IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

ALBERT P. ALTO, ET AL.,

Plaintiffs,

vs.

S.M.R. Jewell Secretary of the Department of the Interior – United States of America, et al.

Defendants.

Case Number: 3:11-cv-2276 – BAS (BLM)

FEDERAL DEFENDANTS' REPLY IN SUPPORT OF CROSS MOTION FOR SUMMARY JUDGMENT

TABLE OF CONTENTS

I. PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE IS AN IMPROPER ATTEMPT TO CIRCUMVENT THE RECORD REVIEW RULE……..1

II. THE 2011 DECISION IS SUPPORTED BY SUBSTANTIAL EVIDENCE AND PROVIDES A COGENT REBUTTAL OF PLAINTIFFS' EVIDENCE TO THE CONTRARY.....3

III. THE PLAIN LANGUAGE OF THE BAND'S CONSTITUTION SUPPORTS THE AS-IA'S DECISION AND NEITHER CLAIM NOR ISSUE PRECLUSION APPLY.....8

IV. CONCLUSION.....11

TABLE OF AUTHORITIES

Cases

Alto v. Black,
738 F.3d 1111 (9th Cir. 2013).....11

Astoria Federal Savings & Loan Association v. Solimino,
501 U.S. 104 (1991).....10

Bear Lake Watch, Inc. v. F.E.R.C.,
324 F.3d 1071 (9th Cir. 2003).....7

Cahto Tribe of Laytonville Rancheria v. Dutschke,
715 F.3d 1225 (9th Cir. 2013).....11

Cal. Med. Ass'n v. Sebelius,
134 S. Ct. 986 (2014).....4

Circuit City Stores, Inc. v. Adams,
532 U.S. 105 (2001).....9

City of Sausalito v. O'Neill,
386 F.3d 1186 (9th Cir. 2004).....3

Dep't of Transp. v. Public Citizen,
541 U.S. 752 (2004).....2

Fla. Power & Light Co. v. Lorion,
470 U.S. 729 (1985).....1

Great Basin Mine Watch v. Hankins,
456 F.3d 955 (9th Cir. 2006).....3

IBP, Inc., v. Alvarez,
546 U.S. 21(2005) 9
Lands Council v. Powell,
395 F.3d 1019 (9th Cir. 2005).....1
Ledbetter v. Goodyear Tire & Rubber Co.,
550 U.S. 618 (2007) 9
Managed Pharmacy Care v. Sebelius,
716 F.3d 1235 (9th Cir. 2013).....4, 8
Powerex Corp v. Reliant Energy Servs., Inc.,
551 U.S. 224 (2007) 9
Ransom v. Babbitt,
69 F. Supp. 2d 141 (D. D.C. 1999) 11
Rybachek v. EPA,
904 F.2d 1276 (9th Cir. 1990).....2
San Diego Navy Broadway Complex Coal. v. U.S. Dep't. of Def.,
904 F. Supp. 2d 1056 (S.D. Cal. 2012). 3
San Luis & Delta-Mendota Water Auth. v. Jewell,
747 F.3d 581 (9th Cir. 2014).....1, 4
Theodore Roosevelt Conservation P'ship v. Salazar,
616 F.3d 497 (D.C. Cir. 2010) 2, 3
United Keetoowah Band of Cherokee Indians in Okla. v. Muskogee Area Dir.,
22 IBIA 75, 80 (1992) 11
United States v. Utah Construction & Minging Co.,
384 U.S. 394 (1966) 10
Valencia-Alvarez v. Gonzales,
469 F.3d 1319 (9th Cir. 2006).....10
Vt. Yankee Nuclear Power Corp. v. N.R.D.C.,
435 U.S. 519 (1978) 2

Statutes

5 U.S.C. § 706.....4
5 U.S.C. § 704.....12

Regulations

25 C.F.R. § 2.6.....12
25 C.F.R. § 48.11.....11
25 C.F.R. § 48.14(d) 12
25 C.F.R. § 48.5.....11

I. PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE IS AN IMPROPER ATTEMPT TO CIRCUMVENT THE RECORD REVIEW RULE.

Plaintiffs request that this court take judicial notice of: (1) a page from the 1930 census, ECF No. 111-1("Pls.' Resp."); (2) the San Diego County Death certificate for Frank Alto Jr, *id.* at 2-3, Ex. B; and (3) Connie Alto's statement about Frank Alto, Pls.' Resp. 5. Because Plaintiffs have failed to explain why this Court should deviate from the clear "record-review" rule that governs Administrative Procedure Act ("APA") cases in this circuit, this Court should deny Plaintiffs' request. Nonetheless, as explained in the United States' opening brief and in this reply, these documents are largely irrelevant.

