATE OF CALIFORNIA)
) ss.
COUNTY OF Riverside)

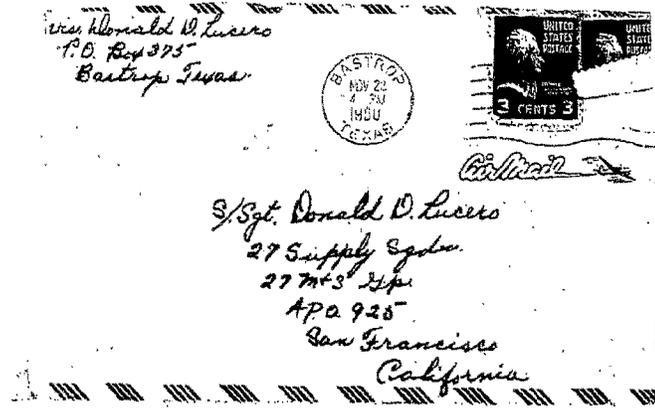
On this 15 day of October, 2000, personally appeared William J. Pink, known to me to be the person whose name is subscribed to the within instrument and acknowledge that he executed the same for the purpose therein contained.

In witness whereof, I hereunto set my hand and official seal.

[SEAL]

C. Contreras
Notary Public





P.O. Box 375
 Bastrop Texas
 Nov. 21, 1950

My Dearest Hubby:-

See, how it sure was good to get
 your card & letter today. Hope you're fine
 as we are sick here at home. See its
 really cold here at nights. wish you'd
 hurry home to keep me warm. I have all
 my blankets doubled

I guess by the time you get this letter
 you will be on your way across. Do you
 remember that woman who lives on the corner
 there by Harbige Can the one who has that
 Green Ford. She was over to see me the next
 day after you left. Her husband left that same
 night you did. She said we could have rode
 in with her because she came home alone
 she also said any time I want to go to
 home to let her know and she would
 drive me in.

.2.

She was over again the other day she said you guys would fly over instead of going on the boat. She said she got all this from the Captain.

We went to the store & the old guy got to talking he asked what nationality I was then he said he was Cherokee. I think he had a few drinks it sure smelled like it. any way he was nice. & asked me how long we been here. He said ~~me~~ I don't have to worry about any thing.

Well, Mrs. Donna started school she likes her new school all the girls are good to her she likes it better than Robbins. There are more girls to play with her. she takes her lunch and Big can she eat. she give me her order for lunch the night before. she takes a nickel everyday for ice cream.

I haven't heard from anybody from home yet.

.3.

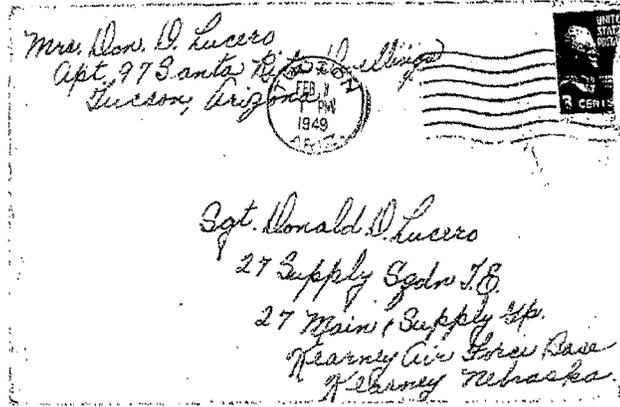
Oh Lon, I rearranged our Bedroom
 Its back the way it was when we moved
 in. Donna sleeps in the other Bed she
 couldn't get over her Bed. I make her Bed
 every day and she makes her own Bed Sat & Sun.

I hope you have a nice Thanksgiving
 Donna wanted a Turkey. But I told her it
 was too big for us. So I promised her a
 chicken instead. Wish you were home. Lon,
 I miss you. The days seem so long with
 out you. Hurry home. Don't worry about us
 everything is fine. Just take care of yourself

Donna is Brushing her teeth now getting
 ready for bed. She brushes them twice a
 day. Don't know how long its going to last.

Well Lon, I guess I'll close for now.