It is well-established that the APA limits the scope of judicial review to the administrative record. *See* 5 U.S.C. § 706 (directing the court to "review the whole record or those parts of it cited by a party"); *Fla. Power & Light Co. v. Lorion*, 470 U.S. 729, 743–44 (1985) ("The task of the reviewing court is to apply the appropriate APA standard of review . . . to the agency decision based on the record the agency presents to the reviewing court.") (citation omitted); *San Luis & Delta-Mendota Water Auth. v. Jewell*, 747 F.3d 581, 602 (9th Cir. 2014). Thus review beyond the administrative record is only allowed in four narrowly construed circumstances: (1) to determine if the agency has considered all factors and explained its decision; (2) the agency relied on documents not in the record; (3) to explain technical terms or complex subjects; or (4) plaintiffs have shown bad faith on the part of the agency. *See San Luis* at 603. Though widely accepted, these exceptions are exactly that—exceptions. *Lands Council v. Powell*, 395 F.3d 1019, 1030 (9th Cir. 2005) ("The scope of these exceptions permitted by our precedent is constrained, so that the exception does not undermine the general rule."). Furthermore, even if one of these exceptions applies, extra-record evidence may

not be considered to determine the correctness or wisdom of the agency's decision. *See San Luis*, 747 F.3d at 602.

Here, although Plaintiffs claim the documents they attempt to add to the record are relevant to whether the Assistant Secretary-Indian Affairs ("AS-IA") fully considered all relevant factors in making its decision, it is clear that Plaintiffs are actually attempting to impermissibly use the documents to challenge the correctness of the AS-IA's decision. *See also San Luis*, 747 F.3d at 602 ("When a reviewing court considers evidence that was not before the agency, it inevitably leads the reviewing court to substitute its judgment for that of the agency.") (citation omitted). And Plaintiffs' attempt to circumvent the record review principle is all the more inappropriate given their failure to provide the AS-IA with these documents they contend are relevant (and which were available at the time) after he had requested supplemental briefing.[1] *See Dep't of Transp. v. Public Citizen*, 541 U.S. 752, 764 (2004) (parties have a duty to "'structure their participation so that it . . . alerts the agency to the [parties'] position and contentions,' in order to allow the agency to give the issue meaningful consideration" in its decision making process) (quoting *Vt. Yankee Nuclear Power Corp. v. N.R.D.C.*, 435 U.S. 519, 553 (1978) (alteration in original)). *See also Theodore Roosevelt Conservation P'ship v. Salazar*, 616 F.3d 497, 515 (D.C. Cir. 2010).

Moreover, while judicial notice, as set forth in Rule 201 of the Federal Rules of Evidence, operates to address the *admissibility* of public records, Rule 201 does not supplant or circumvent the scope of review standards applicable to administrative record-review cases. *See, e.g, Rybachek v. EPA*, 904 F.2d 1276, 1296 n. 25 (9th Cir. 1990) (rejecting plaintiffs' submission of extra-record materials offered under the auspices of "judicial notice," as the materials did not

---

[1] On October 29, 2009, the AS-IA requested that the parties locate and submit additional materials for the administrative record, and they did. AR000900-40.

satisfy any of the exceptions to the rule limiting review of agency action to the record created at the time of the agency's decision); *City of Sausalito v. O'Neill*, 386 F.3d 1186, 1223 n.2. (9th Cir. 2004); *see also Great Basin Mine Watch v. Hankins*, 456 F.3d 955, 975-76 (9th Cir. 2006); *San Diego Navy Broadway Complex Coal. v. U.S. Dep't. of Def.*, 904 F. Supp. 2d 1056, 1070 (S.D. Cal. 2012).

Plaintiffs had ample opportunity to submit the documents to the Assistant Secretary, but they did not. Plaintiffs cannot now "introduce evidence in court that they had never sought to introduce to the agency." *Theodore Roosevelt Conservation P'ship* , 616 F.3d at 515.

II. THE 2011 DECISION IS SUPPORTED BY SUBSTANTIAL EVIDENCE AND PROVIDES A COGENT REBUTTAL OF PLAINTIFFS' EVIDENCE TO THE CONTRARY.