Yours wife
 Lucille



Tucson, Arizona
Jan. 31, 1949

My dearest

Received a letter this morning
for Jan. 26. you. My cold is better and over.
And I'm sure glad.

I got a letter from Mama this
morning too. All is well. I guess Papa cutting
wood causes she said He & some hauled a
load to Jackson. She also said some Indians
are ~~holding~~ holding their meetings in Sacramento. There will
be one in Feb 13th.

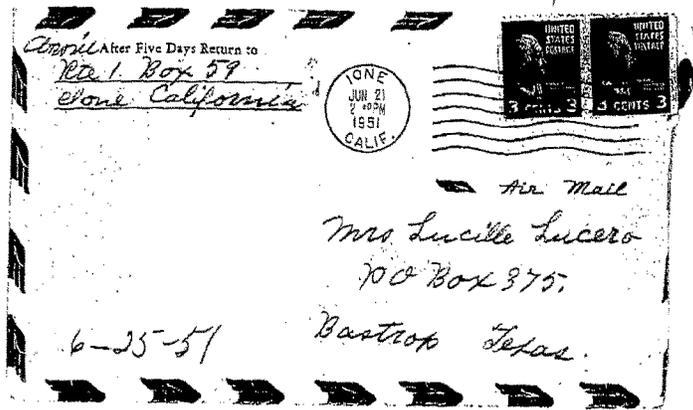
How you should see Tucson. The streets are
all decorated for the Rodeo. Donna & I walked
to town for the funnies. It was so nice and
warm out we just walked. The weather is just
like summer.

Have you heard any more about your
Lurlough. Will it be in Feb.

I hope you have better luck in finding a place
in Texas.

Did you hear "My Friend Jesus". Right now
we are listening to Inner Sanctum.

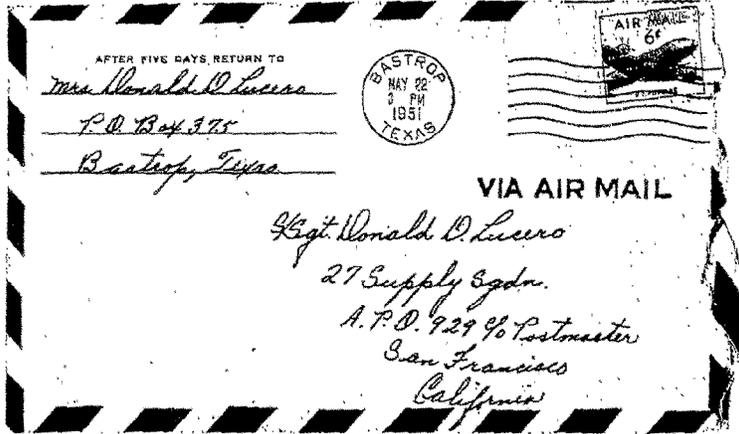
2. heard
 Oh You you remember Roy well Mom said she
 he is in jail she said she wasn't sure if it was
 he I don't know what to write It's so hard
 when I haven't anything to say.
 Well I guess I'll close for this time
 So until we meet. Here is a Big Kiss
 as always.
 Your Old Woman
 Lucille



.2.

I told her you were only being silly. She said Dad does that sometimes. Oh her measles are getting better. I think she'll be able to go to school either Thur. or Friday. you know its the last week of school & she hates to miss it.

Yes, Mom, wished I had a piece of that Chicken men if its tough. So you'll be back soon yes? I always say "Seeing Is Believing" How soon do you think you'll leave. Now I know when you're sick even when you don't write & tell me until you're out of the Hospital. If I told you how I know you wouldn't believe me. Now the lights are you writing by candle again. Nope Mom, I never thought I'd ever get married. So you think you'll be back by July. Now its a Bed. A dress against a sack of Cigs. Is the Jacket / Pajama Set size 20 well, guess I'll close for tonight. Now I'm always thinking of you. Hurry Back. 3.W.S.K. Just for you
 Good Night & All My Love your wife Lucille.