The central issue in this case is whether the AS-IA reasonably concluded that the initial decision to enroll Marcus Alto, Sr. ("Marcus") was based on inaccurate information. As discussed in the Federal Defendants' opening brief, the conclusion that Marcus Alto was not the biological son of Jose and Maria was a well-reasoned one that must be upheld. U.S. Cross Mot. for Summ. J. 19-28, ECF No. 110 ("U.S. Mot.").

Nevertheless, Plaintiffs attempt to manufacture uncertainty and ambiguity where there is none, relying primarily on "conflicting evidence" contained in the 1920 and 1930 censuses, Marcus's marriage license, and various affidavits. In the process, Plaintiffs invite this Court to substitute Plaintiffs' considerations for that of the BIA's, the agency vested with the authority and equipped with the expertise to consider the complex historical information that dates back to the turn of the 20th century.

To be sure, the AS-IA acknowledged that the record contains evidence that "is conflicting, incomplete, or demonstrably inaccurate." AR001155. And it was

the agency decisionmaker's job to decide the weight to be given to all of the evidence in the administrative record. Thus, "where there is conflicting evidence in the record, the [agency's] determination is due deference—especially in areas of [its] expertise." *Managed Pharmacy Care v. Sebelius*, 716 F.3d 1235, 1251 (9th Cir. 2013) (alterations in original) (citation omitted) *cert. denied*, 134 S. Ct. 900 (2014) and *cert. denied sub nom Cal. Med. Ass'n v. Sebelius*, 134 S. Ct. 986 (2014). Indeed, this Court must uphold an agency's findings, "[e]ven '[i]f the evidence is susceptible of more than one rational interpretation. . . .'" *San Luis & Delta-Mendota Water Auth.*, 747 F.3d at 601 (first alteration added, second alteration in original) (citation omitted). Because the AS-IA sufficiently justified its conclusion that Marcus was adopted, including considering but ultimately not being convinced by the evidence that could weigh against his conclusion, this Court must defer to the BIA's "fair interpretation of the most probative, objective, and competent evidence. . . ." AR001155; *see Managed Pharmacy Care*, 716 F.3d at 1251.

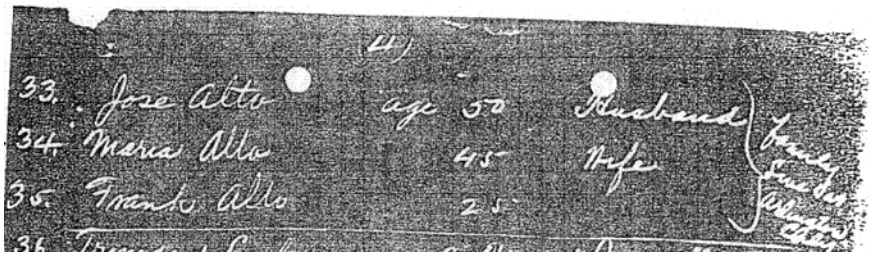
Plaintiffs' arguments to the contrary are without merit. First, Plaintiffs contend that a number of documents consistently listed Marcus as "Indian," including his marriage license, a social security application, and the 1920 Federal Census. Plaintiffs rest their argument on the illogical premise that if Marcus is an Indian he must be of San Pasqual descent. The AS-IA addressed and rejected Plaintiffs' argument, however: "[E]ven if Marcus Alto, Sr., had been a full-blood Indian, as the Altos argue, it does not necessarily follow that Jose and Maria Alto were his parents or that his parents were San Pasqual Indians." AR001155. At most, these documents support the fact that Marcus had some Native American ancestry, not that he was descended from members of the San Pasqual Band.

It also bears emphasis that the 1920 federal census that listed Marcus as Jose's and Maria's "son" is fundamentally different than the 1910 Indian census. The 1910 Indian census was prepared by the BIA for purposes of identifying San

Pasqual Indians. The 1920 Federal census, on the other hand, was simply concerned with identifying U.S. citizens, without concern for tribal affiliation.

As the United States explained in its opening brief, because the foundation for enrollment in the Tribe is the 1910 census, the AS-IA reasonably attributed great weight to the fact that Marcus was absent from the census, especially given that Jose's son, Frank Alto, was included. U.S. Mot. 20-21. Plaintiffs again downplay Marcus's absence and describe the 1910 census as "inherently flawed" because of discrepancies in Jose's listed age, and because of the unsupported claim that other children of tribal members were excluded from this census. Pls.' Resp. 4. Neither criticism has merit. First, the discrepancy in Jose's age would only seem to call into question Jose's inclusion in the 1910 census (upon which Plaintiffs rely), not Marcus's absence. Second, even if the record supported Plaintiffs' assertion that other children eligible for membership were not included on the 1910 census,[2] Marcus's absence is made all the more glaring by the presence of Jose's son, Frank Alto. The AS-IA appropriately gave this factor substantial weight. AR001151.

Second, Plaintiffs challenge the conclusion that Frank Alto was Jose's son because there are purportedly "two 'Frank Altos' reported as the same age, living in two distinct households listed on the 1907 and 1910 censuses"—the implication being the Frank Alto identified by the AS-IA was actually the son of a Francisco Alto, Sr., not Jose. Pls.' Resp. 5. But the record for the 1907 census clearly shows "Frank Alto" as a member of the Jose Alto Family. AR002576 (below).



[2] Plaintiffs fail to identify any evidence of other children that were members of the San Pasqual Band but not listed on the 1910 census. U.S. Mot. 21.

The same goes for the 1910 census. AR001045-47 (below).

32.	Jose Alto	Husband	50	M
33.	Maria Alto	Wife	45	F
34.	Frank Alto	Son	25	M

And the AS-IA's conclusion that Frank Alto was the biological son of Jose was corroborated by two letters, penned by Frank in 1910, that state "[m]y family are as follows Maria Duro[,] Antonio Duro[,] Joe Alto[,] Frank Alto." These letters make no mention of Marcus, nor of this alternative "Francisco Alto" family upon which Plaintiffs rely. AR002706. Thus, the only uncertainty about the identity of Frank Alto as the son of Jose Alto is of Plaintiffs' own creation—wholly insufficient to undermine the reasoned decision of the AS-IA.[3]

Third, Plaintiffs object to Diana Martinez's "story that Marcus Alto told her that he was a twin of some unknown parent given to the Altos on the 3rd day after his birth . . . ." Pls.' Resp. 6. But the critical detail of Ms. Martinez's "story," that Marcus was given to Jose and Maria on the 3rd day of his birth, was corroborated by Marcus's own 1987 Enrollment application:

> Marcus was an only child to the above [Jose and Maria]. He was given to the above on the 3rd day after his birth . . . He was the above named persons' son in every sense of the [word] and never knew any others as parents.

AR001151. Plaintiffs' brief remains silent on this issue. Instead, Plaintiffs contend that an unchecked box next to the question of whether the "applicant [is] an adopted person," *see* AR001153, "can not be given any significant weight." Pls.' Resp. 10-11. But Plaintiffs' misconceive the standard of review under the APA. While Plaintiffs, or even this Court, may find the unchecked box susceptible to more than one rational interpretation, where the agency has relied on "relevant evidence [such that] a reasonable mind might accept as adequate to support a

---

[3] Plaintiffs' assertion that Frank Alto, Jr.'s daughter, Connie Alto, admitted that Frank's parents were not Maria and Jose is a bare assertion devoid of any support identified in the record. And deviation outside the AR is not warranted. *Infra* Section I; U.S. Mot. 10.

conclusion," its decision is supported by "substantial evidence." *Bear Lake Watch, Inc. v. F.E.R.C.*, 324 F.3d 1071, 1076 (9th Cir. 2003).

Plaintiffs respond that Marcus's 1987 application for enrollment is trumped by Marcus's application for inclusion on the 1933 Roll of California Indians, which lists Maria as Marcus's mother. Pls. Resp. 10. Here again, Plaintiffs' argument misses the mark. As the Alto descendants acknowledged, Marcus did not fill out the 1933 application himself. AR001152. And the application was riddled with such errors that suggested Marcus never even saw or approved of it.[4] By virtue of these inaccuracies, and in light of other corroborative evidence in the record, the AS-IA gave the 1933 application "little weight." AR001152.

The AS-IA did, on the other hand, give greater weight to Maria's application for inclusion on the 1933 roll, a document where she did not list Marcus as a child, and, in fact, stated that she had "no issue." AR002631. Contrary to Plaintiffs' assertion, Maria Alto's response that she had "no issue" does not conflict with Frances Alto's assertion that she was Maria's great granddaughter. There are any number of explanations for this relationship between Maria and Frances, *see* U.S. Mot. 23, but here again Plaintiffs silence speaks volumes. Plaintiffs do not dispute that the 1933 application is that of Maria. And Plaintiffs have not provided any evidence or explanation as to why Maria would have been less than forthright or truthful in claiming that she had no issue—in a statement made under oath and in the presence of two witnesses, no less.