NOT TO BE USED FOR RETURNED MAIL
 FOR THE POST OFFICE

Bastrop, Texas
May 21, 1951

My dearest Loving Hubby:-

Its only me again its now 9 o'clock I should be in bed an hr ago instead I read a story in True Confession & just finished it a few minutes ago. Then started on this letter well what do you know I stayed home for once. I stayed indoors all day & to keep my self busy I washed the walls of the kitchen I'm a little tired right now. But every time I step out side I find my self over at Mrs. Hillenworths. She always calls me over. But she nice

Oh, you got 2 letters this morning written 12 & 1/2 also the pictures. Now thank for them you look a wee bit older in those pic. but good to me. I showed Donna the pic. She one with the Jap guard she wanted to know if he was going to shoot you.



Bastrop, Texas.
 Mon Feb. 5, 1951

My Dearest Hubby:-

See hon I got an other letter this morning. I was suprised I didnt expect any since I got 2 Saturday. See hon you just got my letters Jan 314. See theyre a whole month behind. wonder why it takes so long.

How are you hon? we are alright still have my cold but its getting better.

See I guess Id better get some coffee in the house as you will be home soon, I hope. I havent had any since you left. Been drinking tea every morning. I got a letter from Mom too this morning she said they are all well.

2

She + Pop still goes to the sales in
 Salt. She also said Ows is building
 a house. so far he's got the kitchen
 in they moved in week ago Tuesday
 City got mad again

They have been having foggy weather
 + frost. She still wants me + Bonnie
 to come home until you come back.

Oh the men came around the hot
 water pipe. It was busted now we
 have hot water again.

well. I guess I'll have to take Bonnie
 to town Saturday she wants to buy
 some talatira. I promised her I'd
 take her last Sat. but it was too
 cold + too much snow. She keeps remind-
 ing to me of it I gave her 50¢

3.

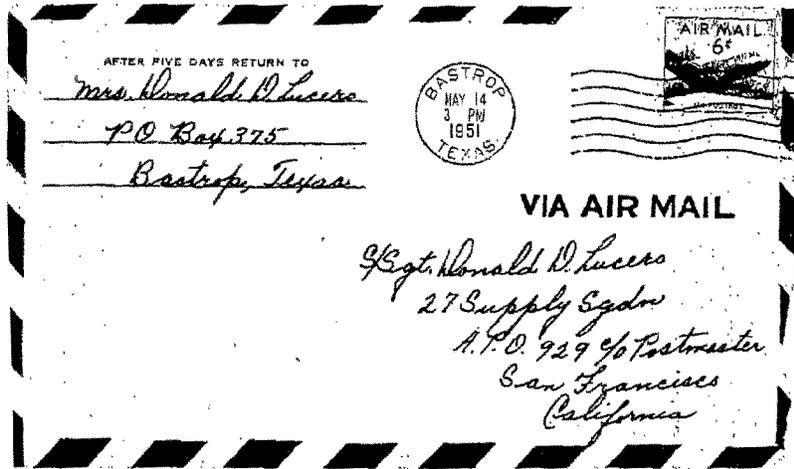
to spend. Every time we go to the store she spend 15¢ for Candy she gets all my Nickels + Pennys. She's been taking a nickel every day for popsicle but its too cold now.

Yes, the wind is really howling to night.

Oh hon, theres a big Hill Billy Jamboree in Austin at the Coliseum tonight with Jerry Jericks and others. Gee wish you were home I sure would like to go + a dance afterwards. Its for the March of Dimes.

tell Honey, I guess I'll close for tonight. Until tomorrow

R.S. Hines Good night + Sweet Dreams
 another piece out of All my love. S.W.A. St.
 Tonight's Paper. Yours wife, Lucille.



FAX NO. 9169817450

001-12-2001 FRI 12:58 PM CASOADE ENTERTAINMENT

Bastrop, Texas
May 13, 1951

My dearest Hubby:-

Just a few lines yours way again tonight. How do you mind. Well its another Sunday night & the Red Skelton Program is on & just a month away until June 13. Hope you'll be back before then. Yes, how its been a happy year. even if we did get sore at one another once in awhile. I know I brought most of it on & you know in all these months we've been married our folks on either side never came to visit we wonder what they must think of us.

Well, I hope I get a letter tomorrow I didn't get any Saturday. But got one from Mamma. They are all well home. I guess Jack went home again today Mamma says she has been every Sunday so far.

Here I am again just heard my last Program Louella Parsons so I'll try to finish this letter.

It sprinkled a little this afternoon
 + now the wind is Blowing may rain
 during the night. Hows the weather over
 there.

Oh just open that Mother's Day gift Donna
 made for me. Its a ash tray she says also a
 cute Card that she made. She said they had
 another arithmetic test Friday but didnt know
 how she made out until Monday. She said she
 answered all. There not doing much now.
 School will close May 26 Saturday.

Honey I hope you'll be home soon I miss
 you. I hope the Rumors are true that you
 be back in June.

Well Honey its late so will close now.

I'm always thinking of you.

Good-Night till my love

S.W.A.S.K

Your wife Lucille

Elone Cal

June 14/1957

Dear Daughter:

Just check your lines to let
 you know that

El got your note with
 Father's Day Card Saturday
 My sis was glad to hear

that you was well with
 measles also to hear Donna

are well tell her we love her
 we are all well here

ages Enos is still chewing
 French & Pop still bawling

hay. We haven't seen Uncle
 Henry & Aunt Rose for two

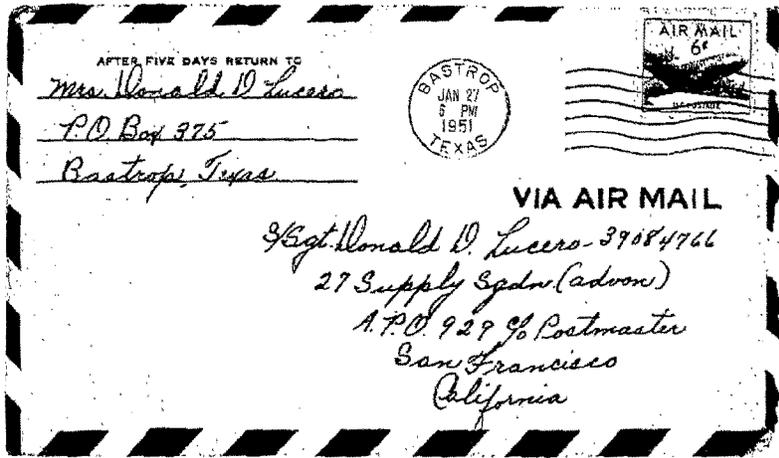
weeks El guess they are well
 Pop got father's Day Card from

Betty last Tuesday & note with
 it she told me to say

Hello El guess she thinks you
 home she said they all well

Betty said she supposed to go
to Hospital week ago yesterday
But she said they put it off for
two weeks because she taking
a home nursing course
She said she'll finish this week
at High School if she pass
She said she gone try to get job
in the Hospital

Have my own heard from Don
lately I got letter from
him last Tuesday he said
they started getting ready
to come home he had to get
Blood test + teeth checked
an X Ray + if he pass on
that he'll be ready to
Ramble to Texas this
is all for this time so
goodbye from Mother Anne
Dover



P. 47

FAX NO. 9169877458

-2001-RT 01:09 PM CASCADE ENTERTAINMENT

P.O. Box 375
 Bastrop, Texas
 Jan. 26, 1951

My Dearest Loving Hubby:

I hate the way you sign the end of each letter. Just thought I'd see how it would look. It sound kinda silly doesn't it. Honey, I got 2 letters again this morning date Jan. 21 + 22. Gee. Now these were the quickest letters I've gotten so far. It took only 5 days. They usually take 7 days. Is your mail coming in yet. I hope so. I've been writing every night.

Mrs. Smith said I sure get a handful of mail. I got 1 yesterday. So far I've been getting mail from you just about every day.

Honey, I got the souvenir you sent me last week. I'm keeping it in the envelope until Monday. I will take it out then.

It will be my Birthday gift from you.

Also got the \$2.00 you sent back. Now

. 2 .