---

[4] For example, the application incorrectly listed Jose as "not Indian" (contradicted by Maria's statements) and Marcus's birth date as 1903 (earlier than even the Alto descendents claim). In addition, the AS-IA observed that whomever had filled out the form had also failed to fill in critical details, such as the month and date of birth, whether married, the exact name and birthdate of spouse, whether the spouse was of Indian blood, and Marcus's father's date of death. AR001152.

The AS-IA grounded his determination that Marcus's prior inclusion as a member of the Band was based on inaccurate information in the factual record. That the record contains some evidence that would support a conclusion contrary to that reached in the 2011 Decision may be true, but the AS-IA's "decision to credit [a party's] evidence over that submitted by other parties was reasonable." *Managed Pharmacy Care*, 716 F.3d at 1251. Because the BIA's path can reasonably be discerned, Plaintiffs cannot succeed on their APA claims.

III. THE PLAIN LANGUAGE OF THE BAND'S CONSTITUTION SUPPORTS THE AS-IA'S DECISION AND NEITHER CLAIM NOR ISSUE PRECLUSION APPLY.

Plaintiffs argue that Assistant Secretary Deer's prior membership determination is unequivocally final and trumps the provisions of the Band's constitution that allow for reconsideration membership determinations. Pls.' Resp. 2. This reading is inconsistent with the Band's view, as well as the plain language of the constitution and regulations themselves. The regulations and the Band's constitution expressly allow for reconsideration of membership found to be based on inaccurate information, and by abiding by these laws the AS-IA acted rationally and in accord with law.

Citing the word "final" in 25 C.F.R. § 48.11, Plaintiffs read the 1960 regulations and constitution (AR001591-1600) to say that once an AS-IA has determined an individual's membership, a future AS-IA cannot under any circumstances approve removal of that individual from the roll. Pls.' Resp. at 2. This is despite the plain language in §48.14(d) that provides for the secretary to approve removal of individuals where their enrollment is found to be "based on information subsequently determined to be inaccurate." In Plaintiffs' view, the only time §48.14(d) would apply is where "the Secretary has never made a final . .

. decision on membership. . . .” Pls.’ Resp. at 2 (emphasis in Plaintiffs’ brief). Plaintiffs’ caveat is not present in the text and this interpretation is not the best—or even a plausible—reading of the document for several additional reasons.

First, it is not only decisions stemming from membership *appeals* that the regulations refer to as “final.” Section 48.5 provides that to determine membership in the first instance, the recommendations of the enrollment committee were to be transmitted “for final determination by the Secretary.” 25 C.F.R. § 48.5 (emphasis added). Thus even where there is no appeal of a membership decision, such a decision was still referred to as “final” by the regulations. Identical or similar words in the same piece of legislation should be given the same meaning. *See, e.g., Powerex Corp v. Reliant Energy Servs., Inc.*, 551 U.S. 224, 232 (2007); *IBP, Inc., v. Alvarez*, 546 U.S. 21, 34 (2005). Thus, if Plaintiffs’ interpretation of “final” was correct, section 48.14(d) would be read out of the regulations—and the Band’s constitution—entirely because there would never be a situation where the AS-IA could revisit a prior membership determination. Interpreting one provision of a regulation in a way that is inconsistent with the overall structure of the statute and/or another provision is disfavored. *Ledbetter v. Goodyear Tire & Rubber Co.*, 550 U.S. 618, 629-630 (2007). Similarly, there is a presumption against interpreting a provision in a way that would render other provisions of a statute superfluous. *Circuit City Stores, Inc. v. Adams*, 532 U.S. 105, 113 (2001).

A better reading of the regulations is that they refer to finality to indicate that a decision on membership is not subject to appeal to a superior authority in the Department. *See* 25 C.F.R. § 2.6. Thus, such membership determinations are “final” so as to be subject to judicial review under 5 U.S.C. §704. *Id.* That there is no further review step in that proceeding does not affect the independent obligation

under 25 C.F.R. § 48.14(d) to reevaluate a prior decision to determine if enrollment was based on inaccurate information.