Why didn't you keep it for your Cig. & Hookie
 we didn't need it as my Checks are coming
 in Regular now. I got the 50.00 Monday Jan 22.
 I just cashed it today. I didn't want to but
 didn't want to keep the check too long. Guess
 I'll have to get Donna a pair of shoes
 next month.

Yes, hon, your mail is sure coming in slow
 if you just got my Christmas Card and that
 letter dated Dec. 26.

How is your cold hon. Are you taking any-
 thing for it.

I finally got a letter from Mamma to
 day too. She said all are well at home but
 Erno is still having trouble with his back.
 He is still going to the Dr. She said she wants
 to put Erno in an Army Hospital. But you
 know he was in Hospital in San Francisco
 yrs. ago this month & they said there wasn't
 anything wrong with him.

3.

Oh she said Ramona has moved to her
new home 3 weeks ago

She also said my Sis moved to Carter Nev.
wherever that is. Oh yes mama said she
wished Donna + I would come home until
you came back.

Well its turning cold again the winds
been Blowing all day. Radio said its supposed
to be cold tonight. The wind is really
howling outside.

Honey, I guess Id Better Close for
tonight. Hoppy says Bedtime. 9:30 P.M.

Good Night. Sweet Dreams

Always Thinking Of you.

All my Love.

Your Wife Lucille.

P.S.

Hurry Home. I
Miss you too.

Bastrop Texas
Feb. 27, 1951

Dear Dad

I got your letter this morning
I am glad you liked your Valentine
I had a great Valentine party at school
I got 17 Valentines at school
We had candy, cookies, Ice Cream
I like my school. Doing good in school but
bad in arithmetic I will study hard
I like to stay with you.

Aunt Lucille bought me a pair of
Shoes Sox pants Slips.
I have lots of toys to play with.
I keep them in a box now.
Miss the bus this morning
We have green grass in the yard.
It rained this morning and washed your
car. It snowed on Valentines day.
We did not go to school until Friday.
I made a Snowman in the yard.
I made a Snow cake in the yard.
I like Bastrop School better than Dobbs
Please dont send me good night
to grandm Rachels & love
am good. Donna Marie

27th Supply Squadron
27th Maintenance and Supply Group
APO 929

23 January 1951
(Date)

C E R T I F I C A T E

This is to certify that I, FRANCIS G LAMPERTI, Captain, USAF, 15023A, am the Unit Personnel Officer of the 27th Supply Squadron and that records of this organization indicated the following named airman Donald D Lucero (Name)
S/Sgt AFS9084766 was in the Korean combat zone as defined in the Presidential executive order number 10195, dated 23 September 1950, for the following months and was paid the taxable income as indicated:

December 1950 - \$177.70 *Given no net taxable*
and drawn as to insurance carried

Francis G Lamperti
FRANCIS G LAMPERTI
Captain, USAF
Unit Personnel Officer

*Immunization Bureau, Forest, Oregon, baby
Self-shield
and available for her medical*

NOTICE TO PARENTS

The local health department has set aside 1 hour, from 3 to 4 o'clock on Tuesday afternoons, at the County Health Unit, to give immunization inoculations for Diphtheria, Whooping Cough, Small Pox and Typhoid. This service is free of charge.

Children must be accompanied by parents or have a written statement as to which inoculations they are to have.

Our school regulation requires that all children have a record of Small Pox and Diphtheria immunizations on file in our office.