As the Supreme Court found in *Astoria Federal Savings & Loan Association v. Solimino*, evidence of a contrary statutory purpose is sufficient "to outweigh the lenient presumption in favor of administrative estoppel." 501 U.S. 104, 112 (1991); *see also Valencia-Alvarez v. Gonzales*, 469 F.3d 1319, 1324 (9th Cir. 2006) (estoppel applies "flexibly" and is not binding in administrative context); U.S. Mot. 13. As discussed above, such a contrary purpose is evidently present in the Band's constitution and the 1960 regulations. Regardless, Plaintiffs continue to argue that collateral estoppel principles necessarily apply here. Pls.' Resp. 3. However, the cases they cite do not apply, as in this case there is an evident statutory purpose that contradicts the normal application of administrative estoppel. Indeed, some of the very cases Plaintiffs cite support this point.

For instance, in *United States v. Utah Construction & Minging Co.*, the Court interpreted a disputes clause in a construction contract that provided that the decision of the head of the department would be final and conclusive. 384 U.S. 394, 398 (1966). However, the Court found that the disputes clause was limited by the Wunderlich Act of 1964, which directs that such an agency decision "shall be final and conclusive unless the same is fra[u]dulent or capricious or arbitrary or so grossly erroneous as to necessarily to imply bad faith, or is not supported by substantial evidence." *Id.* at 399 (alteration in original) (citation omitted). Rather than supporting Plaintiffs' argument, this case underscores the importance of legislative intent with respect to the application of the principles of collateral estoppel to an administrative proceeding.

Finally, the Plaintiffs' interpretation should be rejected because it is not consistent with the Band's own view of its governing documents. The Band's

interpretation of Section 48.14(d) is a reasonable interpretation of its law, which is critical to the Band's ability to correct erroneous enrollment actions, and to which the AS-IA appropriately deferred so as to respect tribal sovereignty and self-determination. *See Ransom v. Babbitt*, 69 F. Supp. 2d 141, 150 (D. D.C. 1999); *United Keetoowah Band of Cherokee Indians in Okla. v. Muskogee Area Dir.*, 22 IBIA 75, 80 (1992) ("Under the doctrines of tribal sovereignty and self-determination, a tribe has the right initially to interpret its own governing documents in resolving internal disputes, and the Department must give deference to a tribe's reasonable interpretation of its own laws."). This is particularly important in the area of tribal membership—a fundamental component of tribal self determination. U.S. Mot. 16; *Alto v. Black*, 738 F.3d 1111, 1115 (9th Cir. 2013) (quoting *Cahto Tribe of Laytonville Rancheria v. Dutschke*, 715 F.3d 1225, 1226 (9th Cir. 2013)).

In sum, the AS-IA's decision was expressly authorized by the Band's constitution. Plaintiffs' reading—that would have barred the AS-IA from making this determination—is inconsistent with the Tribe's reasonable view, as well as the plain language of the Constitution and regulations themselves and therefore does not demonstrate the AS-IA's decision to be arbitrary or contrary to law.

IV. CONCLUSION

For the foregoing reasons, the AS-IA's Decision was reasonable and should be upheld. Plaintiffs' Motion for Summary Judgment should be denied, and Federal Defendants' Cross-Motion for Summary Judgment should be granted.

Dated: June 23, 2014

SAM HIRSCH
Acting Assistant Attorney General
Environment & Natural Resources Division
United States Department of Justice

/s/ Reuben S. Schifman
KENNETH D. ROONEY
REUBEN S. SCHIFMAN
Trial Attorney
Natural Resources Section
P.O. Box 7611
Washington, D.C. 20044-7611
Telephone (202) 305-4224
Facsimile: (202) 305-0506
Kenneth.Rooney@usdoj.gov
Reuben.Schifman@usdoj.gov

LAURA E. DUFFY
United States Attorney

GEORGE V. MANAHAN
Assistant U.S. Attorney
California State Bar No. 239130
Office of the U.S. Attorney
880 Front Street, Room 6293
San Diego, California 92101-8893
Telephone: (619) 557-5610
Facsimile: (619) 546-7751

Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

ALBERT P. ALTO, ET AL., Plaintiffs, vs. S.M.R. Jewell, Secretary of the Department of the Interior – United States of America, et al., Defendants.	Case Number: 13:11-cv-2276 – BAS (BLM) CERTIFICATION OF SERVICE

I hereby certify that on June 23, 2014, I electronically filed the foregoing motion with the Clerk of the Court via the CM/ECF system, which will send notification of such to the attorneys of record.

/s/ Reuben S. Schifman
Reuben S. Schifman