F. J. Dodson, Supt.



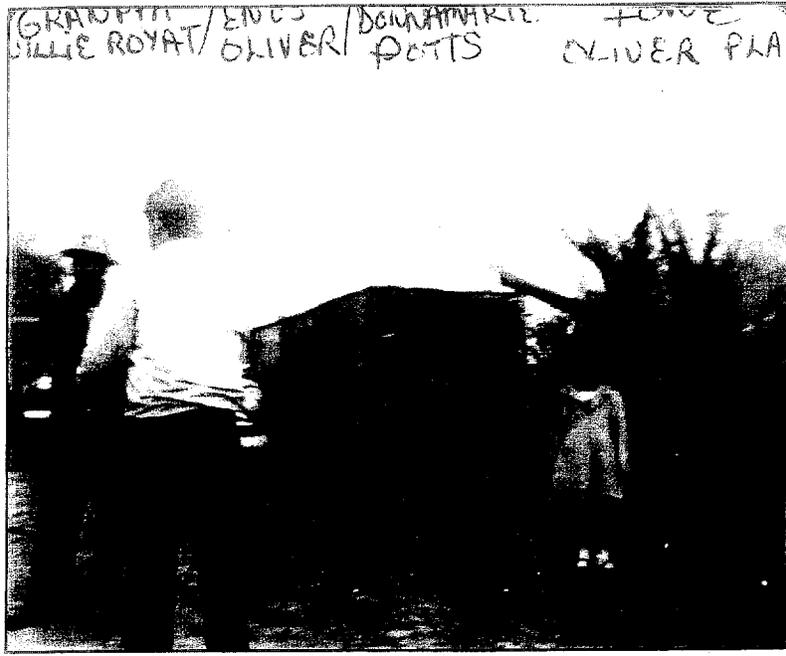
Photograph of Louie Oliver and Annie Oliver
taken in the early 1900's at the BVR.



Photography of Dan Gaynor (Grampa Dan) taken in the early 1900's at the BVR.



Photograph of Louie Oliver and his daughter
Lucille Lucero in the mid 1920's



Willie Royat, Enos Oliver and Donnamarie Potts on the BVR (circa 1949).



Photograph (circa 1951) of Donnamarie Potts, Jessie Pope, Iris Pope and Jeanie Pope. The photo was taken on the BVR.



Donnamarie Potts and Iris Pope taken in early 1950's. The photo was taken on the BVR.



Donnamarie Potts and Donald Lucero taken in the 1950's,
Donald Lucero was in the military.



Photograph taken in Texas of Donnamarie Potts, Lucille Lucero and the neighbor's baby that Lucille Lucero baby sat. The photo was taken in 1951.



Photograph taken in Carlin Nevada of Iris Pope, Jessie Pope and Donnamarie Potts. This photo was taken circa 1954. Baby Jeanie Pope and Elinor Lucero had died in a fire in Roseville California in the early 1950's.



Photograph of Annie Oliver, Marie Potts and LuLu Clifford (Annie Oliver's Sister). The photograph was taken by Donnamarie Potts on the BVR at the circa 1964 Decoration Day (May 30) celebration.



Photograph taken of Jessie Pope in 1964-66 on the BVR. The photo was taken by Donnamarie Potts in Lucille Lucero's living room of the old house.



Photography taken by Donnamarie Potts in 1966 of Louie Oliver, Renee Selvy and cattle on the BVR.

557

RHONDA POPE

FAX NO. : 9167338912

May. 23 2000 12:01PM P1

Buena Vista Rancheria
POB 162283
SACRAMENTO, CA 95816-2283

May 22, 2000

Donnamarie Potts
4650 Coalmine Road
Ione, CA. 95640

Re: Termination of Representation

Dear Ms. Potts:

As the last documented direct lineal descendent of the Buena Vista Rancheria as verified by the Bureau of Indian Affairs, you are hereby notified that you are to immediately discontinue representation of the Buena Vista Rancheria.

You are to turn over all documentation to me immediately. Include all federal funds, copies of the single unit audits of the federal dollars provided to you through "new tribes" money, the 17 Tillie Hardwick Tribes funding, housing funding, Environmental Protection Agency Funding, NAHASDA Funding, 638 contract funding and any and all federal funds or documentation provided to you as the alleged spokesperson for the Buena Vista Rancheria.

You are to immediately terminate all employees, attorneys or consultants hired by yourself and/or supporters alleging to be representing the Buena Vista Rancheria.

I have requested a probate on my Aunt Lucille Lucero's estate to begin immediately. You are hereby notified to vacate property at 4650 Coalmine Road during the probate process.

Thank you,



Rhonda Pope
Spokesperson
Buena Vista Rancheria and the
Estate of Lucille Oliver Lucero

Cc: Kevin Gover
Assistant Secretary - BIA

Ronald Jaeger
Area Director

Dale Risling
Superintendent

